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

City of Bonita Springs
City Council
Meeting Agenda

June 5, 2024
5:30 p.m.

If you intend to address the City Council, please submit a completed "Public Comment Slip" to the City Clerk before the meeting commences. Blank comment slips are available on the table outside of Chambers.

To submit a written public comment in advance of the meeting, email your name, address, and comment to citymeetings@cityofbonitasprings.org. **Written public comment must be received by 2 p.m., June 5, 2024**.

The City of Bonita Springs is committed to equal opportunity and does not discriminate on the basis of race, color, national origin, gender, age, disability, religion, income, or marital status. Under the Americans with Disabilities Act, anyone who requires an ADA-qualified accommodation to participate in this proceeding should contact City Clerk Mike Sheffield at (239) 949-6248 at least 48 hours in advance of the meeting. Such reasonable accommodation will be provided at no cost to the requester.

Any person who may seek to appeal a decision made by the City Council on any matter at this meeting is responsible for ensuring that a verbatim record of the proceeding is made, which includes the testimony and evidence upon which the appeal is to be based.

1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Mayor's Welcome
6. Approval of the Agenda
7. Public Comment on Agenda Items
8. Zoning and Land Use Items:

   A. (Second Reading and Public Hearing) A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING ORDINANCE 10-02 FOR A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO DEVELOP UP TO TEN (10) DETACHED VILLAS, BOAT DOCKS, AND OTHER ACCESSORY USES, AND TO ADD FIVE (5) DEVIATIONS; LOCATED AT 27495-511 BIG BEND ROAD AND 27523 BIG BEND ROAD, BONITA SPRINGS, FLORIDA 34134; PROVIDING FOR AN EFFECTIVE DATE. (Green Sheet 24-06-085)

9. Consent Agenda Items:

   A. Approve minutes from the City Council meeting held on May 15, 2024.

   B. Confirm and ratify Resolutions extending the local State of Emergency due to Hurricane Ian. (Green Sheet 24-06-077)

   C. Approve temporary road closures of portions of Old 41 and a special event permit for the 4th of July Parade and "Star-Spangled Bonita" event on Thu., July 4, 2024. (Green Sheet 24-06-078)

   D. Approve a Resolution ratifying the Mayor's appointment of a new chairperson of the Local Planning Agency for the remainder of calendar year 2024. (Green Sheet 24-06-079)

   E. Approve a Hurricane Ian Community Development Block Grant-Disaster Recovery (CDBG-DR) Mobility Study Planning Grant. (Green Sheet 24-06-080)

   F. Approve a Hurricane Ian Community Development Block Grant-Disaster Recovery (CDBG-DR) Recreation Master Planning Grant. (Green Sheet 24-06-081)

   G. Adopt a Resolution as required for U.S. Housing and Urban Development Community Development Block Grant – Disaster Recovery (CDBG-DR) funding. (Green Sheet 24-06-082)

   H. Approve the proposal from EnviroStruct, LLC under the Construction Manager at Risk Continuing Services agreement for the Riverside Park Bandshell Restroom and Dressing Room facility renovation project and approve a budget transfer in the amount of $213,571. (Green Sheet 24-06-083)

      - Opportunity for City Council Comments on Consent Agenda

10. City Attorney Items:

11. City Manager Items:

   A. Discussion regarding the Imperial 41 Special Assemblage Plan submitted by Barron Collier Companies and provide direction to staff. (Green Sheet 24-06-087)

   B. Receive summary on Accessory Dwelling Units (ADU) and provide direction to staff, as applicable. (Green Sheet 24-06-084)

   C. Discuss the City's participation regarding an application for Active Transportation Infrastructure Investment Program (ATIIP) grant funding for the Bonita-Estero Rail-Trail (BERT) project and provide direction to staff. (Green Sheet 24-06-086)

   D. Update on Hurricane Ian recovery.

12. Mayor and Council Member Reports

13. Public Comment

14. Adjournment

The next regular meeting of the Bonita Springs City Council is scheduled for 9:00 a.m., Wed., June 19, 2024

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-085
June 5, 2024

REQUESTED MOTION: (SECOND READING AND PUBLIC HEARING) A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING ORDINANCE 10-02 FOR A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO DEVELOP UP TO TEN (10) DETACHED VILLAS, BOAT DOCKS, AND OTHER ACCESSORY USES, AND TO ADD FIVE (5) DEVIATIONS; LOCATED AT 27495-511 BIG BEND ROAD AND 27523 BIG BEND ROAD, BONITA SPRINGS, FLORIDA 34134; AND PROVIDING FOR AN EFFECTIVE DATE.

REQUESTOR: Mike Fiigon II, Senior Planner, Community Development

AGENDA: Second Reading of a Zoning Ordinance

STRATEGIC PRIORITY:

BACKGROUND: The request is to amend Zoning Ordinance 10-02 by decreasing the residential unit count from 16 units to 10 units, to amend the schedule of uses by removing single-family, two-family attached, and multi-family dwelling units, and replace it with detached villas, boat docks, accessory uses, and to add five (5) deviations.

The City's current land development code (LDC) does not contain a definition for "detached villas," so, at Staff's direction, the Applicant supplied the following definition: *a dwelling unit that is occupied by one family and is not connected to any other structure. Multiple detached villas may be located on a single parcel.*

The Zoning Board heard the case on April 16, 2024. During the Zoning Board hearing, there was opposition to the amendment that was presented by residents, with one attorney, Douglas Lewis, representing a resident in Bonita Bay. Binders of documentation were handed to the Zoning Board before the meeting started. Staff was not provided with the information ahead of time and did not have a chance to review it as part of that meeting. Since that time, Staff has obtained a copy of the information, and it is attached to this green sheet. The concerns outlined by Mr. Lewis were in part that the Application is insufficient since there are no lot lines associated with the request, the number of boat slips is beyond what is appropriate as a result, additional boat traffic presents a safety hazard to the Imperial River, and that there's an overall lack of compliance with the Land Development Code and the Comprehensive Plan. Additional concerns are outlined in the attached memorandum of objections, provided by Mr. Lewis.

The Zoning Board recommended approval of the amendment and the deviation requests by a vote of 5-1. Part of their recommendation was for City Council to consider providing Staff direction to update the definitions of the LDC to include detached villas.

During the first reading of the ordinance on May 15, 2024, Mr. Lewis brought an expert witness, Daryl Max Forgey, AICP, to testify on issues related to the application and the request itself. A copy of Mr. Forgey's testimony was provided by Mr. Lewis at the first reading and a copy has been included as part of this packet. City Council voted to move the application to the second reading.

Since the date of the first reading, the Applicant has amended the Master Concept Plan (MCP) to provide information related to the objections raised by Mr. Lewis. The revisions include listing the number of stories and more clearly showing the driveways as proposed parking areas. This additional information was reviewed in accordance with LDC 4-295(d)(1)(e), and it was determined by the Director that the revised information would not constitute the need for a deferral or a continuance of the hearing. It is the intent of the Applicant to have this revised MCP serve as the new "Exhibit B" referenced in the draft ordinance.

The Applicant and Staff are prepared to address remaining objections as part of the hearing.

STAFF RECOMMENDATION: Approve as conditioned.

ATTACHMENTS:

1. Draft Zoning Ordinance
2. Zoning Board Meeting Minutes (April 16, 2024)
3. Cover Letter from D. Wayne Arnold (dated May 28, 2024) and the revised Master Concept Plan
4. Staff Report
5. Opposition documentation supplied by Douglas Lewis, Attorney
6. Opposition petitions from Bonita Bay residents

REVIEWERS:

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

Council Action: Approved __ Denied __ Deferred ___ Other_____

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 24 -

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING ORDINANCE 10-02 FOR A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO DEVELOP UP TO TEN (10) DETACHED VILLAS, BOAT DOCKS, AND OTHER ACCESSORY USES, AND TO ADD FIVE (5) DEVIATIONS; LOCATED AT 27495-511 BIG BEND ROAD AND 27523 BIG BEND ROAD, BONITA SPRINGS, FLORIDA 34134; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, BB Sunset Properties, LLC, has filed an application to request to amend an existing residential planned development (RPD) develop up to ten (10) detached villas, boat docks, and other accessory uses, and five (5) deviations;

WHEREAS, the subject property is located on the west side of Big Bend Road; STRAP: 32-47-25-B2- 00003.0000 (27495-511 Big Bend Road) & 32-47-25-B2-00003.0010 (27523 Big Bend Road), Bonita Springs, Florida 34134.

WHEREAS, a Public Hearing was advertised and heard on April 16, 2024, by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case PD22-95976-BOS, which considered the evidence available and recommended approval with a vote of 5-1 after giving full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City, and the testimony of all interested parties. The March 21, 2024 Staff Report prepared by Community Development and evidence submitted at the Zoning Board hearing, as part of the City Council hearing record, are on file with the City Clerk.

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

SECTION ONE: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the request to amend the existing RPD Ordinance 10-02 to allow up to ten (10) detached villa and accessory uses, subject to the following uses, conditions and deviations with additions reflected in <u>underlined</u> language and deletions through use of ~~strikethroughs~~ and editorial notations and other necessary language included in [*italicized parentheticals*]:

A. CONDITIONS

1. The development of this project must be <u>generally</u> consistent with the Master Concept Plan entitled <u>"Riverbend RPD", prepared by Grady Minor and Associates dated May 2020 (Exhibit B)</u> ~~"River Bend,"~~

~~prepared by Progressive Engineering received September 22, 2009 (Attachment A)~~, except as modified by the conditions below. This development must comply with all requirements of the City of Bonita Springs Land Development Code (LDC) at time of the local development order approval. If changes to the Master Concept Plan are subsequent pursued, appropriate approvals will be necessary.

The maximum number of residential units is limited to ~~16~~ 10 dwelling units.

2. The following limits apply to the project and uses:

   a. Schedule of Uses

Accessory Uses, Buildings and Structures
Docks, seawalls
Dwelling Units (Maximum total ~~16~~ 10 units)
~~Single-Family (maximum total 2 units)~~
~~Two-Family Attached (maximum total 4 units)~~
~~Multi-family building (maximum total 10 units)~~
~~Townhomes (maximum total 10 units)~~
Detached Villa **
Models:
Model Home (for marketing purposes withing project only)
Real Estate Sales Office (temporary for marketing purposes withing the project only within one dwelling unit)
Recreational facilities:
Personal
Private-Onsite
Residential Accessory Uses

** The term “Detached Villa” is defined as follows: a dwelling unit that is occupied by one family and is not connected to any other structure. Multiple Detached Villas may be located on a single parcel.

   b. Site Development Regulations

Minimum Lot Width:	~~324.95 feet~~	N/A
Minimum Lot Depth:	~~223 feet~~	N/A
Minimum Lot Area:	~~1.52 +/- acres~~	N/A
Maximum Lot Coverage:	40%	
Minimum Open Space:	40%	

	Detached Villa	~~Single-Family~~	~~Two-Family Attached~~	~~Townhouse Multi-Family~~	Accessory Structures
Maximum Building Height[3]	35 feet	~~Not to exceed 35 feet~~	~~Not to exceed 35 feet~~	~~Not to exceed 39 feet~~	~~35~~ 25 feet
Setbacks[1] ~~Street~~ ~~Side Yard~~ ~~Rear Yard~~ ~~Water Body~~ North PD Boundary Imperial River South PD Boundary Big Bend Road	 10 feet 25 feet 10 feet 20 feet (Building 10 to be reduced to 10 feet)	 ~~50 feet~~ ~~7.5 feet~~ ~~25 feet~~ ~~25 feet~~	 ~~50 feet~~ ~~0/10 feet[2]~~ ~~25 feet~~ ~~25 feet~~	 ~~50 feet~~ ~~0/20 feet~~ ~~25 feet~~ ~~25 feet~~	 ~~50 feet~~ ~~10 feet[2]~~ ~~25 feet~~ ~~25 feet~~ 10 feet 0 feet (for docks, seawalls, walkways and accessways) 10 feet 10 feet
Minimum Building Separation	10 feet	~~10 feet[1]~~	~~10 feet[1]~~	~~20 feet~~	~~5 feet[1]~~ 0 feet

~~[1] Principle and Accessory Structures~~

~~[2] Side yard shall be a minimum of zero (0') with a ten foot separation between principal structures where not attached.~~

~~[3] Building height is measured from the FEMA base flood elevation line to the bottom of the eaves. The Maximum height for purely ornamental structural appurtenances may not exceed 55' from the FEMA base flood elevation line.~~

3. ~~Reserved.~~ The Applicant is required to coordinate with Community Development and Public Works to discuss roadway and drainage improvements along the project's frontage on Big Bend Road. This coordination shall take place during the development order review process. This coordination is intended to be separate from the Applicant's responsibilities to provide adequate on-site and off-site

complete streets facilities as required by City of Bonita Springs Land Development Code.

4. Transportation Conditions

[*No changes from Ordinance 10-02*]

5. Environmental Conditions

   a. Prior to local development order approval, a tree survey will be required to determine if there are any Heritage trees on-site. If Heritage trees are present and are planned for removal, an appearance before the Tree Advisory Board prior to the issuance of local development order is required.

   ~~b. Prior to local development order an ACOE dredge & fill permit to dredge the boat basis shall be obtained.~~

   ~~c. Manatee protection and education signs according to the Lee County Manatee Protection Plan are required and must be depicted on the local development order.~~

   ~~d. A 5 foot conservation easement shall be recorded adjacent to the Imperial River. This area shall be rip-rapped in areas not immediately adjacent to the boat slips. Mangrove seedlings shall be plated in the rip rap on spacing requirements consistent with the Bonita Springs LDC, Dock & Shoreline Section.~~

   ~~e. Prior to local development approval, the applicant must submit an Indigenous Preservation and Restoration Plan depicting a 20' wide indigenous buffer on the property adjacent to the Imperial River. This buffer shall be planted with native vegetation consistent with species commonly found in our coastal hardwood hammocks and shall be planted in a manner to mimic a natural condition. A variety of tree and understory vegetation shall be planted at a ratio of five trees and eighty understory plants per one hundred linear feet.~~

      ~~i. The following tree and understory species are recommended for the buffer:~~

      ~~Selected Tree Species: Gumbo Limbo, Strangler Fig, Mangroves, Buttonwood, Lancewood, Willow Bustic, Mastic, Pigeon Plum, Jamaican Dogwood.~~

~~Selected understory species: Simpsons Stopper, White Indigo Berry, Cocoplum, Jamaican Caper, Spanish Stopper, White Stopper, Wild Coffee.~~

~~ii. The square footage planted may be credited twice towards the indigenous open space requirements.~~

~~iii. Trees must be at least 15 gallons (apx. 6-8' tall), and understory plants must be 3 gallon (apx. 24" tall).~~

~~iv. Five foot pedestrian paths consisting of pervious material are permitted to meander within this buffer area.~~

~~v. A temporary irrigation system is required during the initial landscape establishment period and may be eliminated approximately one year after the material has been planted.~~

~~f. The applicant must provide one hundred (100) percent native vegetation plantings within all required buffers; and~~

~~g. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size) providing 50% coverage at time of installation; and~~

~~h. The applicant must demonstrate compliance with Comprehensive Plan Policy 9.3.3 of the Conservation/Coastal Management Element. The applicant must provide an additional fifty (50) percent retention/detention water qualify treatment over that required in section 5.2.1(a) of the Basis of Review for Environmental Resource Permits within the South Florida Water Management District.~~

b. <u>At the time of Dock and Shoreline permitting, mitigation measures for new wet slips shall be met for compliance with the Lee County Manatee Protection Plan which include but are not limited to: 1. Standard manatee construction conditions; 2. Manatee education activities as required per section 8.4.5; and 3. Funding for enhanced marine law enforcement per section 8.4.5. Manatee protection and education signs shall be depicted on the local development order. Final dock and shoreline design (filling, riprap, and docks) shall be subject to state and federal permitting requirements.</u>

c. The proposed conservation adjacent to the Imperial River shall be recorded and any modifications to the existing easement shall be recorded.

d. At the time of local development order, the applicant must submit an Indigenous Preservation and Restoration Plan depicting a 20' wide indigenous buffer on the property adjacent to the Imperial River. This buffer shall be planted with native vegetation consistent with the final planned use of this area. If the use is for dry detention, species commonly found in wetland areas shall be utilized such as, but not limited to, cordgrass, fakahatchee grass, pond apple tree, cypress tree, green buttonwood tree. If the final planned use of this area will be level in elevation similar to the rest of the property, species used shall be those commonly found in our coastal hardwood hammocks and shall be planted in a manner to mimic a natural condition. A variety of tree and understory vegetation shall be planted at a ratio of five trees and eighty understory plants per one hundred linear feet.

    i. The following tree and understory species are recommended for the buffer:

    Selected Tree Species: Gumbo Limbo, Strangler Fig, Mangroves, Buttonwood, Lancewood, Willow Bustic, Mastic, Pigeon Plum, Jamaican Dogwood.

    Selected understory species: Simpsons Stopper, White Indigo Berry, Cocoplum, Jamaican Caper, Spanish Stopper, White Stopper, Wild Coffee.

    ii. The square footage planted may be credited twice towards the indigenous open space requirement.

    iii. Trees must be at least 15 gallons (apx. 6-8' tall), and understory plants must be 3 gallon (apx. 24" tall).

    iv. Five-foot pedestrian paths consisting of pervious material and seating areas are permitted to meander within this buffer area.

    v. A temporary irrigation system is required during the initial landscape establishment period and may be eliminated approximately one year after the material has been planted.

e. The applicant must provide one hundred (100) percent native vegetation plantings within all required buffers.

f. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size) providing 50% coverage at time of installation.

~~6. In support of Deviation 1, the wall along the southern property line must be constructed at 6' feet and trees must be canopy type trees such as oaks or slash pines or a combination of there of.~~

~~7. Flood Regulations~~

~~a. The following "Floodway Notes" must be added/amended on the MCP:~~

~~Floodway Notes~~
~~Development in areas waterward of the regulatory floodway is prohibited, unless all conditions specified in the zoning approval are met. FEMA and City of Bonita Springs development order approvals will be required for any proposed improvements affecting floodway and flood plain storage prior to future development order approval for entire property and/or any outparcel.~~

~~b. The applicant agrees that no encroachment shall be placed within the floodway as defined by the FEMA Flood Insurance Rate Maps that are in effect at time of local development order approval, approved at the time of development order issuance, unless one of the following two conditions are applied for:~~

~~i. Certification with supporting technical data, made by a registered professional engineer, is needed demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge". Note that the words "supporting technical data" are paraphrased as "hydrologic and hydraulic analyses" in National Flood Insurance Program document (Answers to Questions about the NFIP, F-084 (5/06), FEMA). Appropriate supporting data or analyses to clarify and potential floodway encroachment issue is required. Certificates of No Rise are required **prior** to local development order **approval**.~~

or

ii. A Conditional Letter of Map Revision (CLOMR) will be required by contacting FEMA. A CLOMR is FEMA's comment on a proposed project that would affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway or effective Base Flood Elevations. Conditional Letter of Map Revisions (CLOMR) must be approved by FEMA **prior** to submitting a development order **application** to the City.

c. A the time of local development order application, the applicant shall submit a drainage analysis that demonstrates that the site development plan causes no adverse impact on the adjacent properties in terms of drainage capacity/conveyance, storm water discharge, and flood. The drainage analysis shall include but not limited to (1) a drainage map for all contributory areas within and into the development showing flow paths/arrows, existing on site and offsite drainage structures (sizes and inverts), and sub basis areas; and (2) hydrologic and hydraulic calculations for the 5, 25, and 100-year design storm events in order to establish existing baseline conditions.

d. Development must be consistent with the local, State, and Federal regulations for development within any floodways, flood plains, or properties designated that will be effected by a tropical storm event.

8. Docks

a. Docks must receive all necessary State and Federal permits.

b. Docks must be an accessory use to the residential units and may not be constructed without approved building permits for the residential units.

c. Fuel sales are not permitted on the subject property.

d. No rental or leasing of the slips is permitted by owners, occupant or homeowner's association.

e. Lighting must meet the single family provisions in Bonita Springs Ordinance No. 07-24 in addition to Land Development Code Chapter 3, whichever is most restrictive.

9. Model homes and model units are permitted uses, but must be consistent with the following conditions:

    a. A maximum of one model home is permitted for each type of dwelling unit within the development; and

    b. Hours of operation for the model homes are restricted to Sunday through Saturday, 8:00 a.m. through 6:00 p.m.; and

    c. Each model home must be a unique example. Multiple examples of the same model are not permitted.

10. A Real Estate Sales Office is a permitted use, but must be consistent with the following conditions:
    a. A maximum of one (1) real estate sales offices is permitted; and

    b. Hours of operation for the real estate sales office restricted to Sunday through Saturday, 8:00 a.m. through 6:00 p.m.; and

    c. The real estate office is limited to the sale of units within the development, and is valid for a period of time not to exceed three (3) years form 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 special exception approval.

11. The development must comply with the commercial lighting standards found in the LDC, Chapter 3. Lighting for all structures shall not emit glare and be limited to lighting for security purposes. Street, parking lot, and building lighting must be shielded so that light is directed downward to reduce light spillage to off-site parcels.

12. The development must comply with the sign code found in the LDC, Chapter 6.

13. Prior to local development order approval, the developer must provide facilities in compliance with the Bonita Springs LDC, for the pickup/disposal of solid waste and recyclables.

14. The development must comply with Ordinance 06-04 Noise Control.

15. The developer will use best efforts to incorporate principles for its building though the Florida Green Building Coalition program, in site design and construction, by emphasizing use of high energy efficiency designs and use of high energy efficient fixtures and appliances where

~~possible. Building materials, both internal and external, will be compromised of durable and recycled materials where possible.~~

~~16. This development must comply with all of the requirements of the LDC at the time of the local development order approval, except as may be granted by deviation approved as part of this planned development.~~

~~17. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the City of Bonita Springs Comprehensive Plan provisions.~~

~~18. Prior to local development order approval, the applicant will submit architectural renderings indicating that the multi-family structure will create the appearance of a townhome structure.~~

6. Any infrastructure associated with the model home will need to be shown on the development order plans. If the model home will require a temporary parking lot, the proposed layout shall be shown on the plans. The requirements of LDC 4- 1665—Model Homes and Model Units, remains in full force and effect, unless modified below.
   a. A maximum of one model home is permitted for each model type in the development.

   b. Hours of operation for the model homes are restricted to Sunday – Saturday, 8:00 a.m. – 6:00 p.m.

7. The Real Estate Sales Office is permitted to occur within a maximum of one (1) dwelling unit. The hours of operation for the sales office shall be Sunday – Saturday, 8:00 a.m. – 6:00 p.m.
   a. Sales are limited to the sale of units within the development. The sales office is valid for a time period of three (3) years from the date of the certificate of occupancy for the sales office. A one-time extension of two (2) years may be granted by the Director of Community Development. Additional time will require special exception approval.

8. In order to demonstrate consistency with single-family development, at time of local development order submittal, the Applicant shall provide renderings of the proposed home elevations for review.

9. Pursuant to Deviation 3, a wildland mitigation plan is required to be provided at time of local development order, to be reviewed and approved by the Bonita Springs Fire Control & Rescue District.

10. Pursuant to Deviation 4, a right-of-way planting plan shall be provided at time of local development order, to be reviewed and approved by Community Development and Public Works.

11. At time of local development order and building permit, the Applicant shall demonstrate compliance with all local, state, and federal regulations for construction within floodways and floodplains.

12. Approval of this zoning action does not guarantee approval of a local development order or building permit.

B. DEVIATIONS

1. Requesting relief from LDC Section 3-418 (d)(6) requires if roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet. Where residences will be constructed between the road, drive, or parking area and the existing residential subdivision or lots, the wall or wall and berm combination are not required. Uses or activities that generate noise, dust, odor, heat, glare, or other similar impacts, must provide a type C or F buffer unless it can be shown the proposed development will not have a significantly adverse impact on adjacent property to instead allow a 10' wide buffer with 8' high wall and landscaped between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet. ~~Deviation 1 is approved subject to **Condition 6**, granting relief from Land Development Code §3-416(D)(6) require a solid wall or combination berm and solid wall not less than eight feet in height be constructed not less than 25 feet from the property line with a Type C buffer plantings to allow a 15' wide buffer with 8' high wall and landscaped between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 linear feet.~~

~~2.~~ [*Previously approved in Ordinance 10-02 but modified*] An update to the affected code section has been provided (going from Lee County Land Development Code Section 34-934, to City of Bonita Springs Land Development Code Section 4-740) and no further modifications or alterations are being sought. This deviation approved the use of model units within the RPD without having to go through subsequent administrative actions. The deviation with the updated code section language, subject to Condition 5. ~~Deviation 2 is approved, subject to~~

~~**Condition 9**, granting relief from Land Development Code §34-934 requiring that model units be approved with Administrative Action, to allow Model Units to be approved as a permitted use with the RPD rezoning.~~

3. Requesting relief from LDC Section 3-417 (b)(6), Indigenous native vegetation. Setbacks, which requires a minimum 30-foot setback from all preserve (wildland) areas is required for buildings and accessory structures for the purposes of fire protection. Buildings and accessory structures located closer than 30 feet from a preserve (wildland) area shall require special mitigation measures as determined by the Bonita Springs Fire Control and Rescue District, in accordance with the National Fire Protection Association ("NFPA"), Standard 1144, "Standard for Protection of Life and Property from Wildfire." To instead allow structures to be located 10 feet from an off-site preserve and to provide a wildland mitigation plan with the development order, subject to Condition 8.

4. Requesting relief from LDC Section 3-418 (d)(3), buffering requirements, which requires a 15 foot wide type 'D' buffer to instead allow a modified landscape buffer with an average of 1 tree per ROW abutting residential unit, planting within the ROW abutting dry detention area (cypress trees or similar), and no buffer required when abutting mangroves, subject to Condition 9.

5. 5. Requesting relief from LDC Section 3-417(b)(1)a, Indigenous native vegetation, which requires a minimum setback of 30 feet is required from any habitable structure to instead allow for a minimum setback of 10 feet from the .02 acre mangrove preserve, is APPROVED, subject to Condition 8.

6. Requesting relief from LDC Section 4-741(b)(1)b, Minimum setbacks of structures and buildings from development perimeter boundaries, which requires all buildings and structures must be set back from the development perimeter a distance equal to the greater of: Fifteen feet, if the subject property is, or will be zoned RPD, MHPD, CFPD, or CPD. To instead allow buildings #1, #7 and #10 to have a ten-foot setback from the perimeter of the RPD boundary as shown on the MCP.

SECTION TWO: FINDINGS AND CONCLUSIONS

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

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

SECTION THREE: INCORPORATION OF RECORD

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

EXHIBITS:

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

ATTACHMENTS:

A. Background and Informational Analysis
B. City of Bonita Springs Zoning Ordinance 10-02
C. Application Backup (final hearing items)

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 5th day of June, 2024.

AUTHENTICATION:

_____ _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

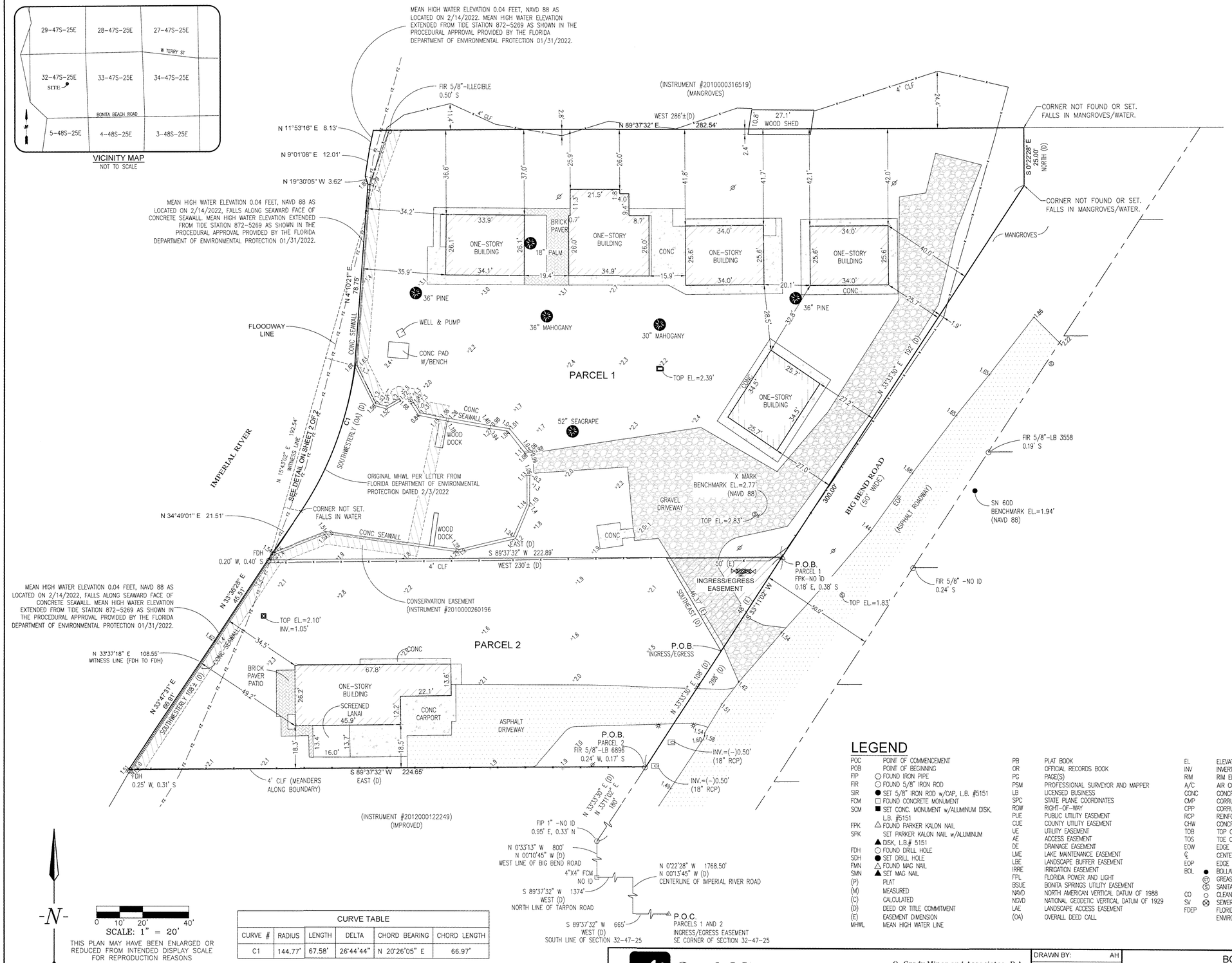
Vote:

Carr	Corrie
Purdon	Bogacz
Forbes	Steinmeyer
Fullick	

Date filed with City Clerk: _____

EXHIBIT "A"

VICINITY MAP
NOT TO SCALE


MEAN HIGH WATER ELEVATION 0.04 FEET, NAVD 88 AS LOCATED ON 2/14/2022. MEAN HIGH WATER ELEVATION EXTENDED FROM TIDE STATION 872-5269 AS SHOWN IN THE PROCEDURAL APPROVAL PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION 01/31/2022.
FIR 5/8"-ILLEGIBLE 0.50' S
(INSTRUMENT #2010000316519)
(MANGROVES)
N 11°53'16" E 8.13'
N 9°01'08" E 12.01'
N 19°30'05" W 3.62'
N 89°37'32" E 282.54'
WEST 286'±(D)
10.8'
27.1' WOOD SHED
CORNER NOT FOUND OR SET. FALLS IN MANGROVES/WATER.
S 0°22'28" E 25.00' NORTH (D)
CORNER NOT FOUND OR SET. FALLS IN MANGROVES/WATER.
MANGROVES
MEAN HIGH WATER ELEVATION 0.04 FEET, NAVD 88 AS LOCATED ON 2/14/2022, FALLS ALONG SEAWARD FACE OF CONCRETE SEAWALL. MEAN HIGH WATER ELEVATION EXTENDED FROM TIDE STATION 872-5269 AS SHOWN IN THE PROCEDURAL APPROVAL PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION 01/31/2022.
ONE-STORY BUILDING
BRICK PAVER
18" PALM
CONC
36" PINE
36" MAHOGANY
30" MAHOGANY
WELL & PUMP
CONC PAD W/BENCH
FLOODWAY LINE
CONC SEAWALL
N 4°10'21" E 78.75'
PARCEL 1
TOP EL.=2.39'
52" SEAGRAPE
WOOD DOCK
SOUTHWESTERLY (0A) (D)
C1
IMPERIAL RIVER
SEE DETAIL ON SHEET 2 OF 2
ORIGINAL MHWL PER LETTER FROM FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION DATED 2/3/2022
BENCHMARK EL.=2.77' (NAVD 88)
X MARK
GRAVEL DRIVEWAY
TOP EL.=2.83'
BIG BEND ROAD (50' WIDE)
EOP (ASPHALT ROADWAY)
SN 60D BENCHMARK EL.=1.94' (NAVD 88)
FIR 5/8"-LB 3558 0.19' S
FIR 5/8" -NO ID 0.24' S
N 34°49'01" E 21.51'
CORNER NOT SET. FALLS IN WATER
CONC SEAWALL
FDH 0.20' W, 0.40' S
S 89°37'32" W 222.89'
WEST 230'± (D)
4' CLF
EAST (D)
P.O.B. PARCEL 1 FPK-NO ID 0.18' E, 0.38' S
50' (E)
INGRESS/EGRESS EASEMENT
SOUTHEAST (D)
S 55°11'02" W
TOP EL.=1.83'
CONSERVATION EASEMENT (INSTRUMENT #2010000260196
TOP EL.=2.10' INV.=1.05'
MEAN HIGH WATER ELEVATION 0.04 FEET, NAVD 88 AS LOCATED ON 2/14/2022, FALLS ALONG SEAWARD FACE OF CONCRETE SEAWALL. MEAN HIGH WATER ELEVATION EXTENDED FROM TIDE STATION 872-5269 AS SHOWN IN THE PROCEDURAL APPROVAL PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION 01/31/2022.
N 33°36'28" E 46.91'
N 33°37'18" E 108.55' WITNESS LINE (FDH TO FDH)
N 33°47'31" E 69.91'
SOUTHWESTERLY 108'± (D)
PARCEL 2
BRICK PAVER PATIO
ONE-STORY BUILDING
SCREENED LANAI
CONC CARPORT
ASPHALT DRIVEWAY
P.O.B. PARCEL 2 FIR 5/8"-LB 6896 0.24' W, 0.17' S
P.O.B. INGRESS/EGRESS
N 33°33'30" E 108' (D)
288' (D)
INV.=(-)0.50' (18" RCP)
INV.=(-)0.50' (18" RCP)
FDH 0.25' W, 0.31' S
4' CLF (MEANDERS ALONG BOUNDARY)
S 89°37'32" W 224.65'
EAST (D)
(INSTRUMENT #2012000122249)
(IMPROVED)
FIP 1" -NO ID 0.95' E, 0.33' N
N 0°33'13" W 800'
N 00°10'45" W (D)
WEST LINE OF BIG BEND ROAD
4"X4" FCM NO ID
S 89°37'32" W 1374'
WEST (D)
NORTH LINE OF TARPON ROAD
N 0°22'28" W 1768.50'
N 00°13'45" W (D)
CENTERLINE OF IMPERIAL RIVER ROAD
P.O.C. PARCELS 1 AND 2 INGRESS/EGRESS EASEMENT SE CORNER OF SECTION 32-47-25
S 89°37'32" W 665' WEST (D)
SOUTH LINE OF SECTION 32-47-25
N 33°33'30" E (D)
N 33°11'02" E
180'
N 15°33'50" E 192' (D)
ONE-STORY BUILDING
CONC
34.5'
25.7'
27.2'
27.0'
300.00'
1.65
1.88
1.44
1.24
1.54
1.58
1.60
1.49
1.51
1.40
1.43
1.50
1.54
1.56
1.57
1.59
1.61
1.62
1.63
1.64
1.66
1.67
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1.72
1.73
1.74
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1.78
1.79
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1.94
1.95
1.96
1.97
1.98
1.99
2.00
2.01
2.02
2.03
2.04
2.05

POC		POINT OF COMMENCEMENT
POB		POINT OF BEGINNING
FIP	○	FOUND IRON PIPE
FIR	○	FOUND 5/8" IRON ROD
SIR	●	SET 5/8" IRON ROD w/CAP, L.B. #5151
FCM	□	FOUND CONCRETE MONUMENT
SCM	■	SET CONC. MONUMENT w/ALUMINUM DISK, L.B. #5151
FPK	△	FOUND PARKER KALON NAIL
SPK	▲	SET PARKER KALON NAIL w/ALUMINUM DISK, L.B.# 5151
FDH	○	FOUND DRILL HOLE
SDH	●	SET DRILL HOLE
FMN	△	FOUND MAG NAIL
SMN	▲	SET MAG NAIL
(P)		PLAT
(M)		MEASURED
(C)		CALCULATED
(D)		DEED OR TITLE COMMITMENT
(E)		EASEMENT DIMENSION
MHWL		MEAN HIGH WATER LINE

PB	PLAT BOOK
OR	OFFICIAL RECORDS BOOK
PG	PAGE(S)
PSM	PROFESSIONAL SURVEYOR AND MAPPER
LB	LICENSED BUSINESS
SPC	STATE PLANE COORDINATES
ROW	RIGHT-OF-WAY
PUE	PUBLIC UTILITY EASEMENT
CUE	COUNTY UTILITY EASEMENT
UE	UTILITY EASEMENT
AE	ACCESS EASEMENT
DE	DRAINAGE EASEMENT
LME	LAKE MAINTENANCE EASEMENT
LBE	LANDSCAPE BUFFER EASEMENT
IRRE	IRRIGATION EASEMENT
FPL	FLORIDA POWER AND LIGHT
BSUE	BONITA SPRINGS UTILITY EASEMENT
NAVD	NORTH AMERICAN VERTICAL DATUM OF 1988
NGVD	NATIONAL GEODETIC VERTICAL DATUM OF 1929
LAE	LANDSCAPE ACCESS EASEMENT
(OA)	OVERALL DEED CALL

EL		ELEVATION
INV		INVERT ELEVATION
RIM		RIM ELEVATION
A/C		AIR CONDITIONING UNIT/PAD
CONC		CONCRETE
CMP		CORRUGATED METAL PIPE
CPP		CORRUGATED PLASTIC PIPE
RCP		REINFORCED CONCRETE PIPE
CHW		CONCRETE HEADWALL
TOB		TOP OF BANK
TOS		TOE OF SLOPE
EOW		EDGE OF WATER
℄		CENTER LINE
EOP		EDGE OF PAVEMENT
BOL	●	BOLLARD
	GT	GREASE TRAP
	S	SANITARY MANHOLE
CO	○	CLEAN OUT
SV	⊗	SEWER VALVE
FDEP		FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

	▣	CATCH BASIN
	Ⓓ	DRAINAGE MANHOLE
	⊏	MITERED END
	▣	YARD DRAIN
WV	⊗	WATER VALVE
	W	WATER METER
	⊳⊲⊳⊲	BACK FLOW PREVENTOR
		FIRE HYDRANT
	○	FIRE DEPARTMENT CONNECTION
	⊗	BACTERIA SAMPLE POINT
	✦	AIR RELEASE VALVE
IRV	⊗	IRRIGATION VALVE/ CONTROL VALVE
GV	⊗	GAS VALVE
	G	GAS METER/SERVICE
	GM	GAS MARKER
		UTILITY POLE – WOOD
		UTILITY POLE – CONCRETE
		GUY ANCHOR
		OVERHEAD WIRES
SE		SIGN EASEMENT
LAE		LAKE ACCESS EASEMENT
WLT		WITNESS LINE TIE

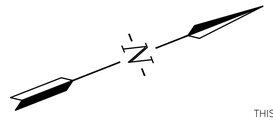
	☼	LIGHT POLE
	Ⓣ	TELEPHONE MANHOLE
	T	TELEPHONE RISER/BOX
	C	CABLE TELEVISION RISER/BOX
	E	ELECTRIC MANHOLE
	E	ELECTRIC RISER/BOX/METER
	ET	ELECTRIC TRANSFORMER
	⊙	TRAFFIC LIGHT
	✦	UNDERGROUND UTILITY MARKER
	○	SIGN ON POLE
PC		POINT OF CURVATURE

= CONCRETE

= ASPHALT

= BRICK PAVER

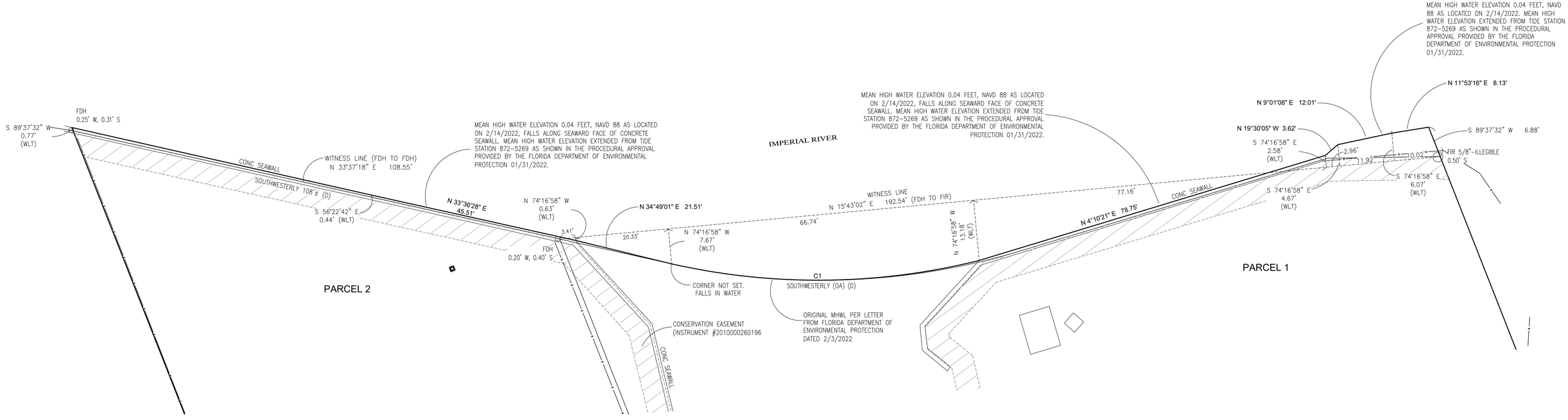
FZ — FZ — FZ — SCALED FLOOD WAY LINE



0 5' 10' 20'

SCALE: 1" = 10'

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



REVISION: REVISED PER COUNTY COMMENTS (4/21/2022)

GradyMinor

Civil Engineers • Land Surveyors • Planners • Landscape Architects

Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266

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

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

DRAWN BY:	AH
CHECKED BY:	DLS
JOB CODE:	BBSPDO
SCALE:	1" = 10'
DATE:	14 JANUARY 2022
FILE:	22-14-BST.001.DWG
SHEET:	2 of 2

BOUNDARY AND TIDAL WATER SURVEY

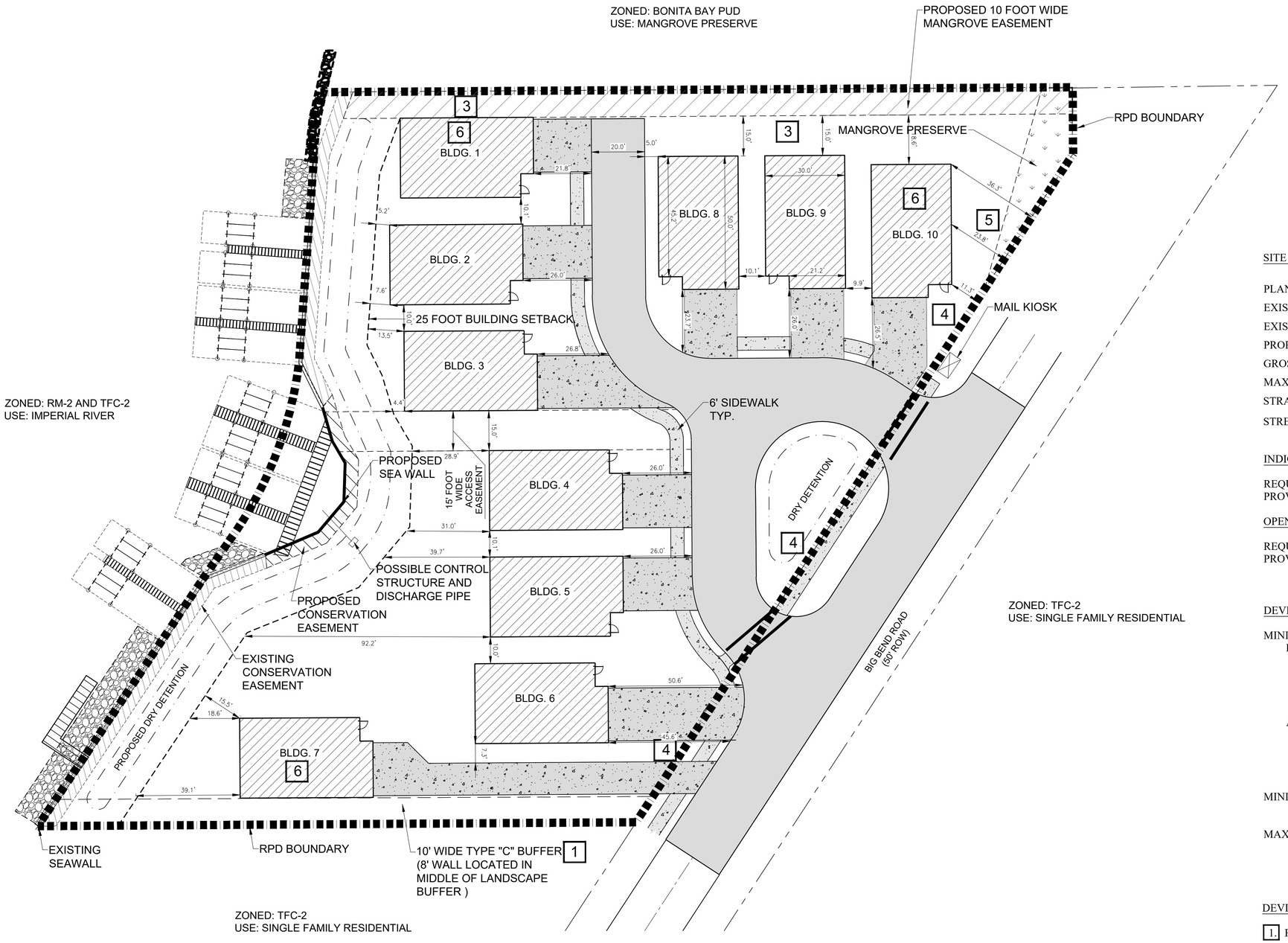
27523 & 27495-511 BIG BEND RD
BONITA SPRINGS, FL 34134

LYING IN
SECTION 32, TOWNSHIP 47 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

NOT VALID WITHOUT SHEETS 2 OF 2

G:\SURVEY\PROJECT SURVEY 2022\14 - BIG BEND (BBSPDO)\SURVEY\22-14-BST.001.DWG

EXHIBIT B -- REVISED



SITE SUMMARY

PLAN DESIGNATION:	MEDIUM DENSITY SINGLE FAMILY/DUPLEX RESIDENTIAL
EXISTING ZONING DESIGNATION:	RIVERBEND RPD
EXISTING LAND USE:	RESIDENTIAL
PROPOSED ZONING DESIGNATION:	RPD, RESIDENTIAL PLANNED DEVELOPMENT
GROSS AREA:	1.5± ACRES
MAXIMUM DWELLING UNITS:	10 UNITS
STRAP NUMBERS:	32-47-25-B2-00003.0000 and 32-47-25-B2-00003.0010
STREET ADDRESS:	27495-511 AND 27523 BIG BEND ROAD

INDIGENOUS PRESERVE:

REQUIRED: 0
PROVIDED: 0.02 (MANGROVE PRESERVE)

OPEN SPACE:

REQUIRED: 0.6± ACRE (1.5± ACRE X 0.40)
PROVIDED: 0.6± ACRE

DEVELOPMENT REGULATIONS:

MINIMUM SETBACKS:
- PRINCIPAL:
  - NORTH PD BOUNDARY: 10 FEET
  - IMPERIAL RIVER: 25 FEET
  - SOUTH PD BOUNDARY: 10 FEET
  - BIG BEND ROAD: 20 FEET, HOWEVER BLDG. 10 MAY BE REDUCED TO 10 FEET
- ACCESSORY:
  - NORTH PD BOUNDARY: 10 FEET
  - IMPERIAL RIVER: 0 FEET
  - SOUTH PD BOUNDARY: 10 FEET
  - BIG BEND ROAD: 10 FEE

MINIMUM BUILDING SEPARATION: PRINCIPAL: 10 FEET; ACCESSORY: 0 FEET

MAXIMUM BUILDING HEIGHT:
- PRINCIPAL: 35 FEET (NOT TO EXCEED 2 STORIES OVER PARKING, WHICH MAY INCLUDE A ROOFTOP VIEWING DECK)
- ACCESSORY: 25 FEET

DEVIATIONS:

1. RELIEF FROM LDC SECTION 3-418(d)(6), LANDSCAPE STANDARDS
2. RELIEF FROM LDC SECTION 4-740, USE REGULATIONS TABLE
3. RELIEF FROM LDC SECTION 3-417(b)(6), INDIGENOUS PRESERVE SETBACKS
4. RELIEF FROM LDC SECTION 3-418(d)(3), BUFFER REQUIREMENTS
5. RELIEF FROM LDC SECTION 3-417(B)(1)A, INDIGENOUS NATIVE VEGETATION SETBACK
6. RELIEF FROM LDC SECTION 4-741(B)(1)B, MINIMUM SETBACKS OF STRUCTURES AND BUILDINGS FROM DEVELOPMENT PERIMETER BOUNDARIES

LEGEND:

DRIVEWAY / PARKING

NOTES

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

LEGEND

Revision	Date	Description	By

DESIGNED BY: QGMA
DRAWN BY: S.U.
APPROVED: D.W.A.
JOB CODE: BBSPDO
SCALE:

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

RIVERBEND RPD

EXHIBIT IV-E
MASTER CONCEPT PLAN
REVISED MAY 22, 2023

MUNICIPALITY: BONITA SPRINGS
SEC/TWNSHP/RNG: 32/47S/25E
DATE: MAY 2020
SUBMITTAL TYPE: RPD AMENDMENT
SHEET 1 OF 1

G:\PLANNING\PROJ - PLANNING\BBSPDO RIVERBEND RPDA (P022-99976-BOS)\DRAWINGS\BBSPDO-MCP-R5.DWG 5/23/2024 3:00 PM

GradyMinor

Civil Engineers • Land Surveyors • Planners • Landscape Architects

May 28, 2024

Mr. Michael Fiigon
City of Bonita Springs Community Development
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135

RE: Riverbend RPD Amendment, PD22-95976-BOS

Dear Mr. Fiigon:

Attached, please find a slightly revised Master Concept Plan (MCP) for the subject RPD. After hearing objections raised by opponents of the project at the Zoning Board and City Council First Reading public hearings regarding the sufficiency of the application, we have added two notations on the MCP. First, to address the objection that the MCP does not include the number of stories, we added the following notation under building height: "not to exceed 2 stories over parking which may include a rooftop viewing deck". Second, the objectors indicated that the MCP did not delineate where vehicles will be parked. To address the objection, we have added a legend with notation identifying the location of the driveway/parking for the project.

Please include the revised MCP in the City Council agenda packet for the June 5, 2024, public hearing. Enclosed is a hard copy of the revised MCP and a thumb drive with a pdf of the revised MCP for your use.

Please feel free to contact me if you have any questions.

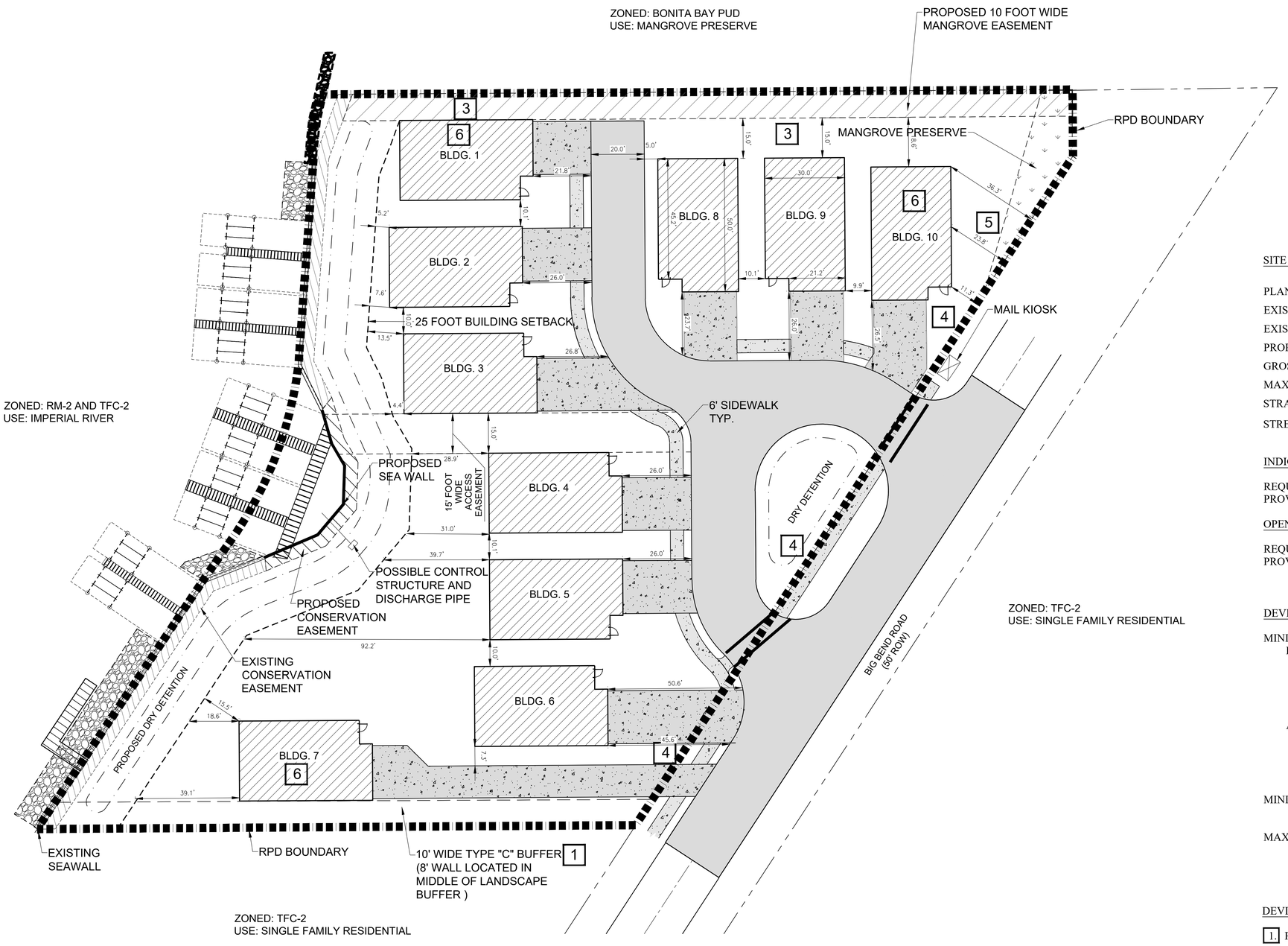
Sincerely,

D. Wayne Arnold, AICP

Cc: BB Sunset Properties, LLC
GradyMinor File (BBSPDO)

Q. Grady Minor and Associates, LLC
3800 Via Del Rey
Bonita Springs, FL 34134

Ph. 239-947-1144 ● Fax. 239-947-0375
EB 0005151 ● LB 0005151 ● LC 26000266
www.gradyminor.com



SITE SUMMARY

PLAN DESIGNATION:	MEDIUM DENSITY SINGLE FAMILY/DUPLEX RESIDENTIAL
EXISTING ZONING DESIGNATION:	RIVERBEND RPD
EXISTING LAND USE:	RESIDENTIAL
PROPOSED ZONING DESIGNATION:	RPD, RESIDENTIAL PLANNED DEVELOPMENT
GROSS AREA:	1.5± ACRES
MAXIMUM DWELLING UNITS:	10 UNITS
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STREET ADDRESS:	27495-511 AND 27523 BIG BEND ROAD

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REQUIRED: 0
PROVIDED: 0.02 (MANGROVE PRESERVE)

OPEN SPACE:

REQUIRED: 0.6± ACRE (1.5± ACRE X 0.40)
PROVIDED: 0.6± ACRE

DEVELOPMENT REGULATIONS:

MINIMUM SETBACKS:
- PRINCIPAL:
  - NORTH PD BOUNDARY: 10 FEET
  - IMPERIAL RIVER: 25 FEET
  - SOUTH PD BOUNDARY: 10 FEET
  - BIG BEND ROAD: 20 FEET, HOWEVER BLDG. 10 MAY BE REDUCED TO 10 FEET
- ACCESSORY:
  - NORTH PD BOUNDARY: 10 FEET
  - IMPERIAL RIVER: 0 FEET
  - SOUTH PD BOUNDARY: 10 FEET
  - BIG BEND ROAD: 10 FEE

MINIMUM BUILDING SEPARATION: PRINCIPAL: 10 FEET; ACCESSORY: 0 FEET

MAXIMUM BUILDING HEIGHT:
- PRINCIPAL: 35 FEET (NOT TO EXCEED 2 STORIES OVER PARKING, WHICH MAY INCLUDE A ROOFTOP VIEWING DECK)
- ACCESSORY: 25 FEET

DEVIATIONS:

1. RELIEF FROM LDC SECTION 3-418(d)(6), LANDSCAPE STANDARDS
2. RELIEF FROM LDC SECTION 4-740, USE REGULATIONS TABLE
3. RELIEF FROM LDC SECTION 3-417(b)(6), INDIGENOUS PRESERVE SETBACKS
4. RELIEF FROM LDC SECTION 3-418(d)(3), BUFFER REQUIREMENTS
5. RELIEF FROM LDC SECTION 3-417(B)(1)A, INDIGENOUS NATIVE VEGETATION SETBACK
6. RELIEF FROM LDC SECTION 4-741(B)(1)B, MINIMUM SETBACKS OF STRUCTURES AND BUILDINGS FROM DEVELOPMENT PERIMETER BOUNDARIES

LEGEND:

DRIVEWAY / PARKING

NOTES

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

Revision	Date	Description	By

DESIGNED BY: QGMA
DRAWN BY: S.U.
APPROVED: D.W.A.
JOB CODE: BBSPDO
SCALE:

GradyMinor
Civil Engineers • Land Surveyors • Planners • Landscape Architects
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3800 Via Del Rey
Bonita Springs, Florida 34134

RIVERBEND RPD

EXHIBIT IV-E
MASTER CONCEPT PLAN
REVISED MAY 22, 2023

MUNICIPALITY: BONITA SPRINGS
SEC/TWNSHP/RNG: 32/47S/25E
DATE: MAY 2020
SUBMITTAL TYPE: RPD AMENDMENT
SHEET 1 OF 1

G:\PLANNING\PROJ - PLANNING\BBSPDO RIVERBEND RPDA (P022-99976-BOS)\DRAWINGS\BBSPDO-MCP-R5.DWG 5/23/2024 3:00 PM

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

Meeting Minutes
Tuesday, April 16, 2024
9:00 a.m.

I. CALL TO ORDER

Chairman Rascio called the meeting to order at 9:00 am.

II. INVOCATION

Chairman Rascio gave the invocation.

III. PLEDGE OF ALLEGIANCE

Chairman Rascio asked Board Member Gambrell to lead the Pledge of Allegiance.

IV. ROLL CALL

City Clerk Sheffield called the roll:
Present – Rascio, Waterhouse, Galloway, Winn, Gambrell, Benson, and Hershenson
Absent – Russ Winn (excused)

V. APPROVAL OF MINUTES: Meeting of October 17, 2023

Board Member Hershenson motioned to approve the minutes, Seconded by Board Member Waterhouse; the motion carried 6-0.

VI. PUBLIC COMMENT

Chairman Rascio announced that public comments will be heard at the conclusion of the presentations.

VII. PUBLIC HEARINGS

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

Chairman Rascio swore in all those who intended to speak and/or give testimony.

A. CASE NAME: RIVERBEND RESIDENTIAL PLANNED DEVELOPMENT (PD22-95976-BOS)

AN AMENDMENT TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO DEVELOP UP TO TEN (10) DETACHED VILLAS, BOAT DOCKS AND OTHER ACCESSORY USES, AND TO ADD FIVE (5) DEVIATIONS.

Draft

Mike Fiigon, Senior Planner with Community Development, introduced the item.

Noel Davies of Davies Duke Law Firm opened the applicant's presentation by introducing the team members present. He stated the nature of the request is "down zoning" - to reduce the number of units and boat slips from 16 to 10.

Next, Wayne Arnold with Q. Grady Minor provided a presentation of the project which included the proposed conceptual rendering, proposed schedule of uses, and proposed deviations. Next, Michael Herrera with Q. Grady Minor provided a brief overview of stormwater management on the site and answered questions from board members regarding flooding issues.

Mr. Fiigon provided the staff presentation which included schedule of uses, deviations requested, staff findings, and proposed conditions of approval. (Staff analysis on file in the Clerk's Office). He also responded to questions asked by board members.

Chairman Rascio called for public comments; the following individuals came forth:

Mayor Rick Steinmeyer - asked what the City's responsibilities are regarding drainage improvements.

Kathryn McLukas – stated that she lives close to the proposed project and questions the buffer wall preventing water flow.

Doreen Wayling- stated she is not opposed to the project but has flooding concerns.

Wolfgang Oster - ceded time to his attorney, Douglas Lewis.

Douglas Lewis, Attorney for Wolfgang Oster, provided a binder handout to board members (copy on file in the clerk's office). City Attorney Rooney stated that Mr. Lewis reached out to him regarding presenting at today's meeting on his client's behalf; City Attorney Rooney recommended that the Board allow Mr. Lewis additional time to speak. The Clerk set the clock for 20 minutes. Mr. Lewis then proceeded to speak, requesting that the board deny the application and stating the reasons for the denial request. He also replied to board member questions.

Noel Davies provided a rebuttal to Mr. Lewis' presentation.

Seeing no additional public comments, Chairman Rascio asked for a motion. Board Member Hershenson motioned to approve the applicant's request; Chairman Rascio seconded. The Clerk recorded the vote by roll call. ***The motion carried 5-1, as follows****:*

Gambrell	Waterhouse	Benson	Winn	Galloway	Hershenson	Rascio
Aye	Aye	Aye	Absent	Nay	Aye	Aye

Draft

VIII. CASE UPDATE: Tidal Wave Rezone & Special Exception, Lake Michigan Credit Union Special Exception

Mike Fiigon provided the update, stating both the Rezone and Special Exception were approved by City Council.

IX. NEXT MEETING: *The next meeting is scheduled for April 30, 2024 at 9:00 am.*

Additional Board Action
Board member Gambrell recommended that the Zoning Board take up the task of enhancing and clarifying the definition of a detached villa, and then provide LDC amendment recommendations to City Council. He then made such a motion; Seconded by Chairman Rascio. ***The motion carried 6-0.***

X. ADJOURNMENT

As there was no further business, Chairman Rascio adjourned the meeting at 10:57 a.m.

Respectfully submitted,

_____
Mike Sheffield, City Clerk

APPROVED:
BONITA SPRINGS ZONING BOARD:

Date: _____

AUTHENTICATED:

_____
Anthony Rascio, Chairman

Draft

TABLE OF CONTENTS

PD22-95976-BOS

RIVERBEND RPD AMENDMENT

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STAFF REPORT

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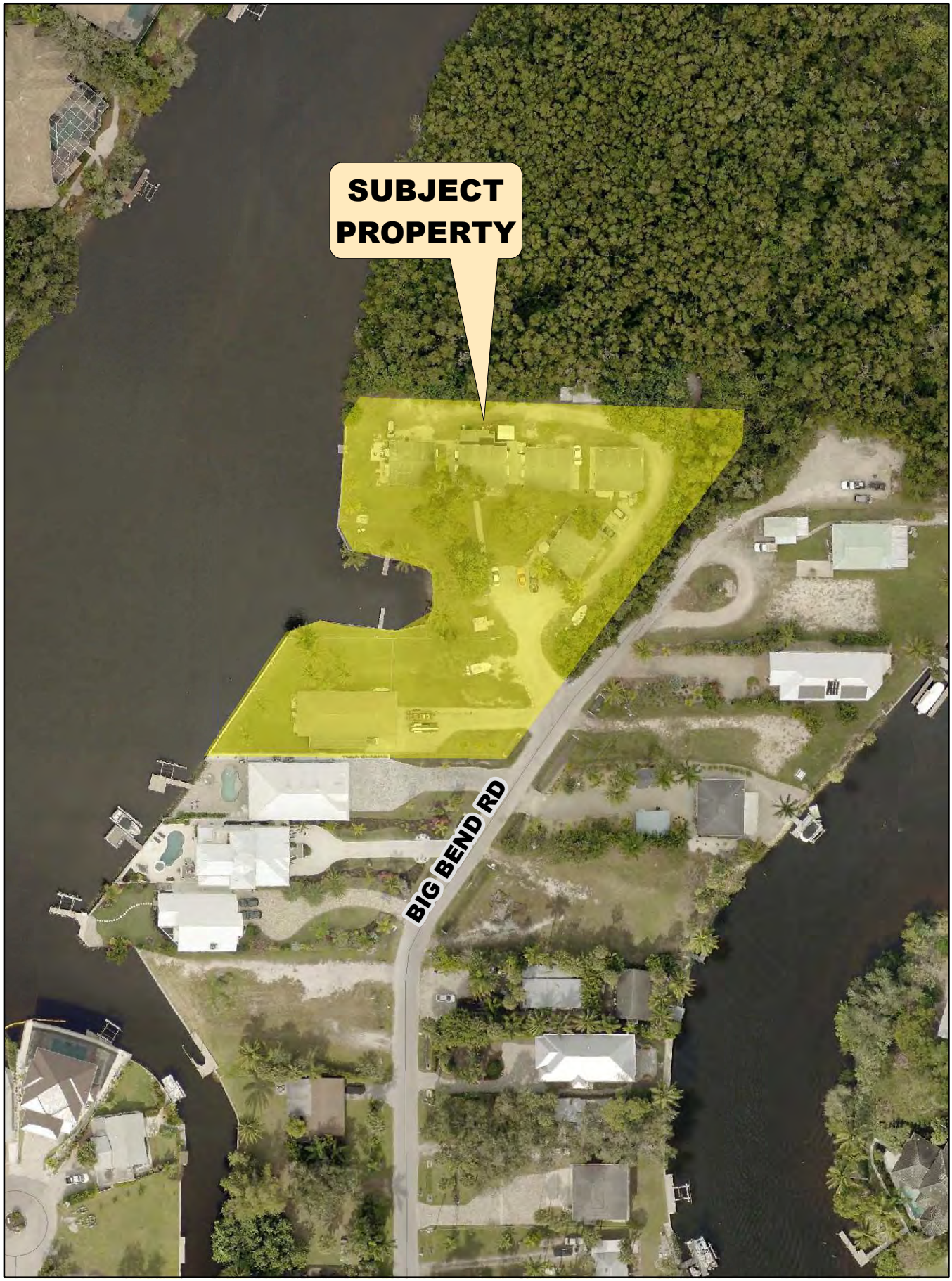
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Riverbend RPD Amendment
Exhibit IV-N Aerial



BONITA SPRINGS, FLORIDA

COMMUNITY DEVELOPMENT DEPARTMENT

ZONING DIVISION

STAFF REPORT

TYPE OF CASE: PLANNED DEVELOPMENT AMENDMENT

CASE NUMBER: PD22-95976-BOS

HEARING DATE: March 21, 2024

PLANNER: Mike Fiigon II, Senior Planner

APPLICATION SUMMARY:

A. Applicant: BB Sunset Properties, LLC

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

C. Request: To amend a Residential Planned Development (RPD) to develop up to ten (10) detached villas, boat docks, and other accessory uses, and to add five (5) deviations.

D. Location: West side of Big Bend Road; STRAP: 32-47-25-B2-00003.0000 (27495-511 Big Bend Road) & 32-47-25-B2-00003.0010 (27523 Big Bend Road), Bonita Springs, Florida 34134

E. Future Land Use Plan Designation: Medium Density Residential

F. Current Zoning: Residential Planned Development (RPD)

G. Current Land Use: Vacant

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

BACKGROUND:

The property was rezoned from the multi-family zoning designation (RM-2) and the two-family conservation designation (TFC-2) to a Residential Planned Development (RPD), pursuant to Bonita Springs Zoning Ordinance 10-02, passed by City Council on January 25, 2010. At the time, the intent was to construct up to 16 units and a variety of unit types, including single-family, two-family attached, and multi-family. Several residential structures (duplexes) were existing on-site at the time of the initial rezoning petition. The duplexes sustained heavy damage as the result of the aftermath of Hurricane Ian and were subsequently demolished. In late October 2022, the Applicant's agent (Q. Grady Minor & Associates, P.A.) filed for an amendment to the zoning ordinance to reduce the density from 16 units down to 10 units, and to amend the schedule of uses to remove the single-family, two-family, and multi-family unit types and to add "Detached Villas" to the list. The City's current regulations do not contain a definition for a detached villa, so Staff requested the Applicant provide a definition for consideration. The definition provided is: *a dwelling unit that is occupied by one family and is not connected to any other structure. Multiple detached villas may be located on a single parcel.* Subsequent review and analysis of this definition is provided in the Comprehensive Plan consistency section of this staff report.

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

Accessory Uses, Buildings, and Structures
Docks, seawalls
Dwelling units (Maximum total ~~16~~ 10 units):
- ~~Single-Family (maximum total 2 units)~~
- ~~Two-Family Attached (maximum total (4 units)~~
- ~~Multi-family building (maximum total 10 units)~~
- Detached Villa **

Models:
- Model Home (for marketing purposes within the project only)

Real Estate Sales Office (temporary for marketing purposes within the project only within one dwelling unit)
Recreational facilities:
- Personal
- Private-Onsite

Residential Accessory Uses

** The term "Detached Villa" is defined as follows: a dwelling unit that is occupied by one family and is not connected to any other structure. Multiple Detached Villas may be located on a single parcel.

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

Minimum Lot Width:	~~324.95 feet~~	N.A.
Minimum Lot Depth:	~~223 feet~~	N.A.
Minimum Lot Area:	~~1.52 +/- acres~~	N.A.
Maximum Lot Coverage:	40%	
Minimum Open Space:	40%	

	Detached Villa	~~Single-Family~~	~~Two-Family Attached~~	~~Townhouse Multi-Family~~	Accessory Structures
Maximum Building Height	35 feet	~~Not to exceed 35 feet~~	~~Not to exceed 35 feet~~	~~Not to exceed 39 feet~~	~~35~~ 25 feet
Setbacks ~~Street~~ ~~Side Yard~~ ~~Rear Yard~~ ~~Water Body~~		~~50 feet~~ ~~7.5 feet~~ ~~25 feet~~ ~~25 feet~~	~~50 feet~~ ~~0/10 feet~~ ~~25 feet~~ ~~25 feet~~	~~50 feet~~ ~~0/20 feet~~ ~~25 feet~~ ~~25 feet~~	~~50 feet~~ ~~10 feet~~ ~~25 feet~~ ~~25 feet~~
North PD Boundary	10 feet				10 feet
Imperial River	25 feet				0 feet (for docks, seawalls, walkways and accessways)
South PD Boundary	10 feet				10 feet
Big Bend Road	20 feet (Building 10 to be reduced to 10 feet)				10 feet
Minimum Building Separation	10 feet	~~10 feet~~	~~10 feet~~	~~20 feet~~	~~5 feet~~ 0 feet

Deviations: Two deviations were approved as part of the original zoning ordinance. The Applicant is requesting to amend one of them, and add four (4) more, for a total of five (5) new deviations. The request language, Applicant justification, and Staff response are shown below.

Deviation Request #1: Requesting relief from LDC Section 3-418 (d)(6) requires if roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet. Where residences will be constructed between the road, drive, or parking area and the existing residential subdivision or lots, the wall or wall and berm combination are not required. Uses or activities that generate noise, dust, odor, heat, glare, or other similar impacts, must provide a type C or F buffer unless it can be shown the proposed development will not have a significantly adverse impact on adjacent property to instead allow a 10' wide buffer with 8' high wall and landscaped between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet.

Applicant Justification: *The proposed development will "appear" to be single family residence but will "function" as multi-family without lot lines and associated HOA docs. The appearance of the development will be consistent with the abutting residential neighborhood. Furthermore, each home will have a driveway or shared driveway that connects directly to Big Bend Road. The driveways don't function like a traditional roadway.*

Staff Analysis: The original deviation request as approved in Ordinance 10-02 reduced the buffer width from 25 feet to 15 feet. This deviation seeks a further reduction to 10 feet. However, the planting standard of a minimum of five (5) trees and 18 shrubs per 100 lineal feet is not being modified. Additionally, the previously-approved Master Concept Plan (MCP) allowed for a variety of dwelling unit types and a different layout, in which the increased buffer width may have been more appropriate. With this amendment, the site will be designed to be more in line with single-family development. Since the planting standard of the code section is remaining in place, and since the development will be more consistent with single-family development, Staff recommends **APPROVAL** of the deviation request.

Deviation Request #2: [Previously approved in Ordinance 10-02]: An update to the affected code section has been provided (going from Lee County Land Development Code Section 34-934, to City of Bonita Springs Land Development Code Section 4-740) and no further modifications or alterations are being sought. This deviation approved the use of model units within the RPD without having to go through subsequent administrative actions.

Deviation Request #3: Requesting relief from LDC Section 3-417 (b)(6), Indigenous native vegetation. Setbacks, which requires a minimum 30-foot setback from all preserve (wildland) areas is required for buildings and accessory structures for the purposes of fire

protection. Buildings and accessory structures located closer than 30 feet from a preserve (wildland) area shall require special mitigation measures as determined by the Bonita Springs Fire Control and Rescue District, in accordance with the National Fire Protection Association ("NFPA"), Standard 1144, "Standard for Protection of Life and Property from Wildfire." To instead allow structures to be located 10 feet from an off-site preserve and to provide a wildland mitigation plan with the development order.

Applicant Justification: *The off-site preserve is a mangrove preserve. The area north of the RPD is adjacent to the Imperial River and the risk from wildfire is non-existent. The risk of fire in this location is de minimis. The Bonita Springs Fire and Rescue District has approved the deviation, subject to submission of a Wildland Fire Mitigation Plan. There is a proposed 10-foot-wide pedestrian easement that allows structures to be located 10 feet from the on-site preserve, subject to submission of a Wildland Fire Mitigation Plan Reference Detail B- Proposed Site Plan.*

Staff Analysis: It should be noted that the referenced code section does not prohibit structures from being closer than 30 feet to preserve areas. Rather, it stipulates a requirement that, should this option be utilized, mitigation measures may be required by the Bonita Springs Fire Control & Rescue District (BSF). The Applicant will submit a mitigation plan as part of the development order process and it will be reviewed by BSF. It appears the Applicant has already spoken to BSF about mitigation. Staff recommends **APPROVAL** of the reduced setback, subject to approval of the mitigation plan by BSF at time of local development order.

Deviation Request #4: Requesting relief from LDC Section 3-418 (d)(3), buffering requirements, which requires a 15 foot wide type 'D' buffer to instead allow a modified landscape buffer with an average of 1 tree per ROW abutting residential unit, planting within the ROW abutting dry detention area (cypress trees or similar), and no buffer required when abutting mangroves.

Applicant Justification: *In an attempt to have a unified appearance with the existing residential community, the proposed development is looking to have similar landscaping as the existing abutting residential homes, with open view corridors, limited shrubs or bushes, and front yard canopy trees.*

Staff Analysis: As part of the review for this deviation, Staff requested a right-of-way exhibit that provided a concept showing the proposed planting areas. It is the Staff's understanding that the Applicant has been in touch with the City's Public Works Department with regards to obtaining easements to provide additional outfall structures to better drain this portion of Big Bend Road. With negotiations ongoing, Staff cannot say definitively if the proposed planting concept is appropriate. Staff is recommending a right-of-way planting plan/exhibit to be provided at time of local development order, especially for any plants proposed in the dry detention areas, to better understand the implications of this deviation request. If the Applicant agrees to this condition, Staff does not object to

recommending **APPROVAL** of the deviation request, subject to the approval of the right-of-way planting plan from Community Development and Public Works.

Deviation Request #5: Requesting relief from LDC Section 3-417(b)(1)a, Indigenous native vegetation, which requires a minimum setback of 30 feet is required from any habitable structure to instead allow for a minimum setback of 10 feet from the .02 acre mangrove preserve.

Applicant Justification: *The reduced setback is applicable for a single structure and the 10-foot dimension is for the closest portion of the home to the preserve. The .02-acre preserve is immediately adjacent to Big Bend Road and has been impacted by the road construction. The Bonita Springs Fire and Rescue District has approved the deviation from a preserve setback, and we will provide a Wildland Fire Mitigation Plan with the Development Order.*

Staff Analysis: This deviation request is similar to Deviation #3. While that deviation was to address setbacks to the mangrove preserve area to the north, this deviation is to address the setbacks of Building 10 to the mangrove preserve area to the east. Staff recommends **APPROVAL** of this deviation request, subject to approval of a mitigation plan reviewed by Bonita Springs Fire Control & Rescue District.

Deviation Request #6: Requesting relief from LDC Section 4-741(b)(1)b, Minimum setbacks of structures and buildings from development perimeter boundaries, which requires all buildings and structures must be set back from the development perimeter a distance equal to the greater of:

Fifteen feet, if the subject property is, or will be zoned RPD, MHPD, CFPD, or CPD.

To instead allow buildings #1, #7 and #10 to have a ten-foot setback from the perimeter of the RPD boundary as shown on the MCP.

Applicant Justification: *The proposed setback reduction to 10 feet only applies to buildings #1, #7 and #10. Building #1 is adjacent to a mangrove preserve and the applicant has requested a deviation from the 30-foot setback from a preserve. The setback is supported by the Bonita Springs Fire and Rescue District with submission of a wildland mitigation plan with the D.O. For building #10 the reduction in perimeter setback is only applicable to the southeast corner of the proposed structure, which can actually be a minimum of 11 feet from the RPD boundary. the balance of the structure will comply with the 15-foot setback requirement. The slight reduction in setback will allow the internal drive to have appropriate turning radii for emergency vehicles and to provide for appropriate building separation.*

Staff Analysis: One of the purposes of the perimeter setback is to provide for increased buffering in order to mitigate perceived impacts on neighboring properties. Adjacent to the north is a dedicated preserve area and to the east is the right-of-way of Big Bend

Road. The "impact" would be on the south side of the project, adjacent to Building 7. However, as demonstrated in Deviation #1 (and shown on the master concept plan), the Applicant will be providing an eight-foot high wall, in addition to a landscape buffer. The wall and landscaping will visually screen the project on the south side. Staff recommends **APPROVAL** of this deviation request, subject to the construction of the wall and landscape buffer.

CONCLUSIONS:

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

RECOMMENDATION:

Staff recommends **APPROVAL** of a Residential Planned Development (RPD) zoning amendment to Ordinance 10-02 to reduce the density to a maximum of 10 detached villa units (as defined below) and add five (5) deviations. This recommendation of approval is subject to the following conditions, which shall replace those stated in Ordinance 10-02:

Conditions:

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

2. Schedule of Uses:

   Accessory Uses, Buildings, and Structures
   Docks, seawalls
   Dwelling units (Maximum total 10 units):
   - Detached Villa *

   Models:
   - Model Home (for marketing purposes within the project only)

   Real Estate Sales Office (temporary for marketing purposes within the project only within one dwelling unit)
   Recreational facilities:
   - Personal
   - Private-Onsite

   Residential Accessory Uses

   *** The term "Detached Villa" is defined as follows: a dwelling unit that is occupied by one family and is not connected to any other structure. Multiple Detached Villas may be located on a single parcel.*

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

Minimum Lot Width:	N.A.
Minimum Lot Depth:	N.A.
Minimum Lot Area:	N.A.
Maximum Lot Coverage:	40%
Minimum Open Space:	40%

	Detached Villa	Accessory Structures
Maximum Building Height	35 feet	25 feet
Setbacks		
North PD Boundary	10 feet	10 feet
Imperial River	25 feet	0 feet (for docks, seawalls, walkways and accessways)
South PD Boundary	10 feet	10 feet
Big Bend Road	20 feet (Building 10 to be reduced to 10 feet)	10 feet
Minimum Building Separation	10 feet	0 feet

4. The Applicant is required to coordinate with Community Development and Public Works to discuss roadway and drainage improvements along the project's frontage on Big Bend Road. This coordination shall take place during the development order review process. This coordination is intended to be separate from the Applicant's responsibilities to provide adequate on-site and off-site complete streets facilities as required by City of Bonita Springs Land Development Code.

5. Environmental Conditions

a. Prior to local development order approval, a tree survey will be required to determine if there are any Heritage trees on-site. If Heritage trees are present and are planned for removal, an appearance before the Tree Advisory Board prior to the issuance of local development order is required.

b. At the time of Dock and Shoreline permitting, mitigation measures for new wet slips shall be met for compliance with the Lee County Manatee Protection Plan which include but are not limited to: 1. Standard manatee construction conditions; 2. Manatee education activities as required per section 8.4.5; and 3. Funding for enhanced marine law enforcement per section 8.4.5. Manatee protection and education signs shall be depicted on the local development order. Final dock and shoreline design (filling, riprap, and docks) shall be subject to state and federal permitting requirements.

c. The proposed conservation adjacent to the Imperial River shall be recorded and any modifications to the existing easement shall be recorded.

d. At the time of local development order, the applicant must submit an Indigenous Preservation and Restoration Plan depicting a 20' wide indigenous buffer on the property adjacent to the Imperial River. This buffer shall be planted with native vegetation consistent with the final planned use of this area. If the use is for dry detention, species commonly found in wetland areas shall be utilized such as, but not limited to, cordgrass, fakahatchee grass, pond apple tree, cypress tree, green buttonwood tree. If the final planned use of this area will be level in elevation similar to the rest of the property, species used shall be those commonly found in our coastal hardwood hammocks and shall be planted in a manner to mimic a natural condition. A variety of tree and understory vegetation shall be planted at a ratio of five trees and eighty understory plants per one hundred linear feet.

    i. The following tree and understory species are recommended for the buffer:

    Selected Tree Species: Gumbo Limbo, Strangler Fig, Mangroves, Buttonwood, Lancewood, Willow Bustic, Mastic, Pigeon Plum, Jamaican Dogwood.

    Selected understory species: Simpsons Stopper, White Indigo Berry, Cocoplum, Jamaican Caper, Spanish Stopper, White Stopper, Wild Coffee.

ii. The square footage planted may be credited twice towards the indigenous open space requirement.

iii. Trees must be at least 15 gallons (apx. 6-8' tall), and understory plants must be 3 gallon (apx. 24" tall).

iv. Five foot pedestrian paths consisting of pervious material and seating areas are permitted to meander within this buffer area.

v. A temporary irrigation system is required during the initial landscape establishment period and may be eliminated approximately one year after the material has been planted.

e. The applicant must provide one hundred (100) percent native vegetation plantings within all required buffers.

f. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size) providing 50% coverage at time of installation.

6. Any infrastructure associated with the model home will need to be shown on the development order plans. If the model home will require a temporary parking lot, the proposed layout shall be shown on the plans. The requirements of LDC 4-1665—Model Homes and Model Units, remains in full force and effect, unless modified below.
    a. A maximum of one model home is permitted for each model type in the development.
    b. Hours of operation for the model homes are restricted to Sunday – Saturday, 8:00 a.m. – 6:00 p.m.

7. The Real Estate Sales Office is permitted to occur within a maximum of one (1) dwelling unit. The hours of operation for the sales office shall be Sunday – Saturday, 8:00 a.m. – 6:00 p.m.
    a. Sales are limited to the sale of units within the development. The sales office is valid for a time period of three (3) years from the date of the certificate of occupancy for the sales office. A one-time extension of two (2) years may be granted by the Director of Community Development. Additional time will require special exception approval.

8. In order to demonstrate consistency with single-family development, at time of local development order submittal, the Applicant shall provide renderings of the proposed home elevations for review.

9. Pursuant to Deviation 3, a wildland mitigation plan is required to be provided at time of local development order, to be reviewed and approved by the Bonita Springs Fire Control & Rescue District.

10. Pursuant to Deviation 4, a right-of-way planting plan shall be provided at time of local development order, to be reviewed and approved by Community Development and Public Works.

11. At time of local development order and building permit, the Applicant shall demonstrate compliance with all local, state, and federal regulations for construction within floodways and floodplains.

12. Approval of this zoning action does not guarantee approval of a local development order or building permit.

Deviations

1. Requesting relief from LDC Section 3-418 (d)(6) requires if roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet. Where residences will be constructed between the road, drive, or parking area and the existing residential subdivision or lots, the wall or wall and berm combination are not required. Uses or activities that generate noise, dust, odor, heat, glare, or other similar impacts, must provide a type C or F buffer unless it can be shown the proposed development will not have a significantly adverse impact on adjacent property to instead allow a 10' wide buffer with 8' high wall and landscaped between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet, is **APPROVED**

2. [Previously approved in Ordinance 10-02]: An update to the affected code section has been provided (going from Lee County Land Development Code Section 34-934, to City of Bonita Springs Land Development Code Section 4-740) and no further modifications or alterations are being sought. This deviation approved the use of model units within the RPD without having to go through

subsequent administrative actions. The deviation with the updated code section language is **APPROVED,** subject to Condition 6.

3. Requesting relief from LDC Section 3-417 (b)(6), Indigenous native vegetation. Setbacks, which requires a minimum 30-foot setback from all preserve (wildland) areas is required for buildings and accessory structures for the purposes of fire protection. Buildings and accessory structures located closer than 30 feet from a preserve (wildland) area shall require special mitigation measures as determined by the Bonita Springs Fire Control and Rescue District, in accordance with the National Fire Protection Association ("NFPA"), Standard 1144, "Standard for Protection of Life and Property from Wildfire." To instead allow structures to be located 10 feet from an off-site preserve and to provide a wildland mitigation plan with the development order, is **APPROVED,** subject to Condition 9.

4. Requesting relief from LDC Section 3-418 (d)(3), buffering requirements, which requires a 15 foot wide type 'D' buffer to instead allow a modified landscape buffer with an average of 1 tree per ROW abutting residential unit, planting within the ROW abutting dry detention area (cypress trees or similar), and no buffer required when abutting mangroves, is **APPROVED**, subject to Condition 10.

5. Requesting relief from LDC Section 3-417(b)(1)a, Indigenous native vegetation, which requires a minimum setback of 30 feet is required from any habitable structure to instead allow for a minimum setback of 10 feet from the .02 acre mangrove preserve, is **APPROVED**, subject to Condition 9.

6. Requesting relief from LDC Section 4-741(b)(1)b, Minimum setbacks of structures and buildings from development perimeter boundaries, which requires all buildings and structures must be set back from the development perimeter a distance equal to the greater of: Fifteen feet, if the subject property is, or will be zoned RPD, MHPD, CFPD, or CPD.
   To instead allow buildings #1, #7 and #10 to have a ten-foot setback from the perimeter of the RPD boundary as shown on the MCP, is **APPROVED**.

EXHIBITS:

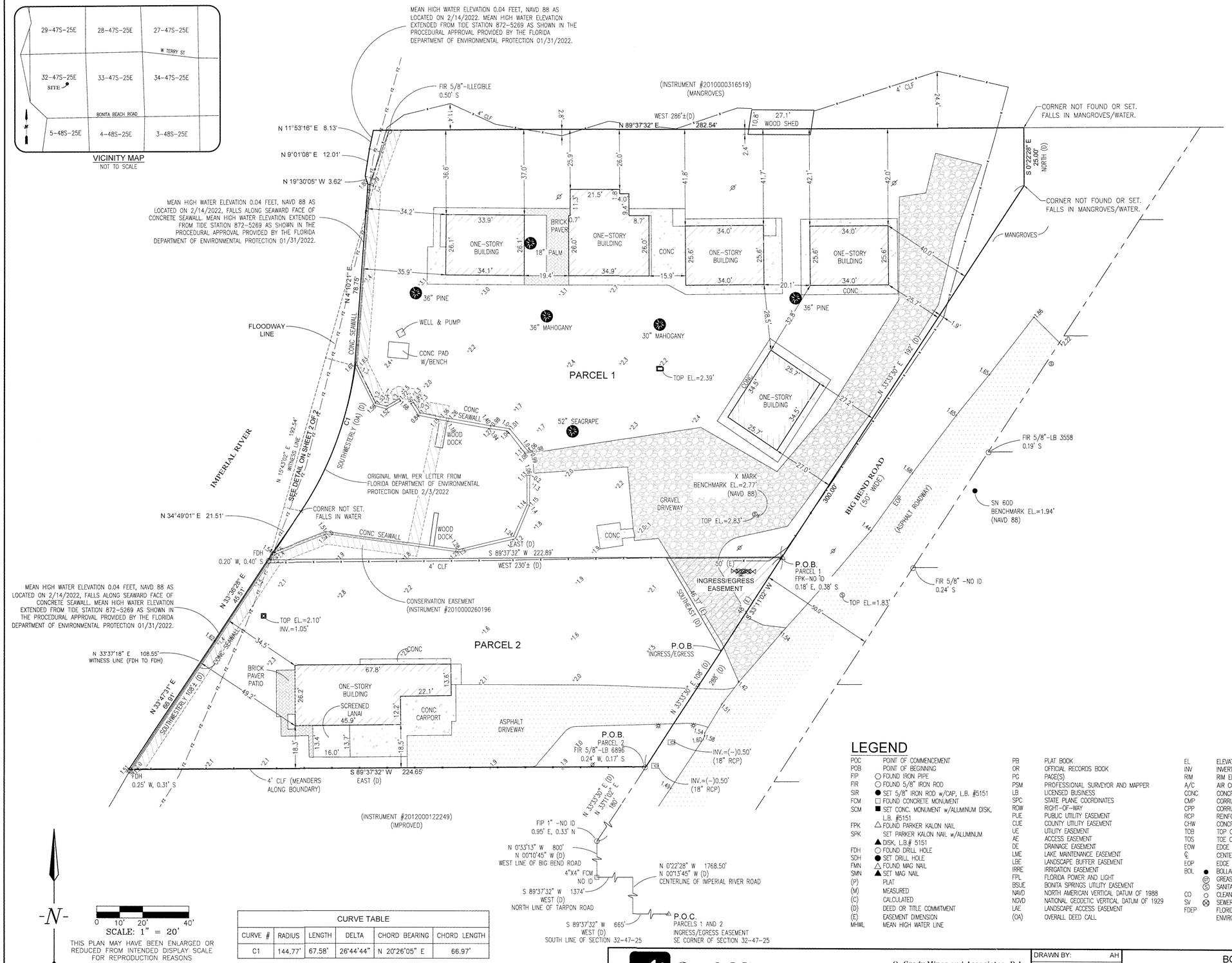
A. Legal Description and Sketch of the Subject Property
B. Riverbend RPD Master Concept Plan (MCP)

ATTACHMENTS:

A. Background and Informational Analysis
B. City of Bonita Springs Zoning Ordinance 10-02
C. Application Backup (Final Documents—Online only)

EXHIBIT "A"

VICINITY MAP
NOT TO SCALE


MEAN HIGH WATER ELEVATION 0.04 FEET, NAVD 88 AS LOCATED ON 2/14/2022. MEAN HIGH WATER ELEVATION EXTENDED FROM TIDE STATION 872-5269 AS SHOWN IN THE PROCEDURAL APPROVAL PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION 01/31/2022.
FIR 5/8"-ILLEGIBLE 0.50' S
(INSTRUMENT #2010000316519)
(MANGROVES)
N 11°53'16" E 8.13'
N 9°01'08" E 12.01'
N 19°30'05" W 3.62'
N 89°37'32" E 282.54'
WEST 286'±(D)
10.8'
27.1' WOOD SHED
CORNER NOT FOUND OR SET. FALLS IN MANGROVES/WATER.
S 0°22'28" E 25.00' NORTH (D)
CORNER NOT FOUND OR SET. FALLS IN MANGROVES/WATER.
MANGROVES
MEAN HIGH WATER ELEVATION 0.04 FEET, NAVD 88 AS LOCATED ON 2/14/2022, FALLS ALONG SEAWARD FACE OF CONCRETE SEAWALL. MEAN HIGH WATER ELEVATION EXTENDED FROM TIDE STATION 872-5269 AS SHOWN IN THE PROCEDURAL APPROVAL PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION 01/31/2022.
ONE-STORY BUILDING
BRICK PAVER
18" PALM
CONC
36" PINE
36" MAHOGANY
30" MAHOGANY
WELL & PUMP
CONC PAD W/BENCH
FLOODWAY LINE
CONC SEAWALL
N 4°10'21" E 78.75'
PARCEL 1
TOP EL.=2.39'
52" SEAGRAPE
WOOD DOCK
SOUTHWESTERLY (0A) (D)
C1
IMPERIAL RIVER
SEE DETAIL ON SHEET 2 OF 2
ORIGINAL MHWL PER LETTER FROM FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION DATED 2/3/2022
BENCHMARK EL.=2.77' (NAVD 88)
X MARK
GRAVEL DRIVEWAY
TOP EL.=2.83'
BIG BEND ROAD (50' WIDE)
EOP (ASPHALT ROADWAY)
SN 60D BENCHMARK EL.=1.94' (NAVD 88)
FIR 5/8"-LB 3558 0.19' S
FIR 5/8" -NO ID 0.24' S
N 34°49'01" E 21.51'
CORNER NOT SET. FALLS IN WATER
CONC SEAWALL
FDH 0.20' W, 0.40' S
S 89°37'32" W 222.89'
WEST 230'± (D)
4' CLF
EAST (D)
P.O.B. PARCEL 1 FPK-NO ID 0.18' E, 0.38' S
50' (E)
INGRESS/EGRESS EASEMENT
SOUTHEAST (D)
S 55°11'02" W
TOP EL.=1.83'
CONSERVATION EASEMENT (INSTRUMENT #2010000260196
TOP EL.=2.10' INV.=1.05'
MEAN HIGH WATER ELEVATION 0.04 FEET, NAVD 88 AS LOCATED ON 2/14/2022, FALLS ALONG SEAWARD FACE OF CONCRETE SEAWALL. MEAN HIGH WATER ELEVATION EXTENDED FROM TIDE STATION 872-5269 AS SHOWN IN THE PROCEDURAL APPROVAL PROVIDED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION 01/31/2022.
N 33°36'28" E 46.91'
N 33°37'18" E 108.55' WITNESS LINE (FDH TO FDH)
N 33°47'31" E 69.91'
SOUTHWESTERLY 108'± (D)
PARCEL 2
BRICK PAVER PATIO
ONE-STORY BUILDING
SCREENED LANAI
CONC CARPORT
ASPHALT DRIVEWAY
P.O.B. PARCEL 2 FIR 5/8"-LB 6896 0.24' W, 0.17' S
P.O.B. INGRESS/EGRESS
N 33°33'30" E 108' (D)
288' (D)
INV.=(-)0.50' (18" RCP)
INV.=(-)0.50' (18" RCP)
FDH 0.25' W, 0.31' S
4' CLF (MEANDERS ALONG BOUNDARY)
S 89°37'32" W 224.65'
EAST (D)
(INSTRUMENT #2012000122249)
(IMPROVED)
FIP 1" -NO ID 0.95' E, 0.33' N
N 0°33'13" W 800'
N 00°10'45" W (D)
WEST LINE OF BIG BEND ROAD
4"X4" FCM NO ID
S 89°37'32" W 1374'
WEST (D)
NORTH LINE OF TARPON ROAD
N 0°22'28" W 1768.50'
N 00°13'45" W (D)
CENTERLINE OF IMPERIAL RIVER ROAD
P.O.C. PARCELS 1 AND 2 INGRESS/EGRESS EASEMENT SE CORNER OF SECTION 32-47-25
S 89°37'32" W 665' WEST (D)
SOUTH LINE OF SECTION 32-47-25
N 33°33'30" E (D)
N 33°11'02" E
180'
N 15°33'50" E 192' (D)
ONE-STORY BUILDING
CONC
34.5'
25.7'
27.2'
27.0'
300.00'
1.65
1.88
1.44
1.24
1.54
1.58
1.60
1.49
1.51
1.40
1.43
1.50
1.54
1.56
1.57
1.59
1.61
1.62
1.63
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2.01
2.02
2.03
2.04
2.05

POC		POINT OF COMMENCEMENT
POB		POINT OF BEGINNING
FIP	○	FOUND IRON PIPE
FIR	○	FOUND 5/8" IRON ROD
SIR	●	SET 5/8" IRON ROD w/CAP, L.B. #5151
FCM	□	FOUND CONCRETE MONUMENT
SCM	■	SET CONC. MONUMENT w/ALUMINUM DISK, L.B. #5151
FPK	△	FOUND PARKER KALON NAIL
SPK	▲	SET PARKER KALON NAIL w/ALUMINUM DISK, L.B.# 5151
FDH	○	FOUND DRILL HOLE
SDH	●	SET DRILL HOLE
FMN	△	FOUND MAG NAIL
SMN	▲	SET MAG NAIL
(P)		PLAT
(M)		MEASURED
(C)		CALCULATED
(D)		DEED OR TITLE COMMITMENT
(E)		EASEMENT DIMENSION
MHWL		MEAN HIGH WATER LINE

PB	PLAT BOOK
OR	OFFICIAL RECORDS BOOK
PG	PAGE(S)
PSM	PROFESSIONAL SURVEYOR AND MAPPER
LB	LICENSED BUSINESS
SPC	STATE PLANE COORDINATES
ROW	RIGHT-OF-WAY
PUE	PUBLIC UTILITY EASEMENT
CUE	COUNTY UTILITY EASEMENT
UE	UTILITY EASEMENT
AE	ACCESS EASEMENT
DE	DRAINAGE EASEMENT
LME	LAKE MAINTENANCE EASEMENT
LBE	LANDSCAPE BUFFER EASEMENT
IRRE	IRRIGATION EASEMENT
FPL	FLORIDA POWER AND LIGHT
BSUE	BONITA SPRINGS UTILITY EASEMENT
NAVD	NORTH AMERICAN VERTICAL DATUM OF 1988
NGVD	NATIONAL GEODETIC VERTICAL DATUM OF 1929
LAE	LANDSCAPE ACCESS EASEMENT
(OA)	OVERALL DEED CALL

EL		ELEVATION
INV		INVERT ELEVATION
RIM		RIM ELEVATION
A/C		AIR CONDITIONING UNIT/PAD
CONC		CONCRETE
CMP		CORRUGATED METAL PIPE
CPP		CORRUGATED PLASTIC PIPE
RCP		REINFORCED CONCRETE PIPE
CHW		CONCRETE HEADWALL
TOB		TOP OF BANK
TOS		TOE OF SLOPE
EOW		EDGE OF WATER
℄		CENTER LINE
EOP		EDGE OF PAVEMENT
BOL	●	BOLLARD
	GT	GREASE TRAP
	S	SANITARY MANHOLE
CO	○	CLEAN OUT
SV	⊗	SEWER VALVE
FDEP		FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

	▣	CATCH BASIN
	Ⓓ	DRAINAGE MANHOLE
	⊏	MITERED END
	▣	YARD DRAIN
WV	⊗	WATER VALVE
	W	WATER METER
	⊳⊲⊳⊲	BACK FLOW PREVENTOR
		FIRE HYDRANT
	○	FIRE DEPARTMENT CONNECTION
	⊗	BACTERIA SAMPLE POINT
	✦	AIR RELEASE VALVE
IRV	⊗	IRRIGATION VALVE/ CONTROL VALVE
GV	⊗	GAS VALVE
	G	GAS METER/SERVICE
	GM	GAS MARKER
		UTILITY POLE – WOOD
		UTILITY POLE – CONCRETE
		GUY ANCHOR
		OVERHEAD WIRES
SE		SIGN EASEMENT
LAE		LAKE ACCESS EASEMENT
WLT		WITNESS LINE TIE

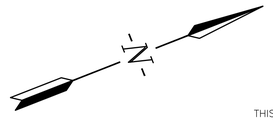
	☼	LIGHT POLE
	Ⓣ	TELEPHONE MANHOLE
	T	TELEPHONE RISER/BOX
	C	CABLE TELEVISION RISER/BOX
	E	ELECTRIC MANHOLE
	E	ELECTRIC RISER/BOX/METER
	ET	ELECTRIC TRANSFORMER
	⊙	TRAFFIC LIGHT
	✦	UNDERGROUND UTILITY MARKER
	○	SIGN ON POLE
PC		POINT OF CURVATURE

= CONCRETE

= ASPHALT

= BRICK PAVER

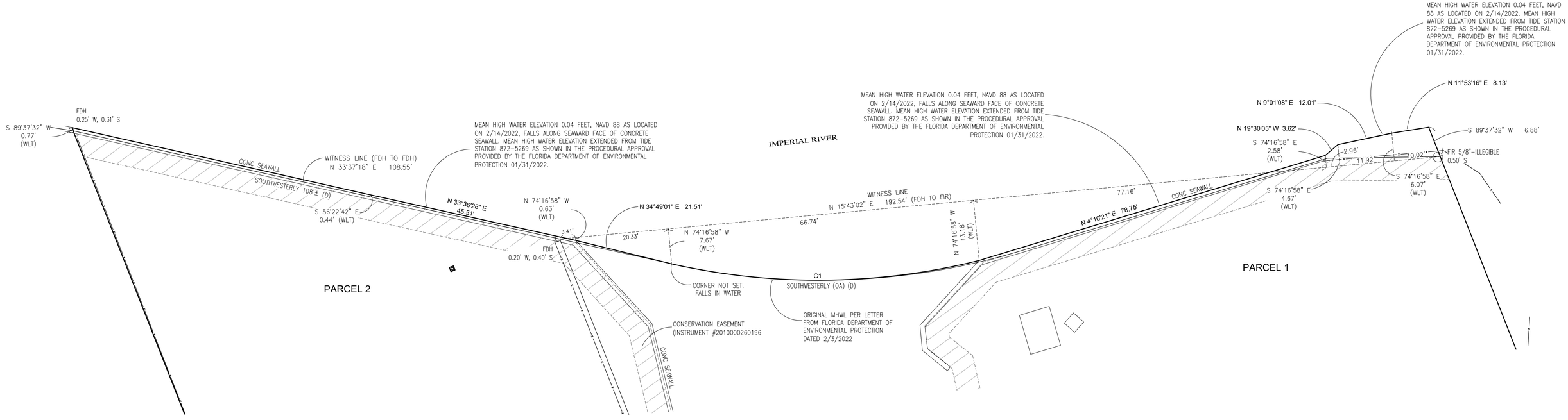
FZ — FZ — FZ — SCALED FLOOD WAY LINE



0 5' 10' 20'

SCALE: 1" = 10'

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



REVISION: REVISED PER COUNTY COMMENTS (4/21/2022)

GradyMinor

Civil Engineers • Land Surveyors • Planners • Landscape Architects

Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266

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

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

DRAWN BY:	AH
CHECKED BY:	DLS
JOB CODE:	BBSPDO
SCALE:	1" = 10'
DATE:	14 JANUARY 2022
FILE:	22-14-BST.001.DWG
SHEET:	2 of 2

BOUNDARY AND TIDAL WATER SURVEY

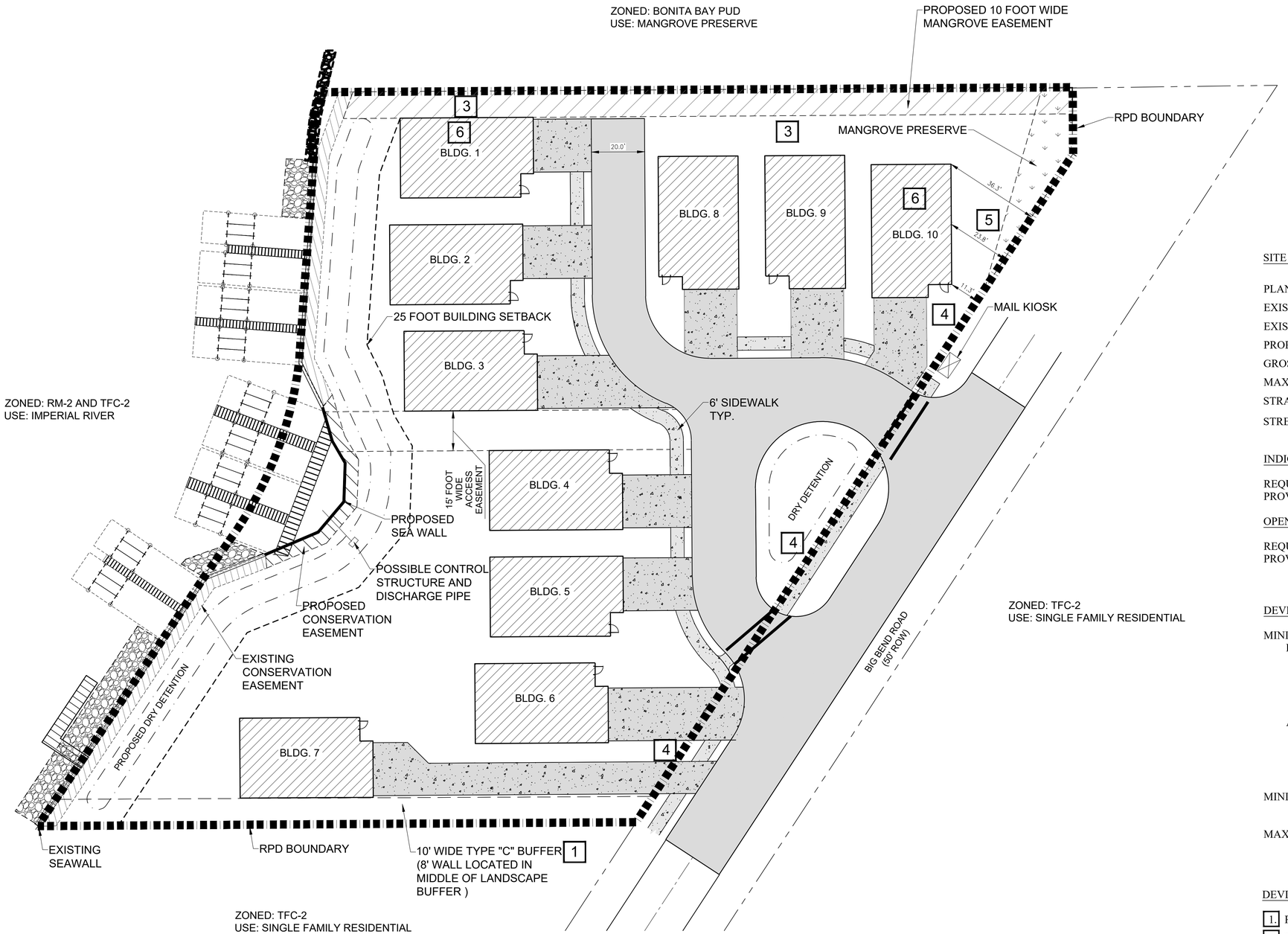
27523 & 27495-511 BIG BEND RD
BONITA SPRINGS, FL 34134

LYING IN
SECTION 32, TOWNSHIP 47 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

NOT VALID WITHOUT SHEETS 2 OF 2

G:\SURVEY\PROJECT SURVEY 2022\14 - BIG BEND (BBSPDO)\SURVEY\22-14-BST.001.DWG

EXHIBIT "B"



N

0 10' 20' 40'

SCALE: 1" = 20'
WHEN PLOTTED @ 24" X 36"

SITE SUMMARY

PLAN DESIGNATION:	MEDIUM DENSITY SINGLE FAMILY/DUPLEX RESIDENTIAL
EXISTING ZONING DESIGNATION:	RIVERBEND RPD
EXISTING LAND USE:	RESIDENTIAL
PROPOSED ZONING DESIGNATION:	RPD, RESIDENTIAL PLANNED DEVELOPMENT
GROSS AREA:	1.5± ACRES
MAXIMUM DWELLING UNITS:	10 UNITS
STRAP NUMBERS:	32-47-25-B2-00003.0000 and 32-47-25-B2-00003.0010
STREET ADDRESS:	27495-511 AND 27523 BIG BEND ROAD

INDIGENOUS PRESERVE:

REQUIRED: 0
PROVIDED: 0.02 (MANGROVE PRESERVE)

OPEN SPACE:

REQUIRED: 0.6± ACRE (1.5± ACRE X 0.40)
PROVIDED: 0.6± ACRE

DEVELOPMENT REGULATIONS:

MINIMUM SETBACKS:
- PRINCIPAL:
  - NORTH PD BOUNDARY: 10 FEET
  - IMPERIAL RIVER: 25 FEET
  - SOUTH PD BOUNDARY: 10 FEET
  - BIG BEND ROAD: 20 FEET, HOWEVER BLDG. 10 MAY BE REDUCED TO 10 FEET
- ACCESSORY:
  - NORTH PD BOUNDARY: 10 FEET
  - IMPERIAL RIVER: 0 FEET
  - SOUTH PD BOUNDARY: 10 FEET
  - BIG BEND ROAD: 10 FEE

MINIMUM BUILDING SEPARATION: PRINCIPAL: 10 FEET; ACCESSORY: 0 FEET

MAXIMUM BUILDING HEIGHT:
- PRINCIPAL: 35 FEET
- ACCESSORY: 25 FEET

DEVIATIONS:

1. RELIEF FROM LDC SECTION 3-418(d)(6), LANDSCAPE STANDARDS
2. RELIEF FROM LDC SECTION 4-740, USE REGULATIONS TABLE
3. RELIEF FROM LDC SECTION 3-417(b)(6), INDIGENOUS PRESERVE SETBACKS
4. RELIEF FROM LDC SECTION 3-418(d)(3), BUFFER REQUIREMENTS
5. RELIEF FROM LDC SECTION 3-417(B)(1)A, INDIGENOUS NATIVE VEGETATION SETBACK
6. RELIEF FROM LDC SECTION 4-741(B)(1)B, MINIMUM SETBACKS OF STRUCTURES AND BUILDINGS FROM DEVELOPMENT PERIMETER BOUNDARIES

NOTES

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

LEGEND

Revision	Date	Description	By

DESIGNED BY: QGMA
DRAWN BY: S.U.
APPROVED: D.W.A.
JOB CODE: BBSPDO
SCALE:

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

RIVERBEND RPD

EXHIBIT IV-E
MASTER CONCEPT PLAN
REVISED AUGUST 16, 2023

MUNICIPALITY: BONITA SPRINGS
SEC/TWNSHP/RNG: 32/47S/25E
DATE: MAY 2020
SUBMITTAL TYPE: RPD AMENDMENT
SHEET 1 OF 1

G:\PLANNING\PROJ - PLANNING\BBSPDO RIVERBEND RPDA (PD22-95976-BOS)\DRAWINGS\BBSPDO-MCP-R1.DWG 8/16/2023 3:02 PM

ATTACHMENT "A"

BACKGROUND AND INFORMATIONAL ANALYSIS:

Surrounding Land Use:

Existing Zoning & Land Use	Future Land Use Map
Subject Parcel: RPD, Vacant	Med. Den. Res. 11.6du/ac
North: PUD, Mangrove Preserve	Mod. Den. MU/PD. 9du/ac
*East: TFC-2, SF Residential	Med. Den. Res. 11.6du/ac
South: TFC-2, SF Residential	Med. Den. Res. 11.6du/ac
**West: Imperial River	N/A

*Immediately adjacent to the subject property is road right-of-way of Big Bend Road, a city-maintained roadway

**On the adjacent [west] side of the Imperial River is a portion of the Bonita Bay PUD that includes single-family homes and the Bonita Bay Marina

Planned Development Analysis

Review criteria	Yes – Mostly - Partly - No
Demonstrate compliance with the Bonita Plan, this Land Development Code, and any other applicable code or regulation	Yes – The application is in compliance with the Comprehensive Plan and applicable Land Development Code Regulations
The request meets or exceeds performance and location standards set forth for the proposed uses	Yes – The MCP with associated conditions presented by Staff will meet the standards of the Land Development Code.
Including the use of TDR or affordable housing bonuses are the densities or intensities (general uses) consistent with the Comprehensive Plan	Yes – Ordinance 10-02 approved up to 16 units; The proposal represents a reduction to 10 units total. The density does not violate the provisions of the Comprehensive Plan.
The request is compatible with existing or planned uses in the surrounding area	Yes – The surrounding uses are residential in nature. The proposed development is also residential. A preserve easement will

	also be provided along the northern boundary, adjacent to the existing mangrove preserve.

Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development	Yes-- The proposed residential development will account for less than 1% of the roadway capacity of the analyzed segments.
Will the request adversely affect environmentally critical areas and natural resources	No – The on-site mangrove preserve areas are being maintained and an easement is being placed on the north boundary to buffer the preserve area on the neighboring property.
Public facilities are, or will be, available and adequate to serve the proposed land use	Yes - Public facilities are available to the site.
Deviations needed to enhance or to achieve the objectives of the planned development	Yes –the proposed deviations will allow adequate separation of the dwelling units, while still providing suitable access and buffering.
Deviations needed to preserve, promote and or protect the public health, safety and welfare	Yes – the proposed deviations as conditioned will provide adequate protections and preservation of the surrounding areas and properties, while still promoting a viable residential project with a decreased density from the previous approval.

Environmental

There is an on-site mangrove swamp area (0.02 acres) in the northeast corner of the property that is contiguous with the mangrove preserve area on the adjoining property to the north. The Applicant will be preserving this area. With regards to landscaping/buffering, a deviation is being requested regarding the location of a wall on the south side, eight (8) feet in height. Pursuant to LDC 3-418, a wall or a berm/wall combination is required for any roads, drives, or parking areas that are located less than 125 feet from existing residential areas. The wall is required to be at least 25 feet from the abutting property. The deviation (#1) is to allow the wall to be placed within a buffer 10 feet wide. Staff's analysis of the deviation is provided in the Staff Report. Additionally, deviations are being requested for the standards related to setbacks from preserve areas. The Staff analysis of these deviations (# 3 and #5) are contained in the Staff report. Finally, a deviation is being requested from the buffering standards for the right-of-way along Big Bend Road (#4). Staff is recommending approval of this deviation, subject to Condition 10, which requires and right-of-way planting plan to be reviewed an approved

by Community Development and Public Works. Analysis of all deviations are contained in the Staff report.

Stormwater

At the time of the submittal of the project, the property was located in a FEMA X-zone, which is considered a non-flood hazard area. A map update occurred in November of 2022, which included a redesignation of the subject property. The property is now located in a flood hazard area AE-10. The Florida Building Code requires an extra 12" of elevation, meaning the lowest horizontal member shall be at 11 feet. Historically, the property has been affected by tidal influences. Flooding from Hurricane Ian caused significant damage to the on-site duplexes and they were subsequently demolished. The City's Public Works department has an active and ongoing project within the road right of way of Big Bend, designed to provide better drainage during tidal events. Currently, Public Works is in negotiations with the Applicant regarding an on-site easement that could be used to further address flooding and drainage issues. Condition 4 was drafted as a means to promote the continued conversation between the two parties. Regardless, the project will be required to handle its stormwater. The proposed plan calls for an on-site retention area for storage and water quality treatment before discharging into the Imperial River. In addition, the project cannot negatively impact historic flows in the area and cannot cause additional runoff onto adjacent properties. The project will be required to provide additional details during the local development order process and a water management permit from South Florida Water Management District will be required. A project that does not meet LDC requirements for water quality, quantity, or flood regulations cannot be approved.

Traffic

The Applicant provided a Traffic Impact Statement (TIS), which was reviewed by the City's transportation engineer. The project is located at the tip of Big Bend Road and the master concept plan (MCP) proposes two access points. The previous master concept plan provided for 16 units and included a variety of unit types. The proposed plan reduces the density to 10 detached villa units, which, for traffic impacts, were reviewed as single-family homes. Tables 1B and 1C of the TIS show the trip computations from the previous plan of 16 units to the current proposal of 10 units. In terms of the project's projected traffic impacts during the peak hour and peak direction, the analysis provided is for Bonita Beach Road, west of Vanderbilt Drive, and Bonita Beach Road, west of US 41. The projected impact of the site is less than 1%. The City's standard is that anything less than 2% is not considered a project of significant impact. With that said, the project will still be required to meet the multi-modal requirements of the City's Land Development Code (LDC). The MCP shows a proposed sidewalk within the Big Bend right of way. Construction of the sidewalk will require coordination with the City's Public Works Department. Additionally, the Applicant is aware that additional improvements to Big Bend Road may be required.

Comprehensive Plan

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

> ***Policy 1.1.8: Medium Density Residential*** *- Intended to accommodate areas with a mix of single-family, duplex and town homes residential development at a maximum density of up to 11.6 dwelling units per gross acre and approximately 1,056 acres of gross land area in the land use category; group homes and foster care facilities; public schools and other public, semi-public and recreational uses on a limited basis.*
>
> *a. Appropriate residential housing types include conventional and modular constructed single-family and duplex structures on permanent foundations.*
>
> *b. As an alternative to a duplex structure, and in order to encourage dispersing affordable housing throughout the community, one accessory dwelling, such as a garage apartment or accessory apartment, may be located on a single lot occupied by one single-family structure, provided development of the lot remains within the maximum allowable density. Conditions on accessory dwelling units may be required within the Land Development Regulations to prevent over crowding and to ensure compatibility.*
>
> *c. Maximum allowable height of structures shall be 55 feet from the base flood elevation to the eaves.*

The proposed project is not exceeding the density allowances of the future land use category. Additionally, while the category allows for a maximum allowable height of 55 feet, the proposed development regulations identify a height maximum of 35 feet for the principal structures. 35 feet is compatible with the allowances of the surrounding zoning designations on Big Bend Road. It is also compatible [and in some instances, less than] the allowable height of the residential portions of Bonita Bay, pursuant to their PUD resolution, Z-81-452.

While this future land use category does not label detached villas as a dwelling unit type, Staff performed analysis of the proposal pursuant to Policy 1.1.4., which states the following:

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

It has been determined that the proposed detached villa concept is similar in character, intensity, and impact to single-family development. The structures will not share walls and will be on individual building pads. The traffic analysis was conducted based on a proposal of single-family units and was found to be acceptable.

As a result, it is Staff's opinion that the project does not conflict with the future land use designation of the subject properties.

With regards to the Traffic Element, a Traffic Impact Statement (TIS) was provided and was reviewed by the City's traffic engineer. The plan is not one of significant impact to the roadway network. Provisions for multi-modal facilities will be provided. It is the Staff opinion that the project is consistent with the traffic element of the Bonita Plan.

With regards to the Housing Element, this residential project is proposed in a residential area, where projects of this nature are appropriate. The housing type is unique in that detached villas will function as single-family homes, but the site will remain under unified control and a Homeowner's Association (HOA) will be established to address maintenance of the buildings and the site. The Staff opinion is that the project is consistent with the housing element of the Bonita Plan.

The project is located within the Coastal High Hazard Area and the Coastal Management Area, and as such, Staff requested that the Applicant supply a narrative demonstrating consistency with this element. The proposal is an infill project and the proposed density reflects a reduction from the 16 units previously approved under Ordinance 10-02, to 10 units. The project will be required to be designed in accordance with the City's Flood Damage Protection Ordinance and the Florida Building Code. Any wetland impacts will need to be appropriately mitigated and the Applicant will be responsible for maintaining their portion of the mangrove preserve area. On the surface, a potential conflict could exist with Policy 7.12.1 which would not allow filling or dredging and would promote the natural contours of the bank. Based on the proposed MCP, the inlet appears to be more shallow, which would suggest either reshaping, or removal and replacement of the seawall in a different configuration. However, based on aerials provided in the Environmental assessment, this inlet is considered artificial in nature and the proposed reshaping would put the contour more in line with the historic configuration of the river bank.

The remaining comprehensive plan elements would not apply to this project.

ATTACHMENT "B"

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 10-02

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST BY RIVERBEND RPD, HLH REAL ESTATE PROPERTIES, LLC. TO REZONE FROM RESIDENTIAL MULTIPLE-FAMILY (RM-2) AND RESIDENTIAL TWO FAMILY CONSERVATION (TFC-2), TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD); ON LAND LOCATED AT 27495-27511 AND 27523 BIG BEND ROAD, BONITA SPRINGS, FLORIDA, ON 1.52 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Riverbend RPD, has filed an application for rezoning 1.52 +/- acres from Residential Multiple-Family (RM-2) and Residential Two Family Conservation (TFC-2), to allow a Residential Planned Development (RPD) for two single family dwelling units, two two-family attached dwelling units, and ten multi-family dwelling units, and

WHEREAS, the subject property is located at 27495-27511 Big Bend Road and 27523 Big Bend Road, Bonita Springs, Florida, and is described more particularly as:

"See Exhibits"

WHEREAS, a Public Hearing was advertised and heard on November 6, 2009 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case PD08-BOS00005 who gave full consideration to the evidence available and recommended approval (5-0, Mathes and Norris absent, with Pastore expressing concern as to the density and the Coastal High Hazard regulations); and gave full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City and the testimony of all interested parties. The October 23, 2009 Staff Report prepared by Jacqueline Toemmes, Planner II, Community Development and evidence submitted at the Zoning Board hearing is on file with the City Clerk.

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

SECTION ONE: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the rezoning from Residential Multiple Family (RM-2) and Two Family Conservation 2 (TFC-2) to Residential Planned Development (RPD) with the following conditions:

A. <u>CONDITIONS</u>

1. The development of this project must be consistent with the Master Concept Plan entitled "River Bend," prepared by Progressive Engineering received September 22, 2009 **(Attachment A),** except as modified by the conditions below. This development must comply with all requirements of the City of Bonita Springs Land Development Code (LDC) at time of local development order approval. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

   The maximum number of residential units is limited to 16 dwelling units.

2. The following limits apply to the project and uses:

a. Schedule of Uses

Accessory Uses, Buildings and Structures
Docks, seawalls
Dwelling Units (Maximum total 16 units):
- Single-Family (maximum total 2 units)
- Two-Family Attached (maximum total 4 units)
- Multi-family building (maximum total 10 units)
- Townhomes (maximum total 10 units)

Models:
- Model Home (for marketing purposes within the project only)

Real Estate Sales Office (temporary for marketing purposes within the project only within one dwelling unit)
Recreational facilities:
- Personal
- Private-Onsite

Residential Accessory Uses

b. Site Development Regulations

Minimum Lot Width:	324.95 feet
Minimum Lot Depth:	223 feet
Minimum Lot Area:	1.52 +/- acres
Maximum Lot Coverage:	40%
Minimum Open Space:	40%

	Single-Family	Two-Family Attached	Townhouse Multi-Family	Accessory Structures
Maximum Building Height [3]	Not to exceed 35 feet	Not to exceed 35 feet	Not to exceed 39 feet	35 feet
Setbacks [1]				
Street	50 feet	50 feet	50 feet	50 feet
Side Yard	7.5 feet	0/10 feet [2]	0/20 feet	10 feet [2]
Rear Yard	25 feet	25 feet	25 feet	25 feet
Water Body	25 feet	25 feet	25 feet	25 feet
Minimum Building Separation	10 feet [1]	10 feet [1]	20 feet	5 feet [1]

[1] Principle and Accessory Structures

[2] Side yard shall be a minimum of zero (0') with a ten foot (10') separation between principal structures where not attached.

[3] Building height is measured from the FEMA base flood elevation line to the bottom of the eaves. The maximum height for purely ornamental structural appurtenances may not exceed 55' from the FEMA base flood elevation line.

3. Reserved

4. Transportation Conditions

   a. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the City of Bonita Springs Land Development Code may be required to obtain local development order.

   b. The Developer must comply with concurrency requirements (all conditions required by the Bonita Springs Comprehensive Plan and the Land Development Code) in order to obtain a local development order.

   c. The developer is responsible for the costs and improvements of Big Bend Road from the southern property line to the northern property line as a site-related improvement. This segment of the roadway must be completed prior to obtaining the certificate of completion.

d. As a part of the local development order approval, the applicant will provide a TIS containing an intersection analysis of Tarpon and Big Bend and Tarpon and Imperial River Road.

5. Environmental Conditions

a. Prior to local development order approval, a tree survey will be required to determine if there are any Heritage trees on-site. If Heritage trees are present, an appearance before the Tree Advisory Board prior to the issuance of local development order is required.

b. Prior to local development order an ACOE dredge & fill permit to dredge the boat basin shall be obtained.

c. Manatee protection and education signs according to the Lee County Manatee Protection Plan are required and must be depicted on the local development order.

d. A 5 foot conservation easement shall be recorded adjacent to the Imperial River. This area shall be rip-rapped in areas not immediately adjacent to the boat slips. Mangrove seedlings shall be planted in the rip rap on spacing requirements consistent with the Bonita Springs LDC, Dock & Shoreline Section.

e. Prior to local development approval, the applicant must submit an Indigenous Preservation and Restoration Plan depicting a 20' wide indigenous buffer on the property adjacent to the Imperial River. This buffer shall be planted with native vegetation consistent with species commonly found in our coastal hardwood hammocks and shall be planted in a manner to mimic a natural condition. A variety of tree and understory vegetation shall be planted at a ratio of five trees and eighty understory plants per one hundred linear feet.

i. The following tree and understory species are recommended for the buffer:

Selected Tree Species: Gumbo Limbo, Strangler Fig, Mangroves, Buttonwood, Lancewood, Willow Bustic, Mastic, Pigeon Plum, Jamaican Dogwood.

Selected understory species: Simpsons Stopper, White Indigo Berry, Cocoplum, Jamaican Caper, Spanish Stopper, White Stopper, Wild Coffee.

ii. The square footage planted may be credited twice towards the indigenous open space requirement.

iii. Trees must be at least 15 gallons (apx. 6-8' tall), and understory plants must be 3 gallon (apx. 24" tall).

iv. Five foot pedestrian paths consisting of pervious material are permitted to meander within this buffer area.

v. A temporary irrigation system is required during the initial landscape establishment period and may be eliminated approximately one year after the material has been planted.

f. The applicant must provide one hundred (100) percent native vegetation plantings within all required buffers; and

g. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size) providing 50% coverage at time of installation; and

h. The applicant must demonstrate compliance with Comprehensive Plan Policy 9.3.3 of the Conservation/Coastal Management Element. The applicant must provide an additional fifty (50) percent retention/detention water quality treatment over that required in section 5.2.1(a) of the Basis of Review for Environmental Resource Permits within the South Florida Water Management District.

6. In support of Deviation 1, the wall along the southern property line must be constructed at 6' feet and trees must be canopy type trees such as oaks or slash pines or a combination of there of.

7. Flood Regulations

a. The following "Floodway Notes" must be added/amended on the MCP:

Floodway Notes
Development in areas waterward of the regulatory floodway is prohibited, unless all conditions specified in the zoning approval are met. FEMA and City of Bonita Springs development order

approvals will be required for any proposed improvements affecting floodway and flood plain storage prior to future development order approval for entire property and/or any outparcel.

b. The applicant agrees that no encroachment shall be placed within the floodway as defined by the FEMA Flood Insurance Rate Maps that are in effect at time of local development order approval, approved at the time of development order issuance, unless one of the following two conditions are applied for:

    i. Certification with supporting technical data, made by a registered professional engineer, is needed demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge". Note that the words "supporting technical data" are paraphrased as "hydrologic and hydraulic analyses" in National Flood Insurance Program document (Answers to Questions about the NFIP, F-084 (5/06), FEMA). Appropriate supporting data or analyses to clarify any potential floodway encroachment issue is required. Certificates of No Rise are required **prior** to local development order **approval**.

    or

    ii. A Conditional Letter of Map Revision (CLOMR) will be required by contacting FEMA. A CLOMR is FEMA's comment on a proposed project that would affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway or effective Base Flood Elevations. Conditional Letter of Map Revisions (CLOMR) must be approved by FEMA **prior** to submitting a development order **application** to the City.

c. At the time of local development order application, the applicant shall submit a drainage analysis that demonstrates that the site development plan causes no adverse impact on adjacent properties in terms of drainage capacity/conveyance, storm water discharge, and flood. The drainage analysis shall include but not limited to (1) a drainage map for all contributory areas within and into the development, showing flow paths/arrows, existing on site and offsite drainage structures (sizes and inverts), and sub basin areas; and (2) hydrologic and hydraulic calculations for the 5, 25,

and 100-year design storm events in order to establish existing baseline conditions.

d. Development must be consistent with the local, State, and Federal regulations for development within any floodways, flood plains, or properties designated that will be effected by a tropical storm event.

8. Docks

a. Docks must receive all necessary State and Federal permits.

b. Docks must be an accessory use to the residential units and may not be constructed without approved building permits for the residential units.

c. Fuel sales are not permitted on the subject property.

d. No rental or leasing of the slips is permitted by owners, occupants or homeowner's association.

e. Lighting must meet the single family provisions in Bonita Springs Ordinance No. 07-24 in addition to Land Development Code Chapter 3, whichever is most restrictive.

9. Model homes and model units are permitted uses, but must be consistent with the following conditions:

a. A maximum of one model home is permitted for each type of dwelling unit within the development; and

b. Hours of operation for the model homes are restricted to Sunday through Saturday, 8:00 a.m. through 6:00 p.m.; and

c. Each model home must be a unique example. Multiple examples of the same model are not permitted.

10. A Real Estate Sales Office is a permitted use, but must be consistent with the following conditions:

a. A maximum of one (1) real estate sales office is permitted; and

b. Hours of operation for the real estate sales office restricted to Sunday through Saturday, 8:00 a.m. through 6:00 p.m.; and

c. The real estate sales office is limited to the sale of units within the development, and is valid for a period of time not to exceed three (3) 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 special exception approval.

11. The development must comply with the commercial lighting standards found in the LDC, Chapter 3. Lighting for all structures shall not emit glare and be limited to lighting for security purposes. Street, parking lot, and building lighting must be shielded so that light is directed downward to reduce light spillage to off-site parcels.

12. The development must comply with the sign code found in the LDC, Chapter 6.

13. Prior to local development order approval, the developer must provide facilities in compliance with the Bonita Springs LDC, for the pickup/disposal of solid waste and recyclables.

14. The development must comply with Ordinance 06-04 Noise Control.

15. The developer will use best efforts to incorporate principles for its building through the Florida Green Building Coalition program, in site design and construction, by emphasizing use of high energy efficiency designs and use of high energy efficient fixtures and appliances where possible. Building materials, both internal and external, will be comprised of durable and recycled materials where possible.

16. This development must comply with all of the requirements of the LDC at the time of the local development order approval, except as may be granted by deviation approved as part of this planned development.

17. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the City of Bonita Springs Comprehensive Plan provisions.

18. Prior to local development order approval, the applicant will submit architectural renderings indicating that the multi-family structure will create the appearance of a townhome structure.

B. DEVIATIONS

Deviation 1 is approved, subject to **Condition 6,** granting relief from Land Development Code §3-416(D) (6) requiring a solid wall or combination berm and solid wall not less than eight feet in height be constructed not less than 25 feet from the property line with a Type C buffer plantings to allow a 15' wide buffer with 8' high wall and landscaped between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet.

Deviation 2 is approved, subject to **Condition 9,** granting relief from Land Development Code §34-934 requiring that model units be approved with an Administrative Action, to allow Model Units to be approved as a permitted use with the RPD rezoning.

C. FINDINGS AND CONCLUSIONS:

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

1. The applicant has proven entitlement to the rezoning to Residential Planned Development (RPD) by demonstrating compliance with the Bonita Springs Comprehensive Plan, the Land Development Code, and other applicable codes and regulations. City Council considers the Schedule of Uses **(Attachment B)** and Master Concept Plan, as conditioned in this Ordinance, consistent the Medium Density Residential Future Land Use Category in accordance with the City of Bonita Springs Comprehensive Plan, Future Land Use Element Policy 1.1.4 as "other uses that are similar in character, intensity or impacts".
2. The requested RPD zoning as conditioned:
    a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and
    b. is consistent with the densities, intensities and general uses set forth in the Bonita Springs Comprehensive Plan; and
    c. is compatible with existing or planned uses in the surrounding area; and
    d. will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities, as conditioned.
4. Urban services, as defined in the Bonita Springs Comprehensive Plan, are available and adequate to serve the proposed land use, as conditioned.

5. The proposed uses are appropriate at the subject location, as conditioned.

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

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

8. The deviations granted, as conditioned:

    a. enhance the objectives of the planned development; and
    b. preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

SECTION TWO: EFFECTIVE DATE

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

DULY PASSED AND ENACTED by the Council of the City of Bonita Springs, Lee County, Florida, this 25th day of January, 2010.

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM: _____

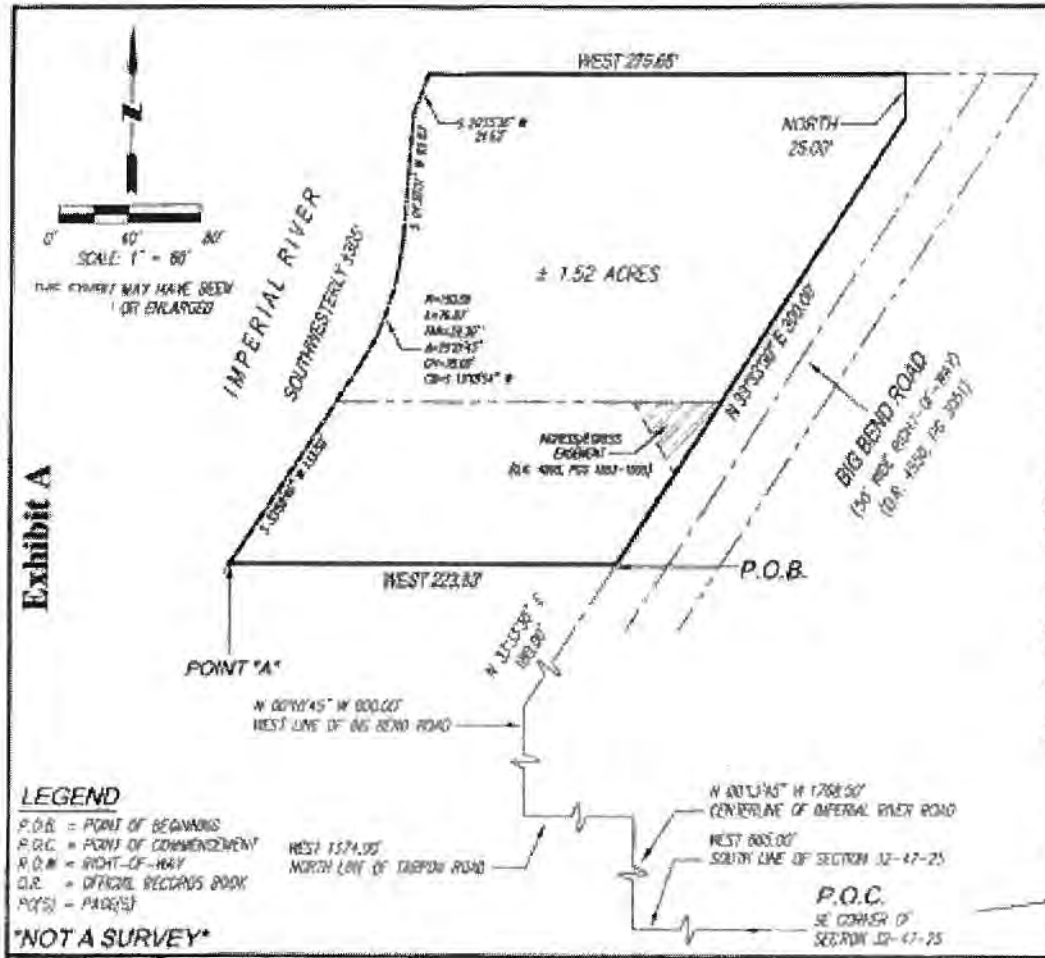
City Attorney

Vote:

Ferreira	Aye	Nelson	Aye
Lonkart	Aye	Simons	Aye
McCourt	Aye	Spear	Aye
Martin	Aye		

Date filed with City Clerk: 1-28-10

Exhibit A



THE EXHIBIT MAY HAVE BEEN REDUCED OR ENLARGED

LEGEND

P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
R/W = RIGHT-OF-WAY
O.R. = OFFICIAL RECORDS BOOK
PG(S) = PAGE(S)

"NOT A SURVEY"

PROPERTY DESCRIPTION

A PARCEL OF LAND LOCATED IN SECTION 32, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 32, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN WEST, ALONG THE SOUTH LINE OF SAID SECTION 32, FOR A DISTANCE OF 665.00 FEET TO A POINT ON THE CENTERLINE OF IMPERIAL RIVER ROAD; THENCE RUN NORTH 33°55'30" WEST, ALONG SAID CENTERLINE, FOR A DISTANCE OF 1,768.50 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF TARPON ROAD; THENCE RUN WEST, ALONG SAID NORTH RIGHT-OF-WAY, FOR A DISTANCE OF 1,374.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF BIG BEND ROAD; THENCE RUN ALONG SAID WEST RIGHT-OF-WAY FOR THE FOLLOWING TWO (2) COURSES:
1) THENCE RUN NORTH 00°01'45" WEST, FOR A DISTANCE OF 600.00 FEET;
2) THENCE RUN NORTH 33°55'30" EAST, FOR A DISTANCE OF 300.00 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN WEST, FOR 223.83 FEET TO A DRILL HOLE ON A 1.25 FOOT WIDE CONCRETE SEAWALL, SAID POINT HEREIN CALLED **POINT "A"**; THENCE RETURN TO THE AFOREMENTIONED **POINT OF BEGINNING**; THENCE RUN NORTH 33°55'30" EAST, ALONG THE WEST RIGHT-OF-WAY OF BIG BEND ROAD, FOR A DISTANCE OF 308.00 FEET; THENCE RUN NORTH, FOR A DISTANCE OF 25.00 FEET; THENCE RUN WEST, FOR A DISTANCE OF 275.65 FEET TO A DRILL HOLE ON A 1.25 FOOT WIDE CONCRETE SEAWALL, ALSO BEING THE APPROXIMATE MEAN HIGH WATER LINE OF THE EAST BANKS OF THE IMPERIAL RIVER; THENCE MEANDER SOUTHWESTERLY ALONG THE MEAN HIGH WATER LINE FOR APPROXIMATELY 3315 FEET TO THE AFOREMENTIONED **POINT "A"** AND THE POINT OF ENDING. SITUATED IN LEE COUNTY AND CONTAINING 1.52 ACRES, MORE OR LESS.

NOTES

1. BEARINGS SHOWN HEREON REFER TO THE WEST LINE OF BIG BEND ROAD, A 80' WIDE RIGHT-OF-WAY, AS RECORDED IN OFFICIAL RECORDS BOOK 4550 AT PAGE 3251 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AS BEING N 33°55'30" E.
2. THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD.
3. THIS SURVEY MAP AND THE COPIES THEREOF, ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER.
4. DIMENSIONS SHOWN HEREON ARE IN UNITED STATES SURVEY FEET AND DECIMALS THEREOF.
5. ANY ADDITIONS AND/OR DELETIONS TO THIS SURVEY MAP OR REPORT BY OTHER THAN THE SIGNING PARTY OR PARTIES IS STRICTLY PROHIBITED WITHOUT WRITTEN CONSENT.

© GRADY MINOR AND ASSOCIATES, P.A.

DATED: 11/13/2008

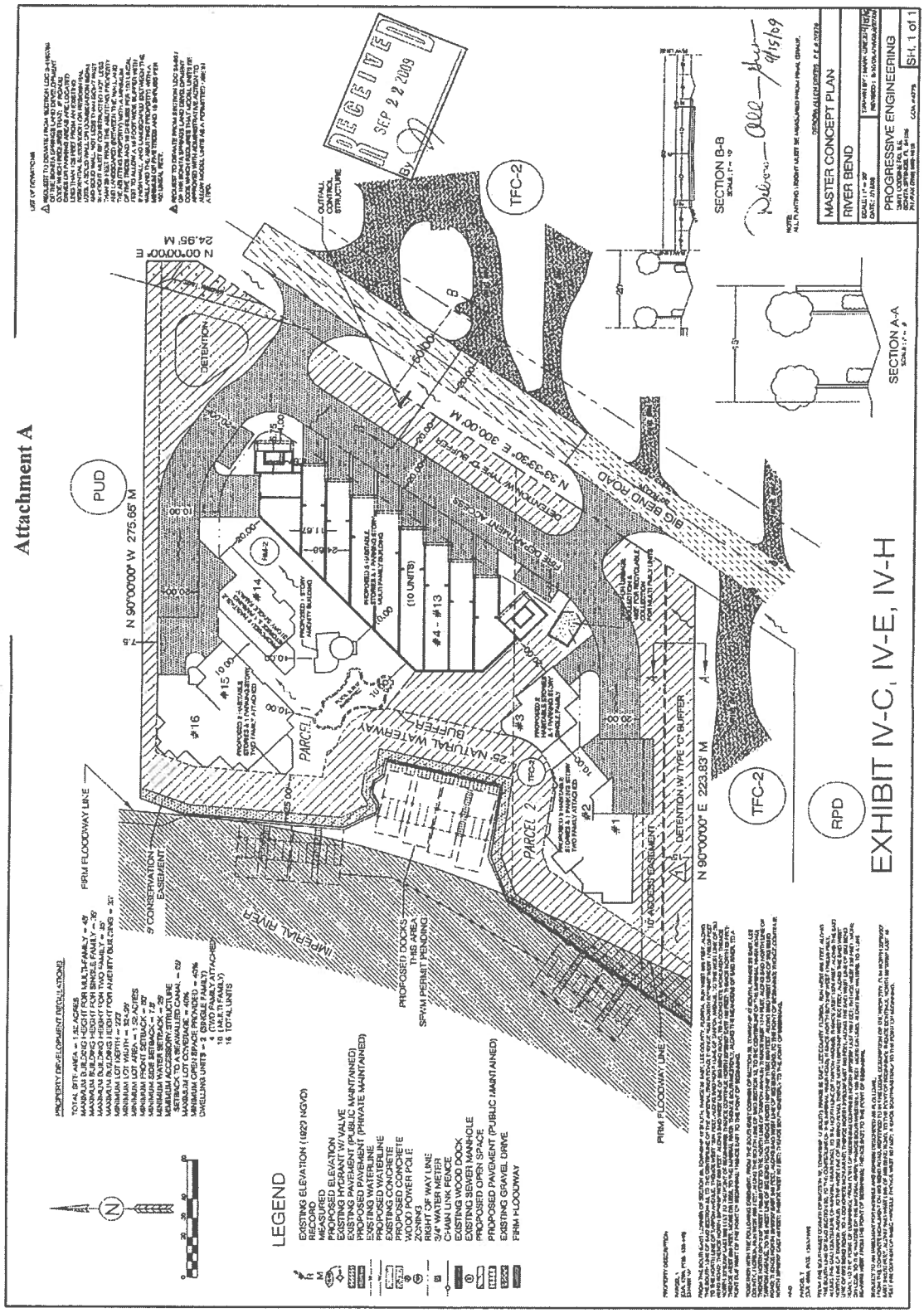
JUAN ARAQUE — P.S.M. #6435 — STATE OF FLORIDA

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REVISION:	Q. GRADY MINOR & ASSOCIATES, P.A.	SKETCH AND LEGAL DESCRIPTION	DRAWN BY: JD
	CIVIL ENGINEERS ■ LAND SURVEYORS ■ PLANNERS ■ LANDSCAPE ARCHITECTS BONITA SPRINGS ■ FORT MYERS ■ NORTH PORT 3800 VIA DEL REY, BONITA SPRINGS, FL 34134, (239) 947-1144 ■ 11940 FAWCETT LAKES DR., F.M. MYERS, FL 33913, (239) 690-4380 ■ 2562 COMMERCE PKWY., NORTH PORT, FL 34289, (941) 426-5859 DESIGNATED CERT. OF AUTH. (LB 3591) SURVEYING CERT. OF AUTH. (LB 6815) LANDSCAPE ARCH. BUSINESS (LC 26000258) www.gradyminor.com	A PORTION OF SECTION 32, TOWNSHIP 47 SOUTH, RANGE 25 EAST LEE COUNTY, FLORIDA	CHECK BY: JA JOB CODE: HOSEUR SCALE: 1" = 80' DATE: NOVEMBER 2008 FILE: 8-3729 SHEET: 1 OF 1

C:\PROJECTS\SURVEY 2008\8-3729\DWG


Attachment A
EXHIBIT IV-C, IV-E, IV-H
LEGEND
MASTER CONCEPT PLAN
RIVER BEND
PROGRESSIVE ENGINEERING
RECEIVED
SEP 22 2009
PUD
RPD
TFC-2
SECTION A-A
SECTION B-B
BIG BEND ROAD
IMPERIAL RIVER
PARCEL 1
PARCEL 2
DETENTION
N 90°00'00" W 275.66' M
N 90°00'00" E 223.83' M
N 33°39'30" E 300.00' M
24.95' M
#1
#2
#3
#4 - #13
#14
#15
#16
(10 UNITS)
PROPOSED DOCKS
TYP.
SPWMI PERMIT PENDING
25' NATURAL WATERWAY BUFFER
9' CONSERVATION EASEMENT
FIRM FLOODWAY LINE
FIRM FLOODWAY
EXISTING GRAVEL DRIVE
PROPOSED PAVEMENT (PUBLIC MAINTAINED)
PROPOSED OPEN SPACE
EXISTING SEWER MANHOLE
EXISTING WOOD DOCK
CHAIN LINK FENCE
3/4" WATER METER
RIGHT OF WAY LINE
WOOD POWER POLE
EXISTING CONCRETE
PROPOSED CONCRETE
EXISTING WATERLINE
EXISTING PAVEMENT (PRIVATE MAINTAINED)
EXISTING HYDRANT W/ VALVE
PROPOSED ELEVATION
MEASURED
RECORD
EXISTING ELEVATION (1929 NGVD)
OUTFALL CONTROL STRUCTURE
16' ACCESS EASEMENT
TYPE 'C' BUFFER
4/15/09

THOMPSON LEWIS
counselors at law

745 12TH AVENUE SOUTH
SUITE 105
NAPLES, FL 34102
239.316.3006 OFFICE
239.307.4839 FACSIMILE
DOUG@TLLFIRM.COM

TO: The City of Bonita Springs & SOMAX, LLC

FROM: Douglas A. Lewis, Esq.

DATE: May 8, 2024

RE: **Riverbend RPUD PD22-95976-BOS**

I. Background:

The information contained in this memorandum not attorney/client privileged communication and is a summary of some of the key issues pertaining to the Riverbend RPUD PD22-95976-BOS and arguments made on behalf of SOMAX, LLC before the City of Bonita Springs Zoning Board on April 16, 2024.

The Riverbend RPUD PD22-95976-BOS residential, infill project (the "Project") is 1.52 acres of real property owned by BB Sunset Properties, LLC and is located on the Imperial River, within the Estero Bay Aquatic Preserve, at 27495-511 and 27523 Big Bend Road, Bonita Springs, Florida 34134 (the "Property").

The Property is bordered: (i) to the north by a mangrove preserve area owned by Bonita Bay Community Association and zoned Bonita Bay PUD, (ii) to the south by a single-family residence zoned TFC-2, (iii) to the east by Big Bend Road and additional single-family residences; and (iv) to the west by the Imperial River and Bonita Bay (including the single-family residence owned by SOMAX, LLC) on the opposite side of the river.

The property has a "Medium Density Residential" land use designation under the City's Comprehensive Plan, Future Land Use Element ("FLUE"). The Property was rezoned from Residential Multiple-Family (RM-2) and Residential Two-Family Conservation (TFC-2) to Residential Planned Development (RPD) under Ordinance 10-02 ("Existing RPD"). Pursuant to Section 4-303 of the City's Code, the Master Concept Plan for the Existing RPD is expired. The Property remains zoned RPD, but no development can occur under the Existing RPD's Master Concept Plan, as it has expired. The current owner bought the Property knowing that it did not have rights to develop the Property pursuant to the Existing RPD. As such the owner took title to the Property subject to a zoning risk, and this Project is not a downzoning as the Existing RPD's Master Concept Plan is expired.

The Project seeks approval for the construction of ten (10) individually owned single family homes, one (1) wet slip (2 wet slips per dock) for each of the 10 single family homeowners as part of a "multi-slip residential marina", and other related improvements on the 1.52-acre parcel. According to the Project applicant, the multi-slip residential marina will be owned as a common element of the residents. The Project applicant seeks to amend the permitted schedule of uses under the Existing RPD to allow for applicant's invented housing category called "detached villa" (not recognized or defined under the City's Code), which applicant defines as being a "dwelling unit that is occupied by one family and is not connected to any other structure." The Project would allow multiple detached villas to be located on a single parcel. Also, the Existing RPD contains the following conditions that appear to have been removed by staff and the applicant from the Riverbend RPUD PD22-95976-BOS: (i) A. Conditions 4. Transportation Conditions a. through d.; (ii) A. Conditions 5. Environmental Conditions; (iii) A. Conditions 7. Flood Regulations; (iv) A. Conditions 8. Docks; (v) A. Conditions 11. Through 17.

II. Discussion and Analysis:

At the April 16, 2024 Zoning Board Hearing for the Project, SOMAX, LLC through counsel, asserted that the Project application is: 1. not legally sufficient and 2. does not comply with the City's Comprehensive Plan and Code. Further, that Project applicant's requested deviations 1, 4, 5 and 6 should be denied on the basis that they: 1. are not justified, 2. create incompatibilities with the surrounding area, 3. reduce the Code's health, safety and welfare protections by more than doubling the allowable boat traffic for this Property and impairing navigation on the Imperial River; and 4. Reduce Code protections for both the on-site and off-site mangrove preserves.

The following analysis was provided to the City's Zoning Board:

The Project applicant proposes 10 single family residences (see, binder Tab 2) priced at the $1 to $2.5 million dollar range, but the applicant is not doing standard single family platted lots as the Code would not allow them to do that and also have one (1) wet slip for each of the 10 single family homeowners as part of a "multi-slip residential marina." At this price point, the applicant will be selling river access. However, platting and building single family homes and docks does not allow for the type of river access intensity as proposed by the Project. The applicant focuses on its single-family use component in relation to permitted use and density provisions of the City's Comprehensive Plan in support of its 10 single-family homes, however the applicant cannot at the same time reject Code provisions appliable to single family docks and claim entitlement to a multi-slip residential marina.

Further, given the aging condition of the neighboring homes along the Imperial River, the precedent created by this Project in approving a multi-slip residential marina for this single-family residential area will have adverse impacts on the Imperial River and will undermine the City's Comprehensive Plan and Code. This project (and anticipated projects in the future like this one)

will also have an adverse impact on Bonita Bay and its residents who also utilize the Imperial River.

In order to sell off the 10 single-family homes and wet slip, the applicant will need to create at least 10 lots by either platting the land or by doing a land condominium. A lot created by either a plat or land condo/condo is a "lot" as defined under Sec. 4-879 of the LDC as it is "a parcel of land accommodating a building or buildings of unified design."

The Project's Master Concept Plan (see, binder Tab 4) provides no detail on what these lots would look like and/or how such "lots" would comply with the dimensional standards of the LDC for single family docks. In fact, the applicant cannot comply with the dimensional standards and achieve 10 lots having dock access for each lot owner.

The Project application is not sufficient

The master concept plan does not comply with Section 4-295 of the LDC.

Pursuant to Sec 4-295 (a)(6) b., (6) Master Concept Plan, the following applies to the Master Concept Plan, "Where the subject property will be divided into ***lots*** or parcels, the plan ***must*** indicate the general ***location, configuration, and approximate dimensions of the lots or parcels (including outparcels) as well as lot coverage, and the minimum proposed setbacks for principal structures***. The proposed use of the ***lots or parcels must be keyed to the list of proposed uses submitted with the application***. If the property development regulations for a specific zoning district will be used, reference to the specific district will be sufficient" [Emphasis added].

The Master Concept Plan is not legally sufficient as it does not indicate the location, configuration, and approximate dimensions of the ten (10) lots for the single-family homes to be sold. Further, the Master Concept Plan does not indicate lot coverage for the ten (10) lots and contains no minimum proposed setbacks for each of the ten (10) lots. Also, the Project applicant has stated that multi-slip residential marina will be owned as a common element of the residents, yet the Master Concept Plan does not identify the boundaries for the common element are and does not key the future "lots" to the list of proposed uses submitted with the application.

The multi-slip residential marina is also not listed as a use in the Project's proposed RPD, nor can it be as such is not permitted in the Comprehensive Plan (discussed below).

Pursuant to Sec 4-295 (a)(6) c.2., (6) Master Concept Plan. c. 2, the Master Concept Plan must contain "[t]he maximum height, in feet ***and number of habitable stories***; if parking under the buildings is proposed, the ***number of stories proposed for parking must be indicated*** and included in the total maximum height of the building;" [Emphasis added].

The Master Concept Plan is not legally sufficient as it does not indicate the number of habitable and parking stories.

The Project application does not comply with the Comprehensive Plan

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

a. Appropriate residential housing types include conventional and modular constructed single-family and duplex structures on permanent foundations.
b. ***As an alternative to a duplex structure***, and in order to encourage dispersing affordable housing throughout the community, ***one accessory dwelling, such as a garage apartment or accessory apartment, may be located on a single lot occupied by one single-family structure***, provided development of the lot remains within the maximum allowable density. Conditions on accessory dwelling units may be required within the Land Development Regulations to prevent overcrowding and to ensure compatibility.

The FLUE does not appear to allow more than one single-family structure on a lot, and the Master Concept Plan shows a single lot with ten (10) single-family structures. Further, multi-slip residential marinas[1] and "detached villas" are not listed as a permitted use of the Property.

The Project applicant relies on the following Policy 1.1.4: Allowable Uses under the FLUE to support "detached villas" as being a permitted use under the FLUE, "The listing of appropriate land uses in each of the individual land use categories identifies those uses generally expected to be appropriate. However, *other uses which are* ***similar in character***, ***intensity*** *and* ***impacts*** *to those listed* ***may*** *also be deemed to be appropriate*."

For purposes of seeking to comply with Policy 1.1.8 of the FLUE, the Project applicant correctly asserts that its "detached villa" is similar in character to a single-family dwelling unit[2], however, the proposed multi-slip residential marina is clearly not similar in character, intensity and impacts to a single-family dock. When compared to the lot dimensions and setbacks of neighboring single family platted lots, this 1.5-acre Property can get 4 (perhaps 5 maximum) platted lots, and all single-family dock/boat slip usage would only involve 4 or 5 owners. This Project seeks to more than double the number of owners that would be accessing the Imperial River and using boat slips. The applicant cannot fairly claim to be doing a single-family project

[1] In other FLUE categories and unlike Medium Density Residential, like for example Policy 1.1.10.2 for Coconut Village, "marina and marine accessory uses" are expressly listed as appropriate uses under the Comprehensive Plan.

[2] We agree that the residential product that the Project applicant seeks to build on the property is a single-family residence. However, the Code does not permit ten (10) platted single-family lots on the 1.5-acre parcel, with each platted lot having its own wet slip and none of the neighboring single-family lots have the same intensity or impacts of entitlements. As such, this Project is not similar in intensity and impacts as to a single-family structure having a single-family dock.

on the one hand while at the same time seeking to apply the Code provisions for a multi-slip commercial and residential facilities under Section 7-357 of the City's Code in order to achieve one (1) wet slip for each of the ten (10) lots. The Project applicant is not constructing single family accessory use boat docks and is not able to build a multi-slip residential marina, with 10 platted single-family lots, on this 1.5-acre Property.

The Project's multi-slip residential marina also violates the Conservation/Coastal Management Plan Policy 22.3 and does not meet the siting criteria. (this is detailed by separate memorandum).

The Project application does not comply with the LDC

The Project applicant asserts that Sec. 7-358 of the City's Code does not apply as they are not doing single family docks as part of their single-family residential Project. However, as noted above, the FLUE does not allow the Project applicant to do a Sec. 7-357 multi-slip commercial and residential marina on the Property. As a single-family use under the FLUE, Sec. 7-358. - Primary structures single/two family docks, fishing piers, kayak/canoe launch, boat ramps; boardwalks applies to this Project, which relevant provisions are as follows:

(a) Number of slips.

(1) ***No more than one boat mooring dock with two wet slips is permitted per single-family lot***, and no more than two boat mooring docks with up to four wet slips is permitted per two-family unit on a single lot. If a parcel abuts both a natural waterbody and an artificial waterbody, one slip may be allowed on each waterbody.

(2) A shared property line dock can be permitted for up to four wet slips with a joint use agreement.

(3) More than two slips may be approved with a special exception in accordance with section 4-131(c).

(c) Design and maximum dimensions.

(2) Except for a kayak launch that is normally built closer to the water line, ***only one structure*** as permitted in this section ***shall be allowed per lot*** unless the lot abuts both a natural and artificial waterbody or the lot has a shoreline greater than 150 linear feet. Docks, fishing piers, and kayak launches may be combined and built at the same height so long as state and federal permits can be obtained as applicable.

At a minimum the Project applicant needs to show the lot lines for its ten (10) single-family units (along with the riparian access rights of the owners) on its Master Concept Plan to see how these provisions of the Code will ultimately impact the Project. In the staff's packet to the Zoning Board, the Project applicant indicated that all of the docks will be constructed on a single lot owned as a common element of the residents. As such, a plain read of Section 7-358(c) (2) of the LDC limits the applicant to only one common element dock. Further and as a part of any revised Master Concept Plan, no more than one boat mooring dock with two (2) wet slips is permitted per single-

family lot, and a shared property line dock can be permitted for up to four wet slips with a joint use agreement.

While one can certainly appreciate the need for each of the ten (10) proposed lots to have boat slip access to the Imperial River in order to achieve the Project applicant's desired price point, when the City's Code and Comprehensive Plan provisions are properly applied, the ten (10) different lot owners on this 1.5 acre Property would not have their own individual boat slip. This project sets a very dangerous precedent as it creates significant economic incentives for this practice to continue and to be replicated along the Imperial River, and it undermines the City's Code and Comprehensive Plan.

DARYL MAX FORGEY, AICP
LAND USE PLANNER & EXPERT WITNESS
max@forgeyplanning.com
239.560.5864

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

May 15, 2024

SUBJECT: OPPOSITION TO REZONING APPLICATION NO. PD22-95976-BOS FOR THE RIVERBENDRPUD

1. PURPOSE OF REPORT AND QUALIFICATIONS OF EXPERT

This report, prepared on behalf of Thompson Lewis Law Firm, PLLC, outlines significant objections to rezoning application PD22-95976-BOS, which proposes a residential development with a multi-slip residential marina across from property owned by SOMAX, LLC, being the client of Thompson Lewis. The project's inconsistencies with local land use regulations, its potential detrimental impacts on the local ecosystem, and the character of the incompatibility, as the term is defined in Florida Statutes, with the surrounding residential area will be addressed in this report, which will be supplemented by testimony from adversely affected neighbors at the first public hearing before the City Council, which is scheduled for May 15, 2024. The Bonita Springs Local Planning Agency conducted a hearing on the application on April 16, 2024.

Qualifications and professional experience. The undersigned is a land use planner and expert witness with a Master of Public Affairs (MPA) degree with a concentration in Urban and Regional Planning from the O'Neill School of Public and Environmental Affairs at Indiana University Bloomington; and has been a member in good standing of the American Institute of Certified Planners (AICP) since 1993. A copy of the resume of Daryl Max Forgey, detailing his professional qualifications and career experiences, is appended to this report.

2. QUASI JUDICIAL NATURE OF CASE

Case No. PD22-95976-BOS is quasi-judicial in nature. As a quasi-judicial matter, the application requires strict scrutiny to ensure adherence to the city's land use policies, emphasizing the importance of procedural fairness and evidence-based decision-making.

In Florida, changes in zoning, as in this situation, must be amended by quasi-judicial procedures. W. Thomas Hawkins, in his magisterial *Land Use Law in Florida* [Routledge, 2021] posits that "Florida courts call as-applied land use actions quasi-judicial, and subjects those decisions to strict scrutiny, a standard which…requires competent and substantial evidence and testimony showing that the decision meets applicable requirements of law. Additionally, parties affected by quasi-judicial decisions are entitled to procedural due process protections to which parties affected by legislative decisions are not entitled [pg. 35].

Hawkins further states that:

"Procedural due process 'serve[s] as a vehicle to ensure fair treatment through proper of justice where substantive rights are at issue.' The 'core' of procedural due process is 'the right to notice and meaningful opportunity to be heard'. And the opportunity to be heard requires 'a meaningful opportunity to contest [a possible government deprivation] usually before it is imposed." [pg. 47].

Hawkins identifies six indicia for the conduct of quasi-judicial hearings by local governments:

"In Florida, case law dictates how local governments must conduct quasi-judicial hearings. Parties to quasi-judicial hearings are generally entitled to: (1) receive notice of the hearing; (2) an opportunity to be heard; (3) present and rebut evidence; (4) cross-examine witnesses; (5) a tribunal which is impartial in the matter; and (6) be informed of all the facts on which the commission acts." [pg. 47]

3. INCOMPATIBILITY BETWEEN THE PROPOSED AND EXISTING USES

Florida Statutes define "compatibility" as follows: "(9) 'Compatibility' means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition." [Ch. 163.3164(9)]. The proposed land use pattern—i.e. single family residences on a land condominium with a dock shared by as many as eleven residences—would constitute a drastic change in ownership and use patterns which SOMAX, LLC. did not bargain for, and would introduce a condition of incompatibility in which a single family residence, built with the usual setback and lot size requirements embodied in the City Land Development Code, with a single dock, would be negatively impacted by units without setbacks or other siting criteria, and could not c coexist in extremely close proximity in a stable fashion over time without negatively impacting the use and enjoyment which is valued by SOMAX. The proposed use fails to meet the test established in Ch. 163.3164(9), and should be denied for that reason alone.

4. AREAS OF CONCERN AND INSUFFICIENCY

A. **Comprehensive Plan Consistency: Future Land Uses**. Policy 1.1.8. of the Bonita Springs Comprehensive Plan defines the Medium Density Residential FLUM designation

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

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

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

c. Maximum allowable height of structures shall be 55 feet from the base flood elevation to the eaves. It is noteworthy that conventional single family housing is a permitted use, but the Comprehensive Plan does not contemplate the voiding of setback and lot line requirements, and does not contemplate shared docks as proposed."

B. **The lots that aren't lots**. "Lot" is defined in Sec. 9-27 as "a parcel of land considered as a unit." Lots are polygons with integrity, interiors surrounded by perimeters. In addition to the definition cited, there are no fewer than fourteen other definitions that include the word "lot." These include references to frontage lot, flag lot and lot depth. These terms are crucial to good planning practice and are in common use within the Bonita Springs Land Development Code. In this instance, the applicant proposes a new concept, a "Detached Villa" which consists of a single-family dwelling which is sited without reference to conventional lots, which carry with them the essential metrics for land use regulations—setbacks, buffers, rights of way, and easements. Because "Detached Villa" is not defined in the Bonita Springs Land Development Code, it artfully displaces the intent of all of those definitions that contain the word "lot."

The parent tract is a lot, i.e. it is a unified parcel of land. The applicant has a clear entitlement to build "single-family, duplex and town homes." There are limitations to what densities and intensities of use are permitted in each of those types. Specifically, the applicant cannot build docks except as ancillary to a single-family waterfront unit. The applicant has options—e.g. to plat the parent tract as a land condominium, making the footprint of each house site a lot and making the remaining interstices, including the waterfront, the roadways, and common lands, a distinct lot. The problem here is obvious—that approach would create one single waterfront property with no future single family unit, plus as many as 11 single family units, none of which would be on the water

and therefore not available for docks. Under these circumstances, there would be no docks available at all.

It is clear that the applicant is selling access to the Imperial River using a stratagem that would place a shared dock facility attached to the parent tract in an effort to lure buyers and plump land prices. To achieve this goal, the applicant cleverly proposes to evade the concept of subdivided lots embodied in the City Code in order to achieve high density and to achieve the highest number of docks on the property.

C. **Land Development Code: Location, configuration, and dimensions of lots.** Sec. 4-295(a)(6)b of the Bonita Springs Land Development Code states as follows: "Where the subject property will be divided into lots or parcels, the plan must indicate the general location, configuration, and approximate dimensions of the lots or parcels (including outparcels) as well as lot coverage, and the minimum proposed setbacks for principal structures. The proposed use of the lots or parcels must be keyed to the list of proposed uses submitted with the application. If the property development regulations for a specific zoning district will be used, reference to the specific district will be sufficient."

The Master Concept Plan (MCP) shows footprints but no lots or parcels and specifically does not illustrate the "approximate dimensions of the lots" or the "minimum proposed setbacks for principal structures." The MCP is therefore facially incomplete and should not be approved as proposed.

D. **Land Development Code: Docks and piers.** According to Sec. 7-358(a)(1): "No more than one boat mooring dock with two wet slips is permitted per single-family lot, and no more than two boat mooring docks with up to four wet slips is permitted per two-family unit on a single lot. If a parcel abuts both a natural waterbody and an artificial waterbody, one slip may be allowed on each waterbody."

The clear intent of this section is to limit docks, piers and other water-dependent construction and the noise and traffic that accompany them. The problem with the proposed application is that there are single family detached units illustrated on the MCP, but they aren't identified as belonging to single-family lots and they do not abut any waterbody.

E. **Comprehensive Plan: Inadequacy of buffering.** Policy 1.1.22, "Buffering Between Different Land Uses" states as follows: "In order to minimize incompatibility when commercial, industrial, or more intensive land uses share a common boundary with residential land uses, lower intensity uses shall be located adjacent to residential uses and the Land Development Code shall include provisions for buffering in the form of fences, walls, vegetation, or spatial buffers to minimize the impacts upon the residential use."

The proposed use does nothing to buffer or mitigate its impact on SOMAX. Setbacks in particular have been omitted from the Master Concept Plan.

F. **Comprehensive Plan: Protection of Environmentally Critical Areas.**
Policy 4.1.3 states as follows: "The City shall continue to protect its environmentally critical areas by:

a. Requiring the use of Planned Development (PD) for locations exhibiting characteristics of environmentally critical areas and strongly encourage the use of clustering and other innovative methods to avoid clearing and other development footprint; impacts to the listed habitat by shifting infrastructure and units to appropriate parcel locations."

G. **Insufficiency of application.**
According to Land Development Code Section 4-303, "Rezoning and Special Exception Criteria for Approval" these are the criteria for approving rezoning and special exceptions:

1. Compliance with Codes: The applicant must demonstrate compliance with the Bonita Plan, this Land Development Code, and any other applicable code or regulation.
2. Performance and Locational Standards: The rezoning request must meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
3. Consistency with Densities, Intensities, and General Uses: The request must be consistent with the densities, intensities, and general uses set forth in the Bonita Plan, including the use of Transfer of Development Rights (TDR) or affordable housing bonus density units.
4. Compatibility with Surrounding Area: The request must be compatible with existing planned uses in the surrounding area.
5. Environmental Protection: The request must not adversely affect environmentally critical areas and natural resources.

The application does not meet local land development standards. Specifically, (1) the Master Concept Plan lacks essential details such as lot dimensions and configurations; and (2) the application proposes a multi-slip residential marina, which is not a stated use in FLUE Policy 1.1.8 or under the existing zoning.

H. Environmental Concerns.

The development as proposed threatens significant ecological impacts. Specifically, it (1) may cause potential harm to mangrove preserves and disruption of the Imperial River's ecosystem; and (2) it will cause increased boat traffic which may impair navigation and alter the aquatic environment.

5. RECOMMENDED FINDINGS OF FACT JUSTIFYING DENIAL OF APPLICATION

The City of Bonita Springs City Council should deny this proposed rezoning based upon the following findings of fact:

1. The proposed Master Concept Plan (Exhibit B) does not subdivide the property into lots as defined in Sec. 9-27 and does not identify "approximate dimensions of the lots" or the "minimum proposed setbacks for principal structures."

2. Because the Master Concept Plan does not divide the property into lots or parcels, there are no waterfront residential lots eligible for the introduction of individual or shared docks.

3. "Detached Villa" is not defined in the Land Development Code. It appears to be a clever attempt to bypass the subdivision of the property into residential lots which illustrate setbacks, buffers and other regulatory metrics.

4. The Applicant has a bountiful entitlement on this site and can build single family and duplex units with docks.

5. The application lacks sufficient evidence to demonstrate compatibility with the surrounding area or the overall city planning objectives. Based upon the above findings, and the testimony which will be presented by the client and his neighbors, the undersigned recommends denial of this application.

Respectfully,

Max Forgey

Max Forgey, AICP
Certification #051,330

Attachments: Resume of Daryl Max Forgey, Expert Witness Documentation

cc: Wolfgang Oster, SOMAX, LLC
Douglas A. Lewis, Esq., Thompson Lewis Law Firm

FORGEY PLANNING

Neighborhood & City Planning Specialists



Max Forgey is an experienced land use planner with more than three decades of professional experience and exceptional success in administration of local government comprehensive planning strategies, land development and regulatory controls, governmental relations, and public policy communications. Primary clients are governmental organizations and private property owners.

His professional knowledge encompasses creating and developing community and small-area plans, urban design and architectural standards, land development entitlements, project management, and expert witness testimony. Max has worked on more than 30 cases across 25 Florida counties and municipalities, appearing before local planning agencies, city and county elected bodies, hearing examiners, administrative law judges, and circuit court proceedings.

Max also actively participates in and leads speaking engagements at professional development conferences and symposia through the Promised Lands section of the American Planning Association Florida chapter, with the American Institute of Certified Planners, with 1000 Friends of Florida and other organizations.

Qualifications

- FORGEY PLANNING. Owner of an urban planning and land-use consulting practice. • Master of Public Affairs (MPA) in Urban and Regional Planning, Indiana University.
- Member American Institute of Certified Planners (AICP).
- Qualified as an expert witness in Lee County Hearing Examiner proceedings.
- Former Planning and Community Development Director in Charlotte County.
- Former Planning Commissioner (LPA), City of Cape Coral, Florida.

Accomplishments

- Established FORGEY PLANNING, an urban planning and land use consulting practice.
- Developed a template for auditing the effectiveness of existing local governments comprehensive plans and zoning code for internal consistency of plan policy framework.
- Authored "The Platted Lands Challenge" report for the six-county area of Southwest Florida offering policy guidance for platted, scattered-lot properties.

- Development of implementation strategies which employ automation to create linked mixed media tools for restructuring and updating local government planning and zoning regulations.

Certification

AICP (American Institute of Certified Planners) Certification #051,330 Florida Chapter, APA Member in good standing since 1993. A national professional certification maintained by the American Planning Association. AICPs must first meet educational standards and then pass an examination covering all aspects of professional planning practice and are expected to maintain their membership through a self-directed program of study that is monitored by the national organization, which includes regular training in law and ethics.

Professional Experience

Forgey Planning Cape Coral, FL *Owner. 2008-present.* A solo planning practice concentrating comprehensive planning work for Lee and Sarasota Counties, the City of North Port, and the Captiva Community Panel. Developed a template for auditing the effectiveness of existing local governments comprehensive plans which has been applied in Sarasota County and the City of North Port. An expert witness since 2013, working on more than 30 cases in 25 Florida counties and municipalities, appearing before planning commissions, city councils, county commissions, hearing examiners, administrative law judges, and circuit court. Qualified as an expert witness in Lee County Hearing Examiner proceedings.

Zoning Technologies Cape Coral, FL *President. 2011-2017.* A start-up subsection 'S' corporation that specialized in restructuring and updating local government comprehensive plans and developing implementation strategies which employ automation to create linked tools (e.g. application forms, automated worksheets, case reports, and adopting resolutions). The Zoning Technologies expert system prototype products were marketed statewide and were demonstrated at the American Planning Association (APA) national conference in Atlanta in 2014.

Osceola County, Florida Kissimmee, FL *Planning Coordinator. 2005-2008.* Authored key elements of the Osceola County Comprehensive Plan and most of the County's 2008 Evaluation and Appraisal Report.

Clay County, Florida Green Cove Springs, FL *Senior Planner. 2003-2005.* Authored the county's Interlocal Service Delivery Agreement Report (ISDAR) mandated by the Florida legislature, identifying all service overlaps between and among all local governments within Clay County.

Lake County, Florida Tavares, FL *Planning Director. 2001-2003.* Staff liaison to the Environmental Lands Management Advisory Committee, a citizen organization created by the Board of County Commissioners to study the creation of an environmental land program. Recommended

policies were ratified in November 2002, when Lake County voters approved a one-third mil assessment for the acquisition of environmental lands.

Southwest Florida Regional Planning Council Fort Myers, FL
Planner. 1997-1998. Reviewed local government plan amendments throughout the six-county area and authored "The Platted Lands Challenge" report.

Charlotte County, Florida Port Charlotte, FL
Community Development Director 1995-1997; Planning Director 1990-1995. Early in my tenure, Gulf Development Corporation (GDC), the County's largest land subdivider, declared bankruptcy, shifting responsibility for completion of roads, bridges, drainage works, and utilities, to the public sector and forcing a host of development decisions upon the local government and public agencies. I had three memorable achievements during these seven years:

- Managed the research, preparation, and adoption of the County's Evaluation and Appraisal Report (EAR) and Comprehensive Plan. Aggressively negotiated with the Florida Department of Community Affairs (DCA) to remove the Plan's not-in-compliance finding.

- Led the staff team that rewrote the Charlotte County Comprehensive Plan and was the point person in the successful four-year effort to negotiate a stipulated settlement agreement between the Board of County Commissioners and the Florida Department of Community Affairs to find Charlotte County's Comprehensive Plan in compliance with Florida's Growth Management Act.

- Advocated against the rezoning of 42 parks (illustrated as such on GDC sales maps and the County's Future Land Use Maps) to residential uses. The Company's receivers eventually relented on their policy position and donated 41 parcels to the people of Charlotte County.

City of Cape Coral Cape Coral, FL
Deputy Planning Director. 1985-1990. Authored and supervised preparation of key elements of the 1988 Comprehensive Plan (the City's first plan under the 1985 Growth Management Act) and the City's 1989 Land Development Code.

Education

Indiana University Bloomington, IN *Master of Public Affairs (MPA) from the O'Neil School of Public and Environmental Affairs, 1982.* Concentration in Urban and Regional Planning.

Bachelor of Arts (BA). 1976. Undergraduate degree in English Literature and History.

Important Cases, Continuing Education, Writing & Teaching

- Economic Development Plan for City of Cape Coral, Florida. A major evaluation of the

community's economy and resources with recommendations for improving the City's long-term outlook. Subcontractor with DCG Corplan LLC, Bruce M. Hoch, Managing Director, August 17th to present.

- Contract Planner & Expert Witness for Town of Kenneth City, a municipality of 5000 population in Pinellas County that has no professional planning staff. Preparing Evaluation and Appraisal Report and other products in collaboration with Town Manager Lacy LaFave and Town Attorney Ralf Brookes, August 16, 2023, to present.

- Attending and participating in American Planning Association, Florida Chapter State Conference in Jacksonville September 5th through 6th, 2023.

- Attending and participating in the 23rd Annual Florida Land Use Law Conference in Tampa on August 28th and 29th, 2023.

- Program chair for APA Florida/ FPZA *"The Perfect Storm Eight Months Out: A Symposium for Professional Planners, Design Professionals, Plan Commissioners & Regular People"* at the Charlotte County Event & Conference Center Punta Gorda May 12, 2023.

- Presenting a panel *"Incorporation, Annexation, and Disincorporation"* with Jim Studiale, AICP, and Luke Lirot, Esq. at APA Florida state conference on Orlando September 7, 2022.

- Co-presented a panel *"Legislative and Quasi-judicial: What Every Planner Needs to Know"* with Attorney Andrew Dickman, AICP, at annual conference of Florida Planning and Zoning Association on Captiva Island June 3, 2022.

- Program Chair for *"The Swamp Peddlers"*, an APA Florida/ Florida Planning & Zoning Association symposium conducted on August 6, 2021, in Punta Gorda. Keynote speaker Jason Vuic and other presenters explored the legacy of land sales scams in Southwest Florida on the twentieth anniversary of the General Development Corporation bankruptcy.

- Designed and co-presented *"Land Use 101"*, a seminar for planning commissioners, elected officials, and new planners, hosted by the City of Cape Coral on June 16 and July 14, 2021 with co-presenters Vince Cautero, AICP, the City's Community Development Director, and Attorney Ralf Brookes.

- Expert witness for client West Villagers for Responsible Government (WV4RG), a citizen organization which challenged the annexation of the 8730-acre non-contiguous West Villages subdivisions into the City of North Port. The City Commission rejected the Villagers' challenge by a unanimous vote, but following appeal presented by attorney Luke Lirot, the Twelfth District overturned the City's order denying petition for contraction in *West Villagers for Responsible Government v. City of North Port.*

- Moderated a panel for law credit at the September 9, 2020 Zoom-facilitated American Planning Association's Florida state conference. Co-presenters were attorneys Karen Consalo, Thomas Hawkins, and Andrew Dickman. *"The Rules are* Very *Different Here: How to Reform Florida's Land Use Decision-making Process"* surveyed the inconsistencies among local governments' handling of land use decision-making and proposed a new Environmental Land Management Study (ELMS) to improve those processes.

- Attended and participated in American Planning Association Florida chapter's 18th annual *Public Policy Workshop* at Florida State University, Tallahassee February 2020.

- Drafted update of Town of *Fort Myers Beach Sign Ordinance* to reflect SCOTUS *Reed v. Gilbert* opinion for Weiler Engineering Fall 2019-Winter 2020.

- Program chair for "*Planners in Peril: Law, Legislation, and Ethics for Design Professionals*," an APA Florida Promised Lands section symposium December 6, 2019 at Bonita Springs City Hall.

- Program chair for "*How High is the Water, Ma?: Rising Sea Level on the Florida Gulf Coast and what we can do about it,*" sponsored by Friends of Boca Grande Community Center, March 22, 2019 at the Boca Grande Community Center Auditorium.

- Member, *Faith Presbyterian Affordable Housing Board*, a not-for-profit corporation which aspires to offer quality housing for low- and moderate-income persons in Cape Coral. Appointed 2018; appointment ended December 2020.

- Received 2018 American Planning Association Florida Chapter, Promised Lands section's firstever *Wayne Daltry Award for Planning Programs* for developing professional education symposia.

- Prepared *policy audit of Town of Fort Myers Beach Comprehensive Plan* for Weiler Engineering, Summer 2018.

- Program chair for American Planning Association symposium "*Warped Tour '18: Land Use Law for Planners*" March 23, 2018, in Punta Gorda.

- Attended and participated in the hurricane-shortened APA Florida chapter annual conference in Daytona Beach September 4-6, 2017. Led panel with Greg Beliveau, AICP and Jane West Esq. entitled "*How to Build a Better Client*."

- Program chair for Captiva Community Panel/ Florida APA symposium "*Now in* My *Back Yard: Rising Sea Level on Florida's Gulf Coast and what can be done about it*" January 13, 2017, at South Seas Resort on Captiva Island.

- Co-authored article with Karen Consalo, Esq. "*Best Practices for Local Government Land Use Decision-making*" in Summer 2016 edition of *Florida Planning*.

- Speaker at American Planning Association Florida Chapter Annual Conference in Tampa, September 9, 2016. "*A Pre-tirement Guide for Perplexed Planners: Making the Transition to Solo Practitioner.*"

- Attended and participated in CLE International's annual *Land Use Law symposium* in Tampa, August 18-19, 2016, and August 6-7, 2015.

- Speaker at University of Central Florida 2016 Public Administration Research Conference April 8, 2016. Topic: "*What's the Big Idea: New Software that Aids Land Use Decisions.*"

- Attended and participated in *APA Florida chapter annual conference* in Hollywood, Florida September 10-13, 2015.

- Coordinator and presenter for daylong FAPA-sponsored symposium *"Everything You Ever Wanted to Know about Florida Land Use"* in Cape Coral May 16, 2014.

Jurisdictions - Expert Witness Work

Bonita Springs
Bradenton
Cape Coral (5)
Charlotte County (2)
Collier County (2)
DeSoto County
Fort Myers Beach (2)
Hardee County
Hendry County (C Court)
Hernando County
Highlands County
Hillsborough County (3)
Hillsboro Beach
Kenneth City
Lantana
Lee County (8)
Miramar
Monroe Co (ALJ)
North Port
Orange County
Ormond Beach
Pasco County (2)
Palm Beach County (ALJ) Polk County (C court)
Punta Gorda (2)
St. Johns County (4)
Sarasota County
Sumter County
Suwannee County
Venice

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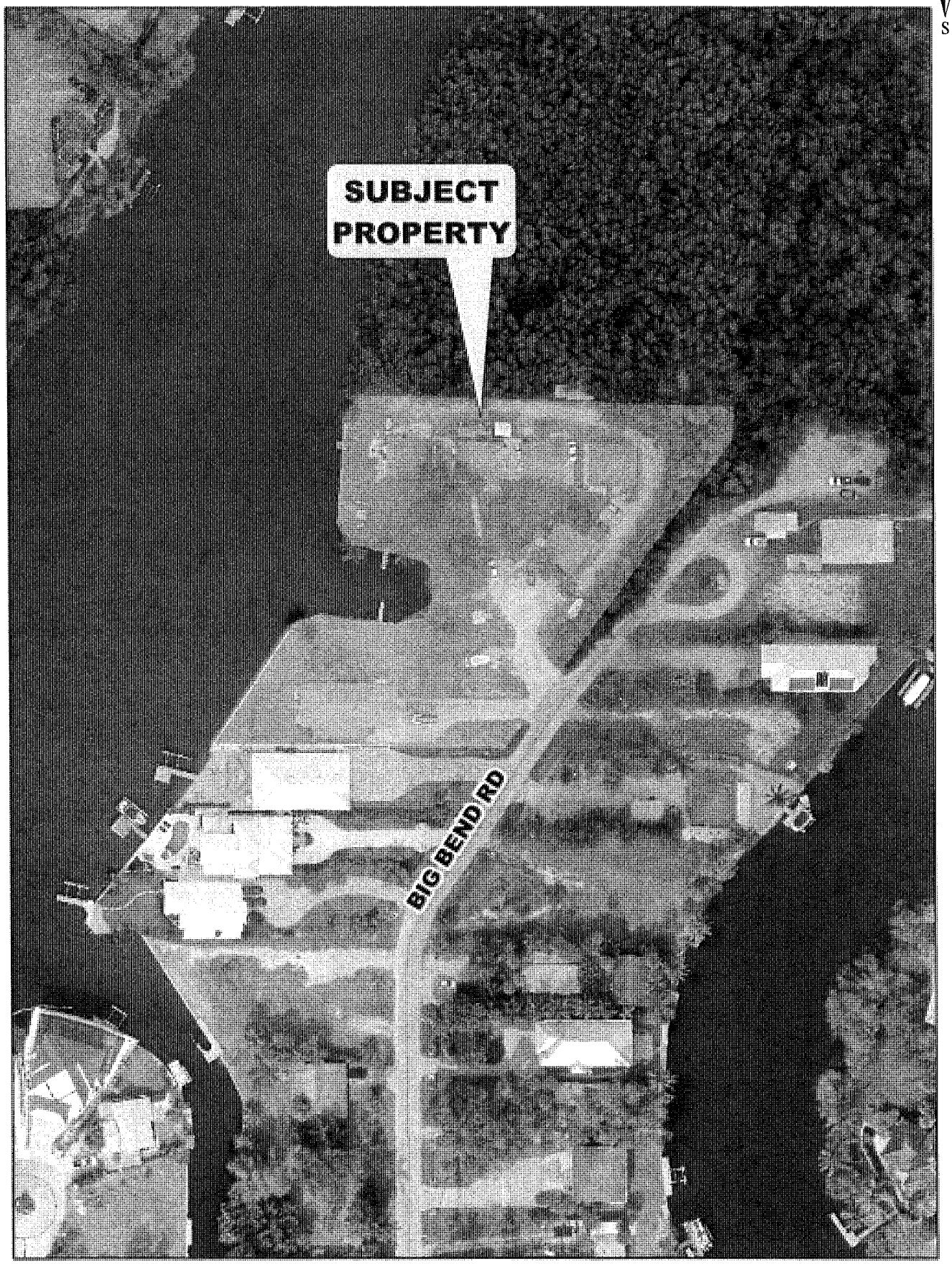
RIVERBEND RPUD
PD22-95976-BOS

ZONING BOARD
HEARING
4/16/2024

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Riverbend RPD Amendment
Exhibit IV-N Aerial

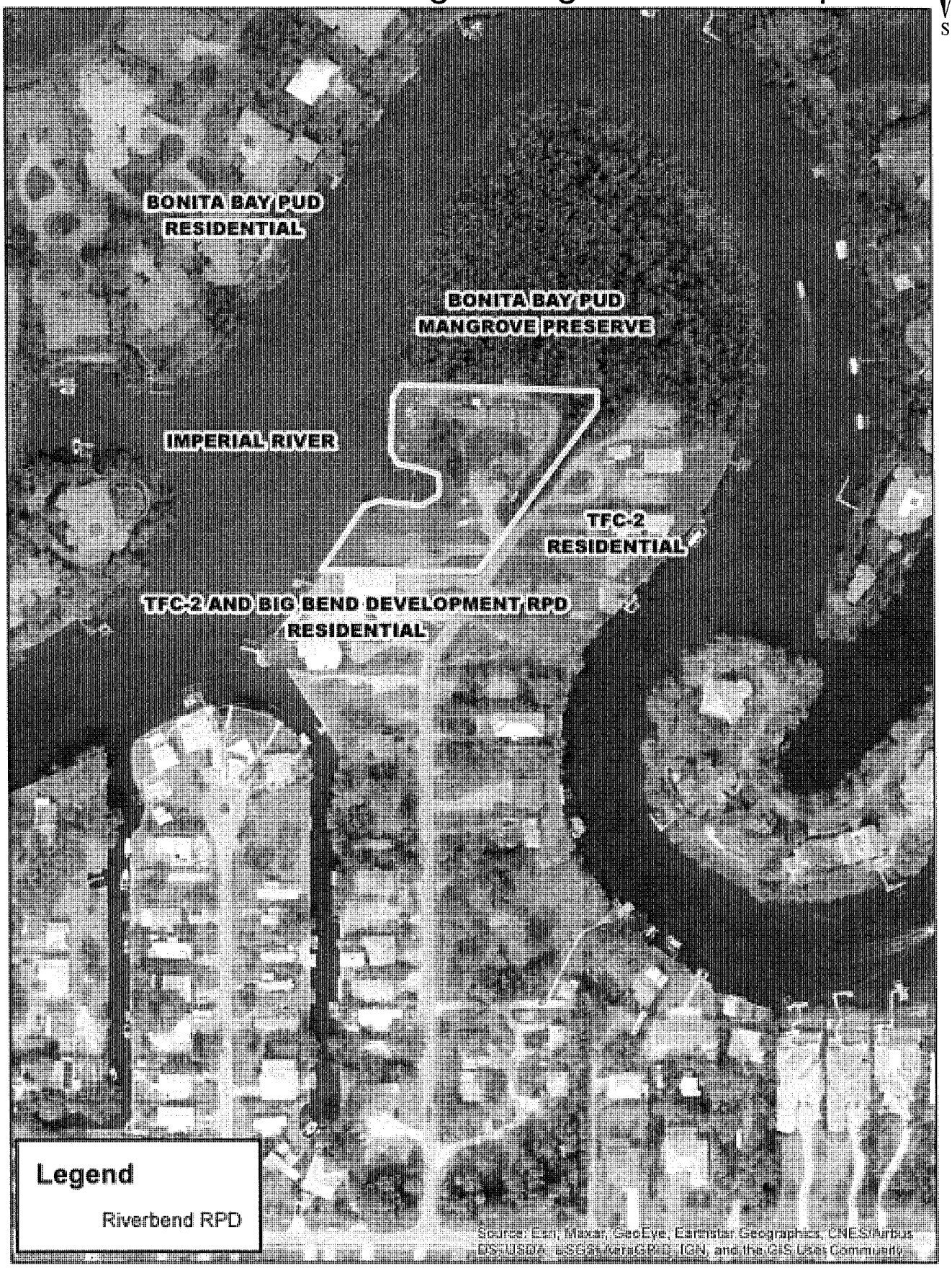


GradyMinor

Civil Engineers • Land Surveyors • Planners • Landscape Architects

120 60 0 120 Feet

Riverbend RPD
Exhibit II-F-3 Existing Zoning/Land Use Map



GradyMinor

Civil Engineers • Land Surveyors • Planners • Landscape Architects

230 115 0 230 Feet

PRELIMINARY CONCEPTUAL ELEVATION



Front elevation Concept

1/8"=1'0" 111 3/22/22

BACKGROUND:

The property was rezoned from the multi-family zoning designation (RM-2) and the two-family conservation designation (TFC-2) to a Residential Planned Development (RPD), pursuant to Bonita Springs Zoning Ordinance 10-02, passed by City Council on January 25, 2010. At the time, the intent was to construct up to 16 units and a variety of unit types, including single-family, two-family attached, and multi-family. Several residential structures (duplexes) were existing on-site at the time of the initial rezoning petition. The duplexes sustained heavy damage as the result of the aftermath of Hurricane Ian and were subsequently demolished. In late October 2022, the Applicant's agent (Q. Grady Minor & Associates, P.A.) filed for an amendment to the zoning ordinance to reduce the density from 16 units down to 10 units, and to amend the schedule of uses to remove the single-family, two-family, and multi-family unit types and to add "Detached Villas" to the list. The City's current regulations do not contain a definition for a detached villa, so Staff requested the Applicant provide a definition for consideration. The definition provided is: *a dwelling unit that is occupied by one family and is not connected to any other structure. Multiple detached villas may be located on a single parcel.* Subsequent review and analysis of this definition is provided in the Comprehensive Plan consistency section of this staff report.

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

Accessory Uses, Buildings, and Structures
Docks, seawalls
Dwelling units (Maximum total ~~16~~ 10 units):
- ~~Single-Family (maximum total 2 units)~~
- ~~Two-Family Attached (maximum total (4 units)~~
- ~~Multi-family building (maximum total 10 units)~~
- Detached Villa **

Models:
- Model Home (for marketing purposes within the project only)

Real Estate Sales Office (temporary for marketing purposes within the project only within one dwelling unit)
Recreational facilities:
- Personal
- Private-Onsite

Residential Accessory Uses

** The term "Detached Villa" is defined as follows: a dwelling unit that is occupied by one family and is not connected to any other structure. Multiple Detached Villas may be located on a single parcel.

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

Minimum Lot Width:	~~324.95 feet~~	N.A.
Minimum Lot Depth:	~~223 feet~~	N.A.
Minimum Lot Area:	~~1.52 +/- acres~~	N.A.
Maximum Lot Coverage:	40%	
Minimum Open Space:	40%	

	Detached Villa	~~Single-Family~~	~~Two-Family Attached~~	~~Townhouse Multi-Family~~	Accessory Structures
Maximum Building Height	35 feet	~~Not to exceed 35 feet~~	~~Not to exceed 35 feet~~	~~Not to exceed 39 feet~~	~~35~~ 25 feet
Setbacks ~~Street~~ ~~Side Yard~~ ~~Rear Yard~~ ~~Water Body~~		~~50 feet~~ ~~7.5 feet~~ ~~25 feet~~ ~~25 feet~~	~~50 feet~~ ~~0/10 feet~~ ~~25 feet~~ ~~25 feet~~	~~50 feet~~ ~~0/20 feet~~ ~~25 feet~~ ~~25 feet~~	~~50 feet~~ ~~10 feet~~ ~~25 feet~~ ~~25 feet~~
North PD Boundary	10 feet				10 feet
Imperial River	25 feet				0 feet (for docks, seawalls, walkways and accessways)
South PD Boundary	10 feet				10 feet
Big Bend Road	20 feet (Building 10 to be reduced to 10 feet)				10 feet
Minimum Building Separation	10 feet	~~10 feet~~	~~10 feet~~	~~20 feet~~	~~5 feet~~ 0 feet

Deviations: Two deviations were approved as part of the original zoning ordinance. The Applicant is requesting to amend one of them, and add four (4) more, for a total of five (5) new deviations. The request language, Applicant justification, and Staff response are shown below.

Deviation Request #1: Requesting relief from LDC Section 3-418 (d)(6) requires if roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet. Where residences will be constructed between the road, drive, or parking area and the existing residential subdivision or lots, the wall or wall and berm combination are not required. Uses or activities that generate noise, dust, odor, heat, glare, or other similar impacts, must provide a type C or F buffer unless it can be shown the proposed development will not have a significantly adverse impact on adjacent property to instead allow a 10' wide buffer with 8' high wall and landscaped between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet.

Applicant Justification: *The proposed development will "appear" to be single family residence but will "function" as multi-family without lot lines and associated HOA docs. The appearance of the development will be consistent with the abutting residential neighborhood. Furthermore, each home will have a driveway or shared driveway that connects directly to Big Bend Road. The driveways don't function like a traditional roadway.*

Staff Analysis: The original deviation request as approved in Ordinance 10-02 reduced the buffer width from 25 feet to 15 feet. This deviation seeks a further reduction to 10 feet. However, the planting standard of a minimum of five (5) trees and 18 shrubs per 100 lineal feet is not being modified. Additionally, the previously-approved Master Concept Plan (MCP) allowed for a variety of dwelling unit types and a different layout, in which the increased buffer width may have been more appropriate. With this amendment, the site will be designed to be more in line with single-family development. Since the planting standard of the code section is remaining in place, and since the development will be more consistent with single-family development, Staff recommends **APPROVAL** of the deviation request.

Deviation Request #2: [Previously approved in Ordinance 10-02]: An update to the affected code section has been provided (going from Lee County Land Development Code Section 34-934, to City of Bonita Springs Land Development Code Section 4-740) and no further modifications or alterations are being sought. This deviation approved the use of model units within the RPD without having to go through subsequent administrative actions.

Deviation Request #3: Requesting relief from LDC Section 3-417 (b)(6), Indigenous native vegetation. Setbacks, which requires a minimum 30-foot setback from all preserve (wildland) areas is required for buildings and accessory structures for the purposes of fire

protection. Buildings and accessory structures located closer than 30 feet from a preserve (wildland) area shall require special mitigation measures as determined by the Bonita Springs Fire Control and Rescue District, in accordance with the National Fire Protection Association ("NFPA"), Standard 1144, "Standard for Protection of Life and Property from Wildfire." To instead allow structures to be located 10 feet from an off-site preserve and to provide a wildland mitigation plan with the development order.

Applicant Justification: *The off-site preserve is a mangrove preserve. The area north of the RPD is adjacent to the Imperial River and the risk from wildfire is non-existent. The risk of fire in this location is de minimis. The Bonita Springs Fire and Rescue District has approved the deviation, subject to submission of a Wildland Fire Mitigation Plan. There is a proposed 10-foot-wide pedestrian easement that allows structures to be located 10 feet from the on-site preserve, subject to submission of a Wildland Fire Mitigation Plan Reference Detail B- Proposed Site Plan.*

Staff Analysis: It should be noted that the referenced code section does not prohibit structures from being closer than 30 feet to preserve areas. Rather, it stipulates a requirement that, should this option be utilized, mitigation measures may be required by the Bonita Springs Fire Control & Rescue District (BSF). The Applicant will submit a mitigation plan as part of the development order process and it will be reviewed by BSF. It appears the Applicant has already spoken to BSF about mitigation. Staff recommends **APPROVAL** of the reduced setback, subject to approval of the mitigation plan by BSF at time of local development order.

Deviation Request #4: Requesting relief from LDC Section 3-418 (d)(3), buffering requirements, which requires a 15 foot wide type 'D' buffer to instead allow a modified landscape buffer with an average of 1 tree per ROW abutting residential unit, planting within the ROW abutting dry detention area (cypress trees or similar), and no buffer required when abutting mangroves.

Applicant Justification: *In an attempt to have a unified appearance with the existing residential community, the proposed development is looking to have similar landscaping as the existing abutting residential homes, with open view corridors, limited shrubs or bushes, and front yard canopy trees.*

Staff Analysis: As part of the review for this deviation, Staff requested a right-of-way exhibit that provided a concept showing the proposed planting areas. It is the Staff's understanding that the Applicant has been in touch with the City's Public Works Department with regards to obtaining easements to provide additional outfall structures to better drain this portion of Big Bend Road. With negotiations ongoing, Staff cannot say definitively if the proposed planting concept is appropriate. Staff is recommending a right-of-way planting plan/exhibit to be provided at time of local development order, especially for any plants proposed in the dry detention areas, to better understand the implications of this deviation request. If the Applicant agrees to this condition, Staff does not object to

recommending **APPROVAL** of the deviation request, subject to the approval of the right-of-way planting plan from Community Development and Public Works.

Deviation Request #5: Requesting relief from LDC Section 3-417(b)(1)a, Indigenous native vegetation, which requires a minimum setback of 30 feet is required from any habitable structure to instead allow for a minimum setback of 10 feet from the .02 acre mangrove preserve.

Applicant Justification: *The reduced setback is applicable for a single structure and the 10-foot dimension is for the closest portion of the home to the preserve. The .02-acre preserve is immediately adjacent to Big Bend Road and has been impacted by the road construction. The Bonita Springs Fire and Rescue District has approved the deviation from a preserve setback, and we will provide a Wildland Fire Mitigation Plan with the Development Order.*

Staff Analysis: This deviation request is similar to Deviation #3. While that deviation was to address setbacks to the mangrove preserve area to the north, this deviation is to address the setbacks of Building 10 to the mangrove preserve area to the east. Staff recommends **APPROVAL** of this deviation request, subject to approval of a mitigation plan reviewed by Bonita Springs Fire Control & Rescue District.

Deviation Request #6: Requesting relief from LDC Section 4-741(b)(1)b, Minimum setbacks of structures and buildings from development perimeter boundaries, which requires all buildings and structures must be set back from the development perimeter a distance equal to the greater of:

Fifteen feet, if the subject property is, or will be zoned RPD, MHPD, CFPD, or CPD.

To instead allow buildings #1, #7 and #10 to have a ten-foot setback from the perimeter of the RPD boundary as shown on the MCP.

Applicant Justification: *The proposed setback reduction to 10 feet only applies to buildings #1, #7 and #10. Building #1 is adjacent to a mangrove preserve and the applicant has requested a deviation from the 30-foot setback from a preserve. The setback is supported by the Bonita Springs Fire and Rescue District with submission of a wildland mitigation plan with the D.O. For building #10 the reduction in perimeter setback is only applicable to the southeast corner of the proposed structure, which can actually be a minimum of 11 feet from the RPD boundary. the balance of the structure will comply with the 15-foot setback requirement. The slight reduction in setback will allow the internal drive to have appropriate turning radii for emergency vehicles and to provide for appropriate building separation.*

Staff Analysis: One of the purposes of the perimeter setback is to provide for increased buffering in order to mitigate perceived impacts on neighboring properties. Adjacent to the north is a dedicated preserve area and to the east is the right-of-way of Big Bend

Road. The "impact" would be on the south side of the project, adjacent to Building 7. However, as demonstrated in Deviation #1 (and shown on the master concept plan), the Applicant will be providing an eight-foot high wall, in addition to a landscape buffer. The wall and landscaping will visually screen the project on the south side. Staff recommends **APPROVAL** of this deviation request, subject to the construction of the wall and landscape buffer.

CONCLUSIONS:

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

RECOMMENDATION:

Staff recommends **APPROVAL** of a Residential Planned Development (RPD) zoning amendment to Ordinance 10-02 to reduce the density to a maximum of 10 detached villa units (as defined below) and add five (5) deviations. This recommendation of approval is subject to the following conditions, which shall replace those stated in Ordinance 10-02:

Conditions:

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

2. Schedule of Uses:

   Accessory Uses, Buildings, and Structures
   Docks, seawalls
   Dwelling units (Maximum total 10 units):
   Detached Villa *
   Models:
   Model Home (for marketing purposes within the project only)
   Real Estate Sales Office (temporary for marketing purposes within the project only within one dwelling unit)
   Recreational facilities:
   Personal
   Private-Onsite
   Residential Accessory Uses

   ** *The term "Detached Villa" is defined as follows: a dwelling unit that is occupied by one family and is not connected to any other structure. Multiple Detached Villas may be located on a single parcel.*

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

Minimum Lot Width:	N.A.
Minimum Lot Depth:	N.A.
Minimum Lot Area:	N.A.
Maximum Lot Coverage:	40%
Minimum Open Space:	40%

	Detached Villa	Accessory Structures
Maximum Building Height	35 feet	25 feet
Setbacks		
North PD Boundary	10 feet	10 feet
Imperial River	25 feet	0 feet (for docks, seawalls, walkways and accessways)
South PD Boundary	10 feet	10 feet
Big Bend Road	20 feet (Building 10 to be reduced to 10 feet)	10 feet
Minimum Building Separation	10 feet	0 feet

4. The Applicant is required to coordinate with Community Development and Public Works to discuss roadway and drainage improvements along the project's frontage on Big Bend Road. This coordination shall take place during the development order review process. This coordination is intended to be separate from the Applicant's responsibilities to provide adequate on-site and off-site complete streets facilities as required by City of Bonita Springs Land Development Code.

5. Environmental Conditions

a. Prior to local development order approval, a tree survey will be required to determine if there are any Heritage trees on-site. If Heritage trees are present and are planned for removal, an appearance before the Tree Advisory Board prior to the issuance of local development order is required.

b. At the time of Dock and Shoreline permitting, mitigation measures for new wet slips shall be met for compliance with the Lee County Manatee Protection Plan which include but are not limited to: 1. Standard manatee construction conditions; 2. Manatee education activities as required per section 8.4.5; and 3. Funding for enhanced marine law enforcement per section 8.4.5. Manatee protection and education signs shall be depicted on the local development order. Final dock and shoreline design (filling, riprap, and docks) shall be subject to state and federal permitting requirements.

c. The proposed conservation adjacent to the Imperial River shall be recorded and any modifications to the existing easement shall be recorded.

d. At the time of local development order, the applicant must submit an Indigenous Preservation and Restoration Plan depicting a 20' wide indigenous buffer on the property adjacent to the Imperial River. This buffer shall be planted with native vegetation consistent with the final planned use of this area. If the use is for dry detention, species commonly found in wetland areas shall be utilized such as, but not limited to, cordgrass, fakahatchee grass, pond apple tree, cypress tree, green buttonwood tree. If the final planned use of this area will be level in elevation similar to the rest of the property, species used shall be those commonly found in our coastal hardwood hammocks and shall be planted in a manner to mimic a natural condition. A variety of tree and understory vegetation shall be planted at a ratio of five trees and eighty understory plants per one hundred linear feet.

    i. The following tree and understory species are recommended for the buffer:

    Selected Tree Species: Gumbo Limbo, Strangler Fig, Mangroves, Buttonwood, Lancewood, Willow Bustic, Mastic, Pigeon Plum, Jamaican Dogwood.

    Selected understory species: Simpsons Stopper, White Indigo Berry, Cocoplum, Jamaican Caper, Spanish Stopper, White Stopper, Wild Coffee.

ii. The square footage planted may be credited twice towards the indigenous open space requirement.

iii. Trees must be at least 15 gallons (apx. 6-8' tall), and understory plants must be 3 gallon (apx. 24" tall).

iv. Five foot pedestrian paths consisting of pervious material and seating areas are permitted to meander within this buffer area.

v. A temporary irrigation system is required during the initial landscape establishment period and may be eliminated approximately one year after the material has been planted.

e. The applicant must provide one hundred (100) percent native vegetation plantings within all required buffers.

f. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size) providing 50% coverage at time of installation.

6. Any infrastructure associated with the model home will need to be shown on the development order plans. If the model home will require a temporary parking lot, the proposed layout shall be shown on the plans. The requirements of LDC 4-1665—Model Homes and Model Units, remains in full force and effect, unless modified below.
   a. A maximum of one model home is permitted for each model type in the development.
   b. Hours of operation for the model homes are restricted to Sunday – Saturday, 8:00 a.m. – 6:00 p.m.

7. The Real Estate Sales Office is permitted to occur within a maximum of one (1) dwelling unit. The hours of operation for the sales office shall be Sunday – Saturday, 8:00 a.m. – 6:00 p.m.
   a. Sales are limited to the sale of units within the development. The sales office is valid for a time period of three (3) years from the date of the certificate of occupancy for the sales office. A one-time extension of two (2) years may be granted by the Director of Community Development. Additional time will require special exception approval.

8. In order to demonstrate consistency with single-family development, at time of local development order submittal, the Applicant shall provide renderings of the proposed home elevations for review.

9. Pursuant to Deviation 3, a wildland mitigation plan is required to be provided at time of local development order, to be reviewed and approved by the Bonita Springs Fire Control & Rescue District.

10. Pursuant to Deviation 4, a right-of-way planting plan shall be provided at time of local development order, to be reviewed and approved by Community Development and Public Works.

11. At time of local development order and building permit, the Applicant shall demonstrate compliance with all local, state, and federal regulations for construction within floodways and floodplains.

12. Approval of this zoning action does not guarantee approval of a local development order or building permit.

Deviations

1. Requesting relief from LDC Section 3-418 (d)(6) requires if roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet. Where residences will be constructed between the road, drive, or parking area and the existing residential subdivision or lots, the wall or wall and berm combination are not required. Uses or activities that generate noise, dust, odor, heat, glare, or other similar impacts, must provide a type C or F buffer unless it can be shown the proposed development will not have a significantly adverse impact on adjacent property to instead allow a 10' wide buffer with 8' high wall and landscaped between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet, is **APPROVED**

2. **[Previously approved in Ordinance 10-02]:** An update to the affected code section has been provided (going from Lee County Land Development Code Section 34-934, to City of Bonita Springs Land Development Code Section 4-740) and no further modifications or alterations are being sought. This deviation approved the use of model units within the RPD without having to go through

subsequent administrative actions. The deviation with the updated code section language is **APPROVED,** subject to Condition 6.

3. Requesting relief from LDC Section 3-417 (b)(6), Indigenous native vegetation. Setbacks, which requires a minimum 30-foot setback from all preserve (wildland) areas is required for buildings and accessory structures for the purposes of fire protection. Buildings and accessory structures located closer than 30 feet from a preserve (wildland) area shall require special mitigation measures as determined by the Bonita Springs Fire Control and Rescue District, in accordance with the National Fire Protection Association ("NFPA"), Standard 1144, "Standard for Protection of Life and Property from Wildfire." To instead allow structures to be located 10 feet from an off-site preserve and to provide a wildland mitigation plan with the development order, is **APPROVED,** subject to Condition 9.

4. Requesting relief from LDC Section 3-418 (d)(3), buffering requirements, which requires a 15 foot wide type 'D' buffer to instead allow a modified landscape buffer with an average of 1 tree per ROW abutting residential unit, planting within the ROW abutting dry detention area (cypress trees or similar), and no buffer required when abutting mangroves, is **APPROVED**, subject to Condition 10.

5. Requesting relief from LDC Section 3-417(b)(1)a, Indigenous native vegetation, which requires a minimum setback of 30 feet is required from any habitable structure to instead allow for a minimum setback of 10 feet from the .02 acre mangrove preserve, is **APPROVED**, subject to Condition 9.

6. Requesting relief from LDC Section 4-741(b)(1)b, Minimum setbacks of structures and buildings from development perimeter boundaries, which requires all buildings and structures must be set back from the development perimeter a distance equal to the greater of: Fifteen feet, if the subject property is, or will be zoned RPD, MHPD, CFPD, or CPD.
   To instead allow buildings #1, #7 and #10 to have a ten-foot setback from the perimeter of the RPD boundary as shown on the MCP, is **APPROVED**.

EXHIBITS:

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

ATTACHMENTS:

A. Background and Informational Analysis
B. City of Bonita Springs Zoning Ordinance 10-02
C. Application Backup (Final Documents—Online only)

EXHIBIT "B"



SCALE:

SITE SUMMARY

PLAN DESIGNATION	MEDIUM DENSITY SINGLE FAMILY/DUPLEX RESI
EXISTING ZONING DESIGNATION:	RIVERBEND RPD
EXISTING LAND USE:	RESIDENTIAL
PROPOSED ZONING DESIGNATION:	RPD, RESIDENTIAL PLANNED DEVELOPMENT
GROSS AREA:	1.5± ACRES
MAXIMUM DWELLING UNITS:	10 UNITS
STRAP NUMBERS:	32-47-25-B2-00003.0000 and 32-47-25-B2-00003.0010
STREET ADDRESS:	27495-511 AND 27523 BIG BEND ROAD

INDIGENOUS PRESERVE:

REQUIRED: 0
PROVIDED: 0.02 (MANGROVE PRESERVE)

OPEN SPACE:

REQUIRED: 0.6± ACRE (1.5± ACRE X 0.40)
PROVIDED: 0.6± ACRE

DEVELOPMENT REGULATIONS:

MINIMUM SETBACKS:

PRINCIPAL:

NORTH PD BOUNDARY:	10 FEET
IMPERIAL RIVER:	25 FEET
SOUTH PD BOUNDARY:	10 FEET
BIG BEND ROAD:	20 FEET, HOWEVER BLDG. 10 MAY BE REDUCED TO

ACCESSORY:

NORTH PD BOUNDARY:	10 FEET
IMPERIAL RIVER:	0 FEET
SOUTH PD BOUNDARY:	10 FEET
BIG BEND ROAD:	10 FEE

MINIMUM BUILDING SEPARATION: PRINCIPAL: 10 FEET; ACCESSORY: 0 FEET

MAXIMUM BUILDING HEIGHT:
PRINCIPAL: 35 FEET
ACCESSORY: 25 FEET

DEVIATIONS:

1. RELIEF FROM LDC SECTION 3-418(d)(6), LANDSCAPE STANDARDS
2. RELIEF FROM LDC SECTION 4-740, USE REGULATIONS TABLE
3. RELIEF FROM LDC SECTION 3-417(6)(6), INDIGENOUS PRESERVE SETBACKS
4. RELIEF FROM LDC SECTION 3-418(d)(3), BUFFER REQUIREMENTS
5. RELIEF FROM LDC SECTION 3-417(B)(1)A, INDIGENOUS NATIVE VEGETATION SETB
6. RELIEF FROM LDC SECTION 4-741(B)(1)B, MINIMUM SETBACKS OF STRUCTURES AI BUILDINGS FROM DEVELOPMENT PERIMETER BOUNDARIES

NOTES

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

LEGEND

Revision	Date	Description	By

DESIGNED BY: DGM
DRAWN BY: S.U.
APPROVED: D.M.A.
JOB CODE: 8955PDG
SCALE:

GradyMinor
D. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134
Civil Engineers • Land Surveyors • Planners • Landscape Architects
Cert. of Auth. EB 0005153 Cert. of Auth. LB 0005153 Business LC 26000266
Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380

RIVERBEND RPD

EXHIBIT IV-E
MASTER CONCEPT PLAN
REVISED AUGUST 16, 2023

ATTACHMENT "A"

BACKGROUND AND INFORMATIONAL ANALYSIS:

Surrounding Land Use:

Existing Zoning & Land Use	Future Land Use Map
Subject Parcel: RPD, Vacant	Med. Den. Res. 11.6du/ac
North: PUD, Mangrove Preserve	Mod. Den. MU/PD. 9du/ac
*East: TFC-2, SF Residential	Med. Den. Res. 11.6du/ac
South: TFC-2, SF Residential	Med. Den. Res. 11.6du/ac
**West: Imperial River	N/A

*Immediately adjacent to the subject property is road right-of-way of Big Bend Road, a city-maintained roadway

**On the adjacent [west] side of the Imperial River is a portion of the Bonita Bay PUD that includes single-family homes and the Bonita Bay Marina

Planned Development Analysis

Review criteria	Yes – Mostly - Partly - No
Demonstrate compliance with the Bonita Plan, this Land Development Code, and any other applicable code or regulation	Yes – The application is in compliance with the Comprehensive Plan and applicable Land Development Code Regulations
The request meets or exceeds performance and location standards set forth for the proposed uses	Yes – The MCP with associated conditions presented by Staff will meet the standards of the Land Development Code.
Including the use of TDR or affordable housing bonuses are the densities or intensities (general uses) consistent with the Comprehensive Plan	Yes – Ordinance 10-02 approved up to 16 units; The proposal represents a reduction to 10 units total. The density does not violate the provisions of the Comprehensive Plan.
The request is compatible with existing or planned uses in the surrounding area	Yes – The surrounding uses are residential in nature. The proposed development is also residential. A preserve easement will

	also be provided along the northern boundary, adjacent to the existing mangrove preserve.

Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development	Yes-- The proposed residential development will account for less than 1% of the roadway capacity of the analyzed segments.
Will the request adversely affect environmentally critical areas and natural resources	No – The on-site mangrove preserve areas are being maintained and an easement is being placed on the north boundary to buffer the preserve area on the neighboring property.
Public facilities are, or will be, available and adequate to serve the proposed land use	Yes - Public facilities are available to the site.
Deviations needed to enhance or to achieve the objectives of the planned development	Yes –the proposed deviations will allow adequate separation of the dwelling units, while still providing suitable access and buffering.
Deviations needed to preserve, promote and or protect the public health, safety and welfare	Yes – the proposed deviations as conditioned will provide adequate protections and preservation of the surrounding areas and properties, while still promoting a viable residential project with a decreased density from the previous approval.

Environmental

There is an on-site mangrove swamp area (0.02 acres) in the northeast corner of the property that is contiguous with the mangrove preserve area on the adjoining property to the north. The Applicant will be preserving this area. With regards to landscaping/buffering, a deviation is being requested regarding the location of a wall on the south side, eight (8) feet in height. Pursuant to LDC 3-418, a wall or a berm/wall combination is required for any roads, drives, or parking areas that are located less than 125 feet from existing residential areas. The wall is required to be at least 25 feet from the abutting property. The deviation (#1) is to allow the wall to be placed within a buffer 10 feet wide. Staff's analysis of the deviation is provided in the Staff Report. Additionally, deviations are being requested for the standards related to setbacks from preserve areas. The Staff analysis of these deviations (# 3 and #5) are contained in the Staff report. Finally, a deviation is being requested from the buffering standards for the right-of-way along Big Bend Road (#4). Staff is recommending approval of this deviation, subject to Condition 10, which requires and right-of-way planting plan to be reviewed an approved

by Community Development and Public Works. Analysis of all deviations are contained in the Staff report.

Stormwater

At the time of the submittal of the project, the property was located in a FEMA X-zone, which is considered a non-flood hazard area. A map update occurred in November of 2022, which included a redesignation of the subject property. The property is now located in a flood hazard area AE-10. The Florida Building Code requires an extra 12" of elevation, meaning the lowest horizontal member shall be at 11 feet. Historically, the property has been affected by tidal influences. Flooding from Hurricane Ian caused significant damage to the on-site duplexes and they were subsequently demolished. The City's Public Works department has an active and ongoing project within the road right of way of Big Bend, designed to provide better drainage during tidal events. Currently, Public Works is in negotiations with the Applicant regarding an on-site easement that could be used to further address flooding and drainage issues. Condition 4 was drafted as a means to promote the continued conversation between the two parties. Regardless, the project will be required to handle its stormwater. The proposed plan calls for an on-site retention area for storage and water quality treatment before discharging into the Imperial River. In addition, the project cannot negatively impact historic flows in the area and cannot cause additional runoff onto adjacent properties. The project will be required to provide additional details during the local development order process and a water management permit from South Florida Water Management District will be required. A project that does not meet LDC requirements for water quality, quantity, or flood regulations cannot be approved.

Traffic

The Applicant provided a Traffic Impact Statement (TIS), which was reviewed by the City's transportation engineer. The project is located at the tip of Big Bend Road and the master concept plan (MCP) proposes two access points. The previous master concept plan provided for 16 units and included a variety of unit types. The proposed plan reduces the density to 10 detached villa units, which, for traffic impacts, were reviewed as single-family homes. Tables 1B and 1C of the TIS show the trip computations from the previous plan of 16 units to the current proposal of 10 units. In terms of the project's projected traffic impacts during the peak hour and peak direction, the analysis provided is for Bonita Beach Road, west of Vanderbilt Drive, and Bonita Beach Road, west of US 41. The projected impact of the site is less than 1%. The City's standard is that anything less than 2% is not considered a project of significant impact. With that said, the project will still be required to meet the multi-modal requirements of the City's Land Development Code (LDC). The MCP shows a proposed sidewalk within the Big Bend right of way. Construction of the sidewalk will require coordination with the City's Public Works Department. Additionally, the Applicant is aware that additional improvements to Big Bend Road may be required.

Comprehensive Plan

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

> ***Policy 1.1.8: Medium Density Residential*** *- Intended to accommodate areas with a mix of single-family, duplex and town homes residential development at a maximum density of up to 11.6 dwelling units per gross acre and approximately 1,056 acres of gross land area in the land use category; group homes and foster care facilities; public schools and other public, semi-public and recreational uses on a limited basis.*
>
> a. *Appropriate residential housing types include conventional and modular constructed single-family and duplex structures on permanent foundations.*
>
> b. *As an alternative to a duplex structure, and in order to encourage dispersing affordable housing throughout the community, one accessory dwelling, such as a garage apartment or accessory apartment, may be located on a single lot occupied by one single-family structure, provided development of the lot remains within the maximum allowable density. Conditions on accessory dwelling units may be required within the Land Development Regulations to prevent over crowding and to ensure compatibility.*
>
> c. *Maximum allowable height of structures shall be 55 feet from the base flood elevation to the eaves.*

The proposed project is not exceeding the density allowances of the future land use category. Additionally, while the category allows for a maximum allowable height of 55 feet, the proposed development regulations identify a height maximum of 35 feet for the principal structures. 35 feet is compatible with the allowances of the surrounding zoning designations on Big Bend Road. It is also compatible [and in some instances, less than] the allowable height of the residential portions of Bonita Bay, pursuant to their PUD resolution, Z-81-452.

While this future land use category does not label detached villas as a dwelling unit type, Staff performed analysis of the proposal pursuant to Policy 1.1.4., which states the following:

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

It has been determined that the proposed detached villa concept is similar in character, intensity, and impact to single-family development. The structures will not share walls and will be on individual building pads. The traffic analysis was conducted based on a proposal of single-family units and was found to be acceptable.

As a result, it is Staff's opinion that the project does not conflict with the future land use designation of the subject properties.

With regards to the Traffic Element, a Traffic Impact Statement (TIS) was provided and was reviewed by the City's traffic engineer. The plan is not one of significant impact to the roadway network. Provisions for multi-modal facilities will be provided. It is the Staff opinion that the project is consistent with the traffic element of the Bonita Plan.

With regards to the Housing Element, this residential project is proposed in a residential area, where projects of this nature are appropriate. The housing type is unique in that detached villas will function as single-family homes, but the site will remain under unified control and a Homeowner's Association (HOA) will be established to address maintenance of the buildings and the site. The Staff opinion is that the project is consistent with the housing element of the Bonita Plan.

The project is located within the Coastal High Hazard Area and the Coastal Management Area, and as such, Staff requested that the Applicant supply a narrative demonstrating consistency with this element. The proposal is an infill project and the proposed density reflects a reduction from the 16 units previously approved under Ordinance 10-02, to 10 units. The project will be required to be designed in accordance with the City's Flood Damage Protection Ordinance and the Florida Building Code. Any wetland impacts will need to be appropriately mitigated and the Applicant will be responsible for maintaining their portion of the mangrove preserve area. On the surface, a potential conflict could exist with Policy 7.12.1 which would not allow filling or dredging and would promote the natural contours of the bank. Based on the proposed MCP, the inlet appears to be more shallow, which would suggest either reshaping, or removal and replacement of the seawall in a different configuration. However, based on aerials provided in the Environmental assessment, this inlet is considered artificial in nature and the proposed reshaping would put the contour more in line with the historic configuration of the river bank.

The remaining comprehensive plan elements would not apply to this project.

ATTACHMENT "B"

CITY OF BONITA SPRINGS
ZONING ORDINANCE NO. 10-02

A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST BY RIVERBEND RPD, HLH REAL ESTATE PROPERTIES, LLC. TO REZONE FROM RESIDENTIAL MULTIPLE-FAMILY (RM-2) AND RESIDENTIAL TWO FAMILY CONSERVATION (TFC-2), TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD); ON LAND LOCATED AT 27495-27511 AND 27523 BIG BEND ROAD, BONITA SPRINGS, FLORIDA, ON 1.52 +/- ACRES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Riverbend RPD, has filed an application for rezoning 1.52 +/- acres from Residential Multiple-Family (RM-2) and Residential Two Family Conservation (TFC-2), to allow a Residential Planned Development (RPD) for two single family dwelling units, two two-family attached dwelling units, and ten multi-family dwelling units, and

WHEREAS, the subject property is located at 27495-27511 Big Bend Road and 27523 Big Bend Road, Bonita Springs, Florida, and is described more particularly as:

"See Exhibits"

WHEREAS, a Public Hearing was advertised and heard on November 6, 2009 by the City of Bonita Springs Board for Land Use Hearings and Adjustments and Zoning Board of Appeals ("Zoning Board") on Case PD08-BOS00005 who gave full consideration to the evidence available and recommended approval (5-0, Mathes and Norris absent, with Pastore expressing concern as to the density and the Coastal High Hazard regulations); and gave full and complete consideration of the record, consisting of the Staff Recommendation, the documents on file with the City and the testimony of all interested parties. The October 23, 2009 Staff Report prepared by Jacqueline Toemmes, Planner II, Community Development and evidence submitted at the Zoning Board hearing is on file with the City Clerk.

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

SECTION ONE: APPROVAL OF REQUEST

City Council of Bonita Springs hereby approves the rezoning from Residential Multiple Family (RM-2) and Two Family Conservation 2 (TFC-2) to Residential Planned Development (RPD) with the following conditions:

A. <u>CONDITIONS</u>

1. The development of this project must be consistent with the Master Concept Plan entitled "River Bend," prepared by Progressive Engineering received September 22, 2009 **(Attachment A),** except as modified by the conditions below. This development must comply with all requirements of the City of Bonita Springs Land Development Code (LDC) at time of local development order approval. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

   The maximum number of residential units is limited to 16 dwelling units.

2. The following limits apply to the project and uses:

a. Schedule of Uses

Accessory Uses, Buildings and Structures
Docks, seawalls
Dwelling Units (Maximum total 16 units):
- Single-Family (maximum total 2 units)
- Two-Family Attached (maximum total 4 units)
- Multi-family building (maximum total 10 units)
- Townhomes (maximum total 10 units)

Models:
- Model Home (for marketing purposes within the project only)

Real Estate Sales Office (temporary for marketing purposes within the project only within one dwelling unit)
Recreational facilities:
- Personal
- Private-Onsite

Residential Accessory Uses

b. Site Development Regulations

Minimum Lot Width:	324.95 feet
Minimum Lot Depth:	223 feet
Minimum Lot Area:	1.52 +/- acres
Maximum Lot Coverage:	40%
Minimum Open Space:	40%

	Single-Family	Two-Family Attached	Townhouse Multi-Family	Accessory Structures
Maximum Building Height [3]	Not to exceed 35 feet	Not to exceed 35 feet	Not to exceed 39 feet	35 feet
Setbacks [1]				
Street	50 feet	50 feet	50 feet	50 feet
Side Yard	7.5 feet	0/10 feet [2]	0/20 feet	10 feet [2]
Rear Yard	25 feet	25 feet	25 feet	25 feet
Water Body	25 feet	25 feet	25 feet	25 feet
Minimum Building Separation	10 feet [1]	10 feet [1]	20 feet	5 feet [1]

[1] Principle and Accessory Structures

[2] Side yard shall be a minimum of zero (0') with a ten foot (10') separation between principal structures where not attached.

[3] Building height is measured from the FEMA base flood elevation line to the bottom of the eaves. The maximum height for purely ornamental structural appurtenances may not exceed 55' from the FEMA base flood elevation line.

3. Reserved

4. Transportation Conditions

   a. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the City of Bonita Springs Land Development Code may be required to obtain local development order.

   b. The Developer must comply with concurrency requirements (all conditions required by the Bonita Springs Comprehensive Plan and the Land Development Code) in order to obtain a local development order.

   c. The developer is responsible for the costs and improvements of Big Bend Road from the southern property line to the northern property line as a site-related improvement. This segment of the roadway must be completed prior to obtaining the certificate of completion.

d. As a part of the local development order approval, the applicant will provide a TIS containing an intersection analysis of Tarpon and Big Bend and Tarpon and Imperial River Road.

5. Environmental Conditions

a. Prior to local development order approval, a tree survey will be required to determine if there are any Heritage trees on-site. If Heritage trees are present, an appearance before the Tree Advisory Board prior to the issuance of local development order is required.

b. Prior to local development order an ACOE dredge & fill permit to dredge the boat basin shall be obtained.

c. Manatee protection and education signs according to the Lee County Manatee Protection Plan are required and must be depicted on the local development order.

d. A 5 foot conservation easement shall be recorded adjacent to the Imperial River. This area shall be rip-rapped in areas not immediately adjacent to the boat slips. Mangrove seedlings shall be planted in the rip rap on spacing requirements consistent with the Bonita Springs LDC, Dock & Shoreline Section.

e. Prior to local development approval, the applicant must submit an Indigenous Preservation and Restoration Plan depicting a 20' wide indigenous buffer on the property adjacent to the Imperial River. This buffer shall be planted with native vegetation consistent with species commonly found in our coastal hardwood hammocks and shall be planted in a manner to mimic a natural condition. A variety of tree and understory vegetation shall be planted at a ratio of five trees and eighty understory plants per one hundred linear feet.

i. The following tree and understory species are recommended for the buffer:

Selected Tree Species: Gumbo Limbo, Strangler Fig, Mangroves, Buttonwood, Lancewood, Willow Bustic, Mastic, Pigeon Plum, Jamaican Dogwood.

Selected understory species: Simpsons Stopper, White Indigo Berry, Cocoplum, Jamaican Caper, Spanish Stopper, White Stopper, Wild Coffee.

ii. The square footage planted may be credited twice towards the indigenous open space requirement.

iii. Trees must be at least 15 gallons (apx. 6-8' tall), and understory plants must be 3 gallon (apx. 24" tall).

iv. Five foot pedestrian paths consisting of pervious material are permitted to meander within this buffer area.

v. A temporary irrigation system is required during the initial landscape establishment period and may be eliminated approximately one year after the material has been planted.

f. The applicant must provide one hundred (100) percent native vegetation plantings within all required buffers; and

g. Prior to local development order approval, the applicant must provide a planting plan for the dry detention areas that includes native wetland plants (minimum one gallon container size) providing 50% coverage at time of installation; and

h. The applicant must demonstrate compliance with Comprehensive Plan Policy 9.3.3 of the Conservation/Coastal Management Element. The applicant must provide an additional fifty (50) percent retention/detention water quality treatment over that required in section 5.2.1(a) of the Basis of Review for Environmental Resource Permits within the South Florida Water Management District.

6. In support of Deviation 1, the wall along the southern property line must be constructed at 6' feet and trees must be canopy type trees such as oaks or slash pines or a combination of there of.

7. Flood Regulations

a. The following "Floodway Notes" must be added/amended on the MCP:

Floodway Notes
Development in areas waterward of the regulatory floodway is prohibited, unless all conditions specified in the zoning approval are met. FEMA and City of Bonita Springs development order

approvals will be required for any proposed improvements affecting floodway and flood plain storage prior to future development order approval for entire property and/or any outparcel.

b. The applicant agrees that no encroachment shall be placed within the floodway as defined by the FEMA Flood Insurance Rate Maps that are in effect at time of local development order approval, approved at the time of development order issuance, unless one of the following two conditions are applied for:

    i. Certification with supporting technical data, made by a registered professional engineer, is needed demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge". Note that the words "supporting technical data" are paraphrased as "hydrologic and hydraulic analyses" in National Flood Insurance Program document (Answers to Questions about the NFIP, F-084 (5/06), FEMA). Appropriate supporting data or analyses to clarify any potential floodway encroachment issue is required. Certificates of No Rise are required **prior** to local development order **approval**.

    or

    ii. A Conditional Letter of Map Revision (CLOMR) will be required by contacting FEMA. A CLOMR is FEMA's comment on a proposed project that would affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway or effective Base Flood Elevations. Conditional Letter of Map Revisions (CLOMR) must be approved by FEMA **prior** to submitting a development order **application** to the City.

c. At the time of local development order application, the applicant shall submit a drainage analysis that demonstrates that the site development plan causes no adverse impact on adjacent properties in terms of drainage capacity/conveyance, storm water discharge, and flood. The drainage analysis shall include but not limited to (1) a drainage map for all contributory areas within and into the development, showing flow paths/arrows, existing on site and offsite drainage structures (sizes and inverts), and sub basin areas; and (2) hydrologic and hydraulic calculations for the 5, 25,

and 100-year design storm events in order to establish existing baseline conditions.

d. Development must be consistent with the local, State, and Federal regulations for development within any floodways, flood plains, or properties designated that will be effected by a tropical storm event.

8. Docks

a. Docks must receive all necessary State and Federal permits.

b. Docks must be an accessory use to the residential units and may not be constructed without approved building permits for the residential units.

c. Fuel sales are not permitted on the subject property.

d. No rental or leasing of the slips is permitted by owners, occupants or homeowner's association.

e. Lighting must meet the single family provisions in Bonita Springs Ordinance No. 07-24 in addition to Land Development Code Chapter 3, whichever is most restrictive.

9. Model homes and model units are permitted uses, but must be consistent with the following conditions:

a. A maximum of one model home is permitted for each type of dwelling unit within the development; and

b. Hours of operation for the model homes are restricted to Sunday through Saturday, 8:00 a.m. through 6:00 p.m.; and

c. Each model home must be a unique example. Multiple examples of the same model are not permitted.

10. A Real Estate Sales Office is a permitted use, but must be consistent with the following conditions:

a. A maximum of one (1) real estate sales office is permitted; and

b. Hours of operation for the real estate sales office restricted to Sunday through Saturday, 8:00 a.m. through 6:00 p.m.; and

c. The real estate sales office is limited to the sale of units within the development, and is valid for a period of time not to exceed three (3) 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 special exception approval.

11. The development must comply with the commercial lighting standards found in the LDC, Chapter 3. Lighting for all structures shall not emit glare and be limited to lighting for security purposes. Street, parking lot, and building lighting must be shielded so that light is directed downward to reduce light spillage to off-site parcels.

12. The development must comply with the sign code found in the LDC, Chapter 6.

13. Prior to local development order approval, the developer must provide facilities in compliance with the Bonita Springs LDC, for the pickup/disposal of solid waste and recyclables.

14. The development must comply with Ordinance 06-04 Noise Control.

15. The developer will use best efforts to incorporate principles for its building through the Florida Green Building Coalition program, in site design and construction, by emphasizing use of high energy efficiency designs and use of high energy efficient fixtures and appliances where possible. Building materials, both internal and external, will be comprised of durable and recycled materials where possible.

16. This development must comply with all of the requirements of the LDC at the time of the local development order approval, except as may be granted by deviation approved as part of this planned development.

17. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the City of Bonita Springs Comprehensive Plan provisions.

18. Prior to local development order approval, the applicant will submit architectural renderings indicating that the multi-family structure will create the appearance of a townhome structure.

B. DEVIATIONS

Deviation 1 is approved, subject to **Condition 6,** granting relief from Land Development Code §3-416(D) (6) requiring a solid wall or combination berm and solid wall not less than eight feet in height be constructed not less than 25 feet from the property line with a Type C buffer plantings to allow a 15' wide buffer with 8' high wall and landscaped between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet.

Deviation 2 is approved, subject to **Condition 9,** granting relief from Land Development Code §34-934 requiring that model units be approved with an Administrative Action, to allow Model Units to be approved as a permitted use with the RPD rezoning.

C. FINDINGS AND CONCLUSIONS:

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

1. The applicant has proven entitlement to the rezoning to Residential Planned Development (RPD) by demonstrating compliance with the Bonita Springs Comprehensive Plan, the Land Development Code, and other applicable codes and regulations. City Council considers the Schedule of Uses **(Attachment B)** and Master Concept Plan, as conditioned in this Ordinance, consistent the Medium Density Residential Future Land Use Category in accordance with the City of Bonita Springs Comprehensive Plan, Future Land Use Element Policy 1.1.4 as "other uses that are similar in character, intensity or impacts".
2. The requested RPD zoning as conditioned:
    a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and
    b. is consistent with the densities, intensities and general uses set forth in the Bonita Springs Comprehensive Plan; and
    c. is compatible with existing or planned uses in the surrounding area; and
    d. will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities, as conditioned.
4. Urban services, as defined in the Bonita Springs Comprehensive Plan, are available and adequate to serve the proposed land use, as conditioned.

5. The proposed uses are appropriate at the subject location, as conditioned.

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

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

8. The deviations granted, as conditioned:

    a. enhance the objectives of the planned development; and
    b. preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

SECTION TWO: EFFECTIVE DATE

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

DULY PASSED AND ENACTED by the Council of the City of Bonita Springs, Lee County, Florida, this 25th day of January, 2010.

AUTHENTICATION:

Mayor

City Clerk

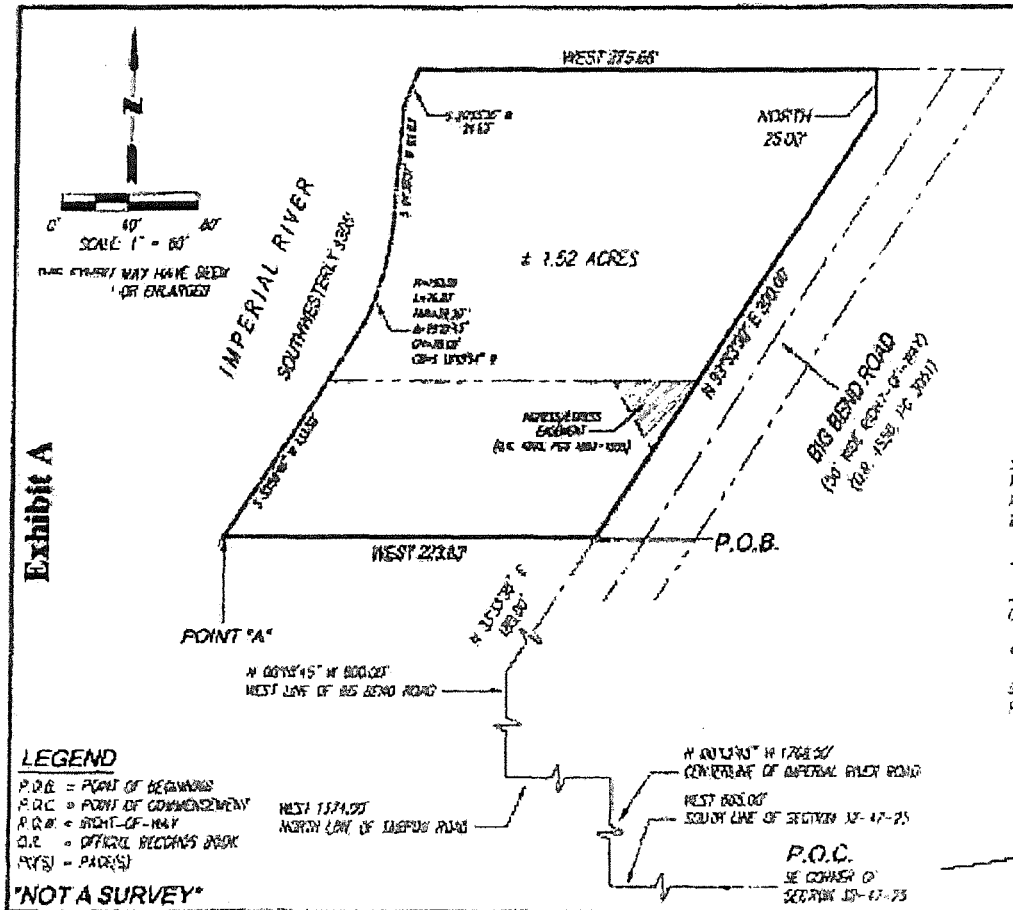
APPROVED AS TO FORM: _____
City Attorney

Vote:

Ferreira	Aye	Nelson	Aye
Lonkart	Aye	Simons	Aye
McCourt	Aye	Spear	Aye
Martin	Aye		

Date filed with City Clerk: 1-28-10

Exhibit A



LEGEND

P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
R/W = RIGHT-OF-WAY
O.R. = OFFICIAL RECORDS BOOK
PG(S) = PAGE(S)

"NOT A SURVEY"

PROPERTY DESCRIPTION

A PARCEL OF LAND LOCATED IN SECTION 32, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 32, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN WEST, ALONG THE SOUTH LINE OF SAID SECTION 32, FOR A DISTANCE OF 668.68 FEET TO A POINT ON THE CENTERLINE OF IMPERIAL RIVER ROAD; THENCE RUN NORTH 00°16'45" WEST, ALONG SAID CENTERLINE FOR A DISTANCE OF 1,374.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF EASTERN ROAD; THENCE RUN WEST, ALONG SAID NORTH RIGHT-OF-WAY, FOR A DISTANCE OF 1,374.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF BIG BEND ROAD; THENCE RUN ALONG SAID WEST RIGHT-OF-WAY FOR THE FOLLOWING TWO (2) COURSES:
1) THENCE RUN NORTH 00°16'45" WEST, FOR A DISTANCE OF 800.00 FEET;
2) THENCE RUN NORTH 30°35'30" EAST, FOR A DISTANCE OF 783.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN WEST, FOR 223.87 FEET TO A DRILL HOLE ON A 1.25 FOOT WIDE CONCRETE SEAWALL, SAID POINT HEREIN CALLED POINT "A"; THENCE RETURN TO THE AFOREMENTIONED POINT OF BEGINNING; THENCE RUN NORTH 30°35'30" EAST, ALONG THE WEST RIGHT-OF-WAY OF BIG BEND ROAD, FOR A DISTANCE OF 308.00 FEET; THENCE RUN NORTH, FOR A DISTANCE OF 25.00 FEET; THENCE RUN WEST, FOR A DISTANCE OF 275.65 FEET TO A DRILL HOLE ON A 1.25 FOOT WIDE CONCRETE SEAWALL, ALSO BEING THE APPROXIMATE MEAN HIGH WATER LINE OF THE EAST BANKS OF THE IMPERIAL RIVER; THENCE MEANDER SOUTHWESTERLY ALONG THE MEAN HIGH WATER LINE FOR APPROXIMATELY 1320 FEET TO THE AFOREMENTIONED POINT "A" AND THE POINT OF ENDING. SITUATED IN LEE COUNTY AND CONTAINING 1.52 ACRES, MORE OR LESS.

NOTES

1. BEARINGS SHOWN HEREON REFER TO THE WEST LINE OF BIG BEND ROAD, A 50' WIDE RIGHT-OF-WAY, AS RECORDED IN OFFICIAL RECORDS BOOK 4550 AT PAGE 3081 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AS BEING N 30°35'30" E.
2. THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD.
3. THIS SURVEY MAP AND THE COPIES THEREOF, ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER.
4. DIMENSIONS SHOWN HEREON ARE IN UNITED STATES SURVEY FEET AND DECIMALS THEREOF.
5. ANY ADDITIONS AND/OR DELETIONS TO THIS SURVEY MAP OR REPORT BY OTHER THAN THE SIGNING PARTY OR PARTIES IS STRICTLY PROHIBITED WITHOUT WRITTEN CONSENT.

© GRADY MINOR AND ASSOCIATES, P.A.

SIGNED 11/13/2008

JUAN ARAQUE — P.S.M. #5645 — STATE OF FLORIDA

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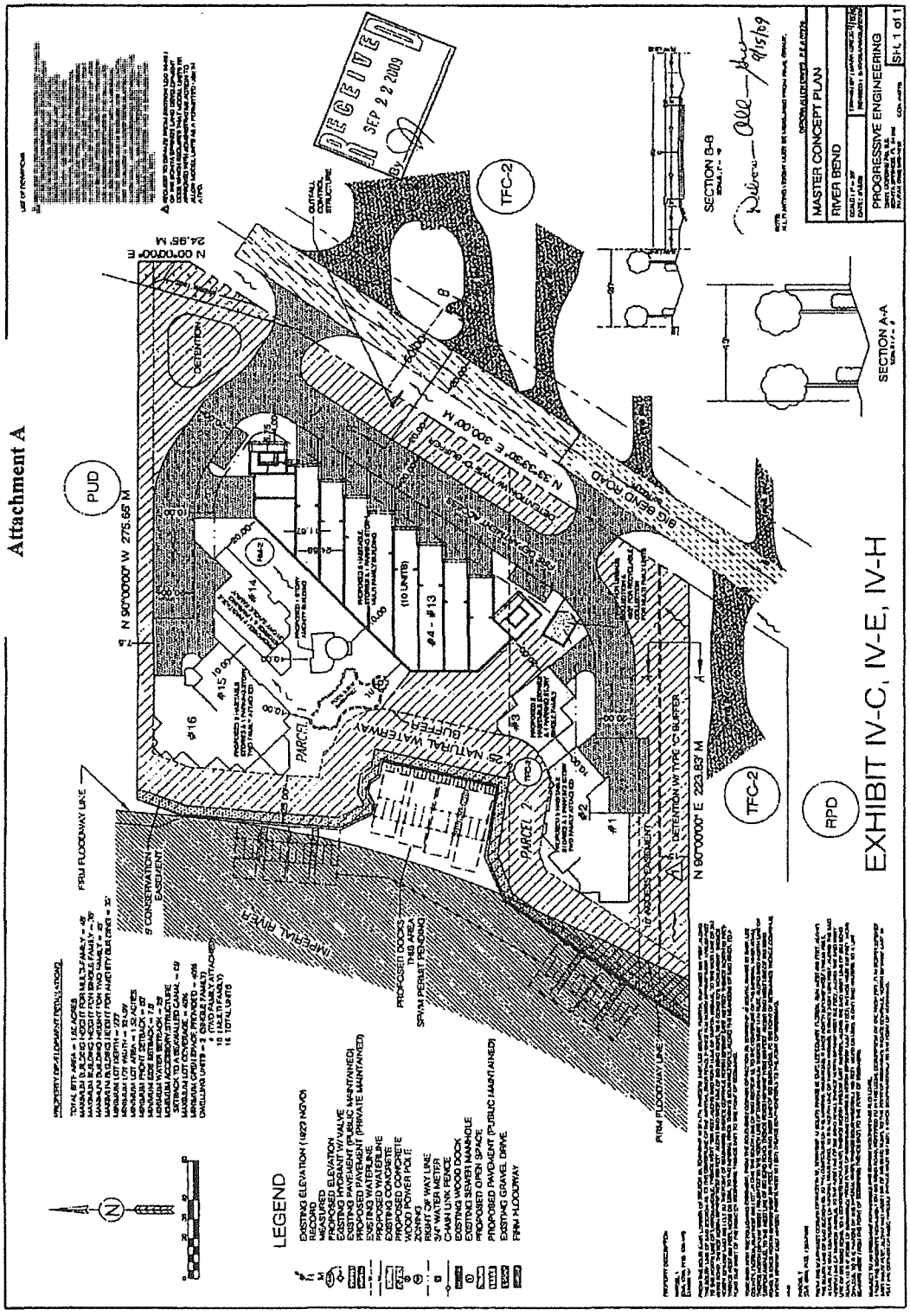
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SKETCH AND LEGAL DESCRIPTION

A PORTION OF
SECTION 32, TOWNSHIP 47 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

DRAWN BY:	JC
CHECK BY:	JA
JOB CODE:	H:\SEC\JA
SCALE:	1" = 60'
DATE:	NOVEMBER 2008
FILE:	B-STCH
SHEET:	1 OF 1

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Attachment A
EXHIBIT IV-C, IV-E, IV-H
LEGEND
PUD
TFC-2
RPD
RIVER BEND
MASTER CONCEPT PLAN
PROGRESSIVE ENGINEERING
SECTION A-A
SECTION B-B
RECEIVED
SEP 22 2009
PARCEL 1
PARCEL 2
NATURAL WATERWAY BUFFER
PROPOSED DOCKS
FEMA FLOODWAY LINE
FEMA FLOODWAY
DETENTION
BIG BEND ROAD

PART III
PROPOSED DEVELOPMENT

A. Nature of Request

1. Will the development contain living units? _____NO X_____YES. If the answer is yes, please indicate the total number of living units proposed, by type:

10 _____ Single Family _____ Mobile Homes _____ Recreational Vehicles

_____ Zero-Lot-Line _____ Duplex/Two Family _____ Townhouses

_____ Multiple Family 10 _____ TOTAL ALL TYPES

2. If the development will contain living units, please complete Exhibit III-A-2 (attached) and enter the following information:

   a. PERMITTED total units (from Exhibit III-A-2): 11.84 _____

   b. PROPOSED total units (from A-1. above): 10 _____

   c. PROPOSED density (from Exhibit III-A-2): 11.84 _____

3. Will the development contain non-residential areas? X____NO ____YES. If the answer is yes, please indicate the size [gross square footage (gsf) unless indicated otherwise] of each general class of uses below:

   Retail: _____ Total gsf

   Offices: _____ Total gsf

   Medical: _____ gsf Non-medical: _____ gsf

   Hotel/Motel: _____ Total units

   Size of units: _____ 0-425 sq. Ft. _____426-725 sq. Ft. _____ 726 or more sq. Ft.

   Industrial: _____ Total gsf

   Under roof: _____ gsf Not under roof: _____ gsf

   Mines, Quarries, or General Excavation: Acres to be excavated: _____

   Other-specify: _____

   Number of Beds (if applicable): _____ OR: _____gsf

4. Building Height

   35' ____Maximum height of buildings (in feet above grade)

   3 ____Number of Habitable Floors

5. Aviation Hazard: Do you propose any structures, lighting, or other features that might affect safe flight conditions?

   X _____ NO _____ YES. If yes, please submit an explanation and label it Exhibit III-A-5.

Wayne Arnold: We can go ahead and get started. I don't see any late comers yet. So, we'll go ahead and get to our short presentation and then take a little Q&A at the end of that. So – If everybody's ready, we'll get started. Sharon, are we ready?

Sharon Umpenhour: Yep.

Wayne: So, I'm Wayne Arnold and I'm here representing the, Riverbend RPD. It's an existing residential plan development, located at the end of Big Bend Road. I'm sure all of you must have received notice for that. I'll try to speak up so everybody can hear me. That's better. Yeah. So, with me tonight, this is Sharon Umpenhour from our office. Sharon's in charge of recording and – and helping us with the audio visuals. the city requires that we hold a neighborhood informational meeting, prior to us making any type of application to the city, to change the zoning of the property.

So, this is a first look for, people that are within the noticed area and, anybody who reads the public notice that – in the newspaper, chooses to come. So, Sharon's here and what we do when we ask the questions and answers, we've got a microphone. We – we're recording this, and we have to create a transcript, so we ask that people speak up and don't take over ourselves because it doesn't – it doesn't pick up very well.

[00:01:08] And the city staff and the elected officials who end up listening to this stuff at the end of the day would like to hear what the communications are. So, with me tonight is Mark Raudenbush. Mark is with the ownership group that has purchased the property in the last year. And with him, is Frank Feeney. Frank is one of our professional civil engineers in our firm, and we'll do our best to answer what questions you have. If not, we'll try to get answers and get back with you.

So, location map, I'm sure most of you are familiar with the property. It's about an acre and a half. It's got, I think, six units on it today. This property was zoned back in 2010 for 16 units and it was going to be a condominium building of multi-units as well as a couple of other, smaller, buildings to make it to 16 total units. So, the doctor who owned the property back at the time, didn't proceed with the development and the zoning master plan is technically vacated in the City of Bonita Springs.

[00:02:07] If you don't act on it within five years, they, technically – sort of, the zoning doesn't go away but the master plan does. So, to reactivate that master plan, we, essentially, have to go back through a rezoning process. So, this is our introduction to you of our intent to go file an application with the city to rezone it, and with that, we're going to be making some proposed changes and I'm gonna go through those. We don't have a lot of details yet. We're still working with the architect to come up with some

Participant 5: I'm talking about what's there now, not the prior –

Wayne: Oh, what's there now. I don't know how we would compare to that but I'm sure it's more square footage under air today, than it is on site. Back there in the front, this gentleman back here in the –?

[Background talking]

Participant 6: I'm a resident across the river.

Wayne: Okay.

Participant 6: How many, docks do you propose it?

Wayne: I think the last one I saw had 10 –

Mark: Ten.

Wayne: Ten docks to match the 10 proposed homes.

Participant 6: Okay.

Wayne: Yeah.

Participant 5: Part of that question, how many docks are there now?

Participant 6: There isn't any, I believe. Or maybe one.

[Cross talk]

Mark: Yeah. Historically, there have been approximately eight. some of those show up the whole aerials or anything **[cross talk]**.

Jon: We – we – we can't hear the answer.

Wayne: Yeah. You might want to –

Mark: Okay. Yeah.

[00:10:00] So, historically, there were eight docks on the property but some of those, um, aren't there anymore. Earlier aerials there were eight docks.

Participant 7: In what year?

Mark: I'm not sure.

Wayne: We're not certain of that.

Participant 7: Forty years ago?

Mark: No. Probably later than that. Probably about the time that –

Wayne: Ma'am if we could – we need you to be on a microphone to ask a question, if you don't mind, please.

Participant 7: I'm sorry. Like 40 years ago?

Wayne: I think the response would be, we think sooner than that but I'm not sure the relevance – the – the city has a – a boat dock siting criteria that we go by and it qualifies for 10 slips. Any other questions? Yes, sir.

Participant 8: Yeah. Hi. I'm a resident of Big Bend. When do you think you'll be going to the city for any, you know, approval of any changes, plus currently – that they're currently going to approve and what – what's that time frame look like?

[00:11:01]

Wayne: Okay. Well, the time frame is probably about 10 months from the date we file. So, we haven't filed anything. It's probably at least another 30 days before we would file an application with the city. So, they'll do sufficiency review and that process takes 30 to 45 days. We're almost certain we'll have at least one round of back and forth with the city. And then, once we're deemed sufficient, we have to hold another neighborhood informational meeting before we can go to the zoning board, which would be the first public hearing we have and the zoning board makes a recommendation to city council. And then, council will make the final decision.

So, it's roughly, the zoning cases in the city take about 10 months to get through the process, once you submit them.

Participant 8: And that's filing that youre gonna be doing soon or whatever it is. That, will be online here but we'll be able to see that?

Wayne: It will be. They're actually online at the city and we also post them on our website. Yes, sir.

Jen: Jen and a resident. Um, just curious to know what sort of spacing you're doing. Like lot lines between the buildings that you're proposing.

[00:12:03] Um, if you have an idea of how much the setback from house to house –

Wayne: I don't think we know that yet. Our architect at the March group has retained, is trying to work on what that concept elevation could be. So, we're not exactly sure how they're going to be arranged. They probably all won't be the same and those probably won't be, as I said, platted lots. So, probably be condominiumized buildings. So, there would be a common ownership underneath the building and then a condo – condo ownership of the unit.

Jen: But considerable, they're second buildings. You'll have five feet?

Frank Feeney: Technically. Yes. Ten – ten – ten-foot separations. Yes.

Wayne: Yeah. Probably a 10-foot separation. That's pretty typical.

Jen: Um, and what sort of materials on the exterior, do you plan – or do you think will –?

Mark: so –

[Cross talk]

Wayne: **[Inaudible]** so they can here you.

Mark: Yeah. So, in – in – in fact, as – as we went through those elevations, the first elevations were more of an old Florida cottage but, looking at the current, uh – what the community demands from architecture, we're moving this more towards a coastal contemporary.

[00:13:05] So, it'll be a stucco vaneer with some architectural trims on it. we're going for the – a current – a more current design than say the – the old Florida.

Wayne: And – and I think when we get back before you in our next informational meeting, we would have a more illustrative site plan. We'll have some of these details worked out and we'll be able to show you some typical building elevations with some color and things that are much easier to read.

Jen: And that – that diagram you had with what you conceptualize now, is that on the site because I don't see it. Unless I'm scrolling wrong here. Um –

Wayne: No. It's not.

Jen: Oh –

Wayne: I'm sorry.

Jen: Okay. Could we scroll just so we can –?

Wayne: Sure. Tell me which – tell me which one you want to see.

Jen: The concept – the new concept. Not that – the, um, the layout of the property.

Wayne: That?

Jen: Yeah.

Wayne: Mm-hmm.

Jen: **[Quiet talking]** I need to have this so I can take a screenshot.

Wayne: Other questions? Oh. Yes, sir.

Participant 6: **[Inaudible] [00:13:59]** have you put together a targeted price point?

[00:14:01]

Wayne: Not yet.

Participant 6: I mean, you're probably talking two, two and a half?

Wayne: At least.

Participant 6: Yeah.

Wayne: Yeah.

Participant 6: So, I mean, the – we're gonna have reasonably good news.

Wayne: **[Laughs]** We hope – we hope we have great news. This gentleman in the back. One minute. We'll get back to you.

Participant 9: Um, how much parts is – is there on the land now, and how much are you predicting there'll be as a percentage in land use?

Wayne: I don't know. The – the city has an open space requirement that we have to meet. So, my presumption is, we're gonna meet the minimum open – open space requirement by the end of the number today, versus what we're proposing.

Jen: Sorry. One last question. I – I believe you own the lot across. Is that –?

Participant 8: If I could ask a follow up. The – the, plan that was a development plan approved in 2010, in January, that's gone, right? It's vacated so it's not relevant anymore?

Wayne: It's relevant in the sense that the zoning is intact. They consider the master plan vacated. So, we could either go through the process to reinstate it or modify the plan.

Participant 8: The other question is, this development was really a combination of the only multi-unit place on the river, for miles. That's those small bungalows on the, North side. And it was combined with a single-family home, and then, the whole thing was rezoned, I guess, at a higher density. Is it open for us to go back and look at that zoning change and put that single-family label back on that property, at this point in time? I mean, you're – what you're really doing is you're taking and putting multi-family units on a single-family. A couple of other questions too.

[00:27:01] Um, will you – when you meet the Dark Skies –?

Wayne: I'm sorry. I couldn't understand your –

Participant 10: For the lighting – will the lighting that you're proposed to do here, meet dark skies requirements?

Wayne: I'm not sure that single-family style development has to meet the Dark Sky requirement in Bonita but I – I don't think you're going to find the lightings here any – any different than any other single-family residents in the city.

Participant 10: Thank you.

Wayne: Another question? Ma-am, in the front row. Frank? Oh, this gentleman next to you. I'm sorry.

Calvin: Calvin Mitchell. I live across the river. the thing – is this too loud? I haven't been here – **[Laughter]**. I went over there to look at it a few days ago and looked at what is now, that little lip of water, that one is not according to measurement.

[00:28:01] And there's barely room for one dock in that present place. You might say two. There's a picture of two but those are not really docks. They're just pieces of wood – wood sticking out. And that's what I saw when I was over there. You can – you can take a trailer and back – back a boat into the water but now we're talking about, I don't know, eight or ten boat – boat docks. And probably across the river, there's about one boat dock per

three quarters of an acre, is – is the ratio. And here, we're talking about eight boat docks for an acre and a half. That doesn't make sense. And I can tell by some of the other drawings I've seen that what they hope to do is come in there and make that little circle of water much bigger than it is now. Just dig – the dirt out.

[00:29:04] Don't worry about where it goes. And – and then, they might have room for four docks but then if you have eight docks, you've got more docks on the outside just sticking out in the water, and that's more high density than you'll see across the road – across the river with houses over there. They're not – they're not as dense, in terms of number of boat docks.

Wayne: It may not be but, I mean, I'm familiar with Bonita Bay and their zoning, and you have a commercial marina operation.

Calvin: I can't hear you.

Wayne: I said, you have a marina at Bonita Bay. The – the need for individual docks was lessened because you put in a marina for your community.

Participant 7: And that's pretty dense in there.

Wayne: Yeah.

Participant 7: We go over there for gas and to the restaurant.

[Cross talk] [Something falls]

Wayne: But we're – that's why we've engaged a marine biologist to look at the dock situation, manatee protection, all those things that we're required to look at. So –

[00:30:00]

Wolfgang: So, you're saying you're building a marina?

Sharon: We can't hear you.

Wayne: I can't hear you if you're not on a microphone, sir.

Wolfgang: So, are you saying that you're building a marina?

Wayne: No, sir.

Wolfgang: Okay. You just compared what you do, to a marina. Didn't you?

Wayne: No, sir.

Frank: No.

Participant 7: No.

Wayne: I did not. You misunderstood what I said. Sorry. This gentleman in the front row.

[Cross talk]

Wolfgang: I think the fact – just a second. The fact that you've mentioned that there's a marina in Bonita Bay, has nothing to do with what we are discussing.

Wayne: Okay. You don't think it's relevant in a –?

Wolfgang: its not – totally not

[Cross talk]

Participant 8: You can't even see a **[inaudible] [00:30:30]** from here.

Wayne: Frank, do you want to help this gentleman with his microphone?

Participant 8: He's got it.

Wayne: okay, he's trying to pass it down here.

Participant 8: Just a follow up. Fifty-foot lots can never, uh – of a dock is one, two, three, four, five. So, you can easily fit two or three into that little hole of water. What's the issue here?

Wayne: Like I said, it'll be permitted at the appropriate authorities and subject to all your codes.

[00:31:00]

Participant 8: I have a question and that's, is there or will there be an environmental impact study because you're doing water inland?

Wayne: The city makes us do an environmental assessment.

Participant 8: Okay. Assessment. All right. Traffic, um, currently today, we have a lot of people come down that road, cutting grass –

Participant 7: Building.

Participant 8: Building past, whatever might come. It's hard. They – they use any property they can find. I see, it looks – in somewhat of a roundabout again. Thank you. Really, thank you. I don't know how you're doing it but thank you. Um, when you start this, is it in phases or is it going to be all one tap at the hip? Meaning two years, three years you're done, or is this going to go on for five or six years? If you can't answer, say it.

Mark: It's hard to see into the future. we expect to pre-sell and be able to knock these out in a pretty short order.

Participant 8: Okay. So, let's say that you're going through all these questions.

[00:32:01] Is there a spot or place that I can send these questions to?

Wayne: Sure. Absolutely.

Participant 8: Not that you can –

Wayne: Email them to Sharon and we'll be happy to try to get the best responses we can to you and we'll let you know that it may take some time –

Participant 8: I'm not sure I'm looking for a response. I'm looking more for that you see something that you might not realize.

Wayne: Okay.

Participant 8: And that may have a follow up to all of us.

Wayne: Okay.

Participant 8: And, uh – and then I'll ask questions let me ask about lighting **[00:32:22]**. I think what they really meant was, you have one life down there. You're gonna have more life so that – because you're gonna not let traffic go in there and really have one lane, depends on that property in halfway of my driveway. It doesn't help me.

Mark: Street lighting?

Frank: Yeah. The street light –

Wayne: Frank, do you know the answer to that?

Participant 8: I have more questions.

Wayne: Okay. Thank you.

[Cross talk]

Wayne: It will be. Once we submit it, it will be a public record and you're welcome to it. Yeah.

Participant 10: Thank you.

Wayne: Mm-hmm. Sure. Yes, ma'am.

Participant 7: I'm – I'm sorry. I – we love how – that you're – you're coming together with all of this and making our homes very, um, bright and beautiful, you know, just what we wanted. And overall, we have a – a concern issue of down the street, as well.

[00:36:04] We're all worried about aswell because it's a narrow street, it has a curve to it, they race down that street already. We are worried about how many places that you're gonna build, into this, to worry about this street. That's all.

Wayne: Okay. Well noted. We'll have a traffic analysis that accompanies the zoning application as well.

Participant 7: Okay. Yeah, because you know, it's got that curve to it. I mean, they're always racing down there. There's mailboxes being taken out constantly. It's just –

Wayne: Yep. Understood. Yep. Yes, sir. Try to wrap up a couple more questions if you have them.

Unknown speaker: Just a clarification. Did you say that everything that – that's been developed – the dwellings will all be detached?

Wayne: I think that's the intent. To have them as detached structures, yes.

[Background talking] [Muffled talking]

[00:37:04] Can – if you're gonna speak, can you please be on the microphone, please?

Unknown speaker: I – I thought your response earlier was that – that that was somewhat fluid and there may be some condominium – condominiumizing or whatever your term was.

Wayne: We may – yes. We may condominiumize the units but that doesn't mean they're attached. The condominium is a type of ownership, not a building type. So – **[Background talking]** This gentleman on the front row has –?

GOALS, OBJECTIVES AND POLICIES

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

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

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

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

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

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

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

   1. The number of additional units resulting from the granting of bonus density shall not exceed the number of rental or owner-occupied housing units allocated specifically to low and very low income households within the project.
      (a) A low income household is defined as a household whose annual income does not exceed 80% of the countywide median as defined by the Department of Housing and Urban Development (DHUD).
      (b) A very low income household is defined as a household whose annual income does not exceed 50% of the countywide median as defined by the Department of Housing and Urban Development (DHUD).

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

Maximum Density Per Land Use And Maximum Density With Bonus Density

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

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

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

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

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

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

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

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

c. Development in freshwater wetlands located in residential land use categories shall be limited to very low density residential uses and uses of a recreational, open space, or

conservation nature that are compatible with wetland functions. The maximum density in freshwater wetlands identified on Figure 4, Evaluated Wetlands, in the Future Land Use Map Series shall be one unit per 20 acres, except:

1. One single-family residence will be permitted on lots meeting the single-family residence provision contained in the Administrative Section of the Future Land Use Element; and.
2. Transfer of density provision - Owners of identified freshwater wetlands may transfer densities to contiguous uplands under common ownership as displayed in the following table at the maximum rate indicated. The table is cumulative in that the amounts shown are what is permitted under the land use, permitted with an affordable housing bonus and that permitted as a transfer. The area receiving the density transfer will be, thereafter, compatible with existing or planned development on adjacent lands and not negatively impact sensitive upland habitats and species.

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

Future Land Use Category	Standard Maximum Density	Maximum Additional Bonus Density	Maximum Additional Density With Transfer
Estate Residential	.33	0	0
Low Density Residential	1.3	0	0
Suburban Density Residential	3	0	0
Moderate Density Residential	5.8	0	0
Mod. Den. Res. PUD	3	3	0
Moderate Density Mix/PUD	6	3	1.5
Medium Density One & Two Family	11.6	0	0
Medium Density Residential-MF	6	4	2
Urban Fringe Community	2.54 to 2.77	0	0
High Density Residential-Multifamily	10	5	2.5
Downtown District	20	N/A	N/A
High Density Mixed Use	10	5	2.5
General Commercial, Interchange Commercial and Industrial	10	5	0

(Ord. No. 06-18, § 1, 12-6-06; Ord. No. 09-05, § 1, 4-15-09; Ord. No. 20-06, § 2, 10-7-20; Ord. No. 20-07, § 2, 10-21-20)

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

Policy 1.1.4: Allowable Uses - The listing of appropriate land uses in each of the individual land use categories identifies those uses generally expected to be appropriate. However, other uses which

are similar in character, intensity and impacts to those listed may also be deemed to be appropriate.

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

(Ord. No. 19-11, § 2, 12-4-19)

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

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

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

(Ord. No. 09-05, § 1, 4-15-09; Ord. No. 17-08, § 1, 6-7-17; Ord. No. 19-11, § 2, 12-4-19)

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

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

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

(Ord. No. 17-08, § 1, 6-7-17)

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

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

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

(Ord. No. 17-08, § 1, 6-7-17)

Policy 1.1.7: Moderate Density Residential - Intended to accommodate and preserve single-family residential development at a maximum density of up to 5.8 dwelling units per gross acre and approximately 1,977 acres of gross land area in the land use category; planned unit developments at a maximum density of six units per acre;

group homes and foster care facilities; public schools and other public, semi-public and recreational uses on a limited basis.

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

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

(Ord. No. 17-08, § 1, 6-7-17)

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

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

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

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

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

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

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

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

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

(Ord. No. 17-08, § 1, 6-7-17; Ord. No. 20-07, § 2, 10-21-20)

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

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

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

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

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

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

   iv. Residential dwellings.

   v. CCF, ILF, and ALF units.

c. Development Standards:

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

   ii. Nonresidential uses shall be limited to a maximum floor area ratio (FAR) of 1.2. If the development includes residential and/or CCF uses, non-residential uses shall be limited to ancillary uses only.

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

   iv. Residential density shall be limited to not more than 11.4 dwelling units per acre, not to exceed 300 multi-family residential units; or a Continuing Care Facility (CCF) containing 300 Independent Living Facility (ILF) units and 75 Assisted Living Facility (ALF) beds, within the approximately 26.38 acres of gross land area in this land use category. Where 300 ILF units and 75 ALF beds are developed within a CCF, the residential density shall not exceed 6.4 dwelling units per acre based upon the density equivalency factors in the Land Development Code of two ILF units equal to one residential dwelling unit.

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

   vi. No buffer shall be required between the CPD/RPD areas.

d. Height.

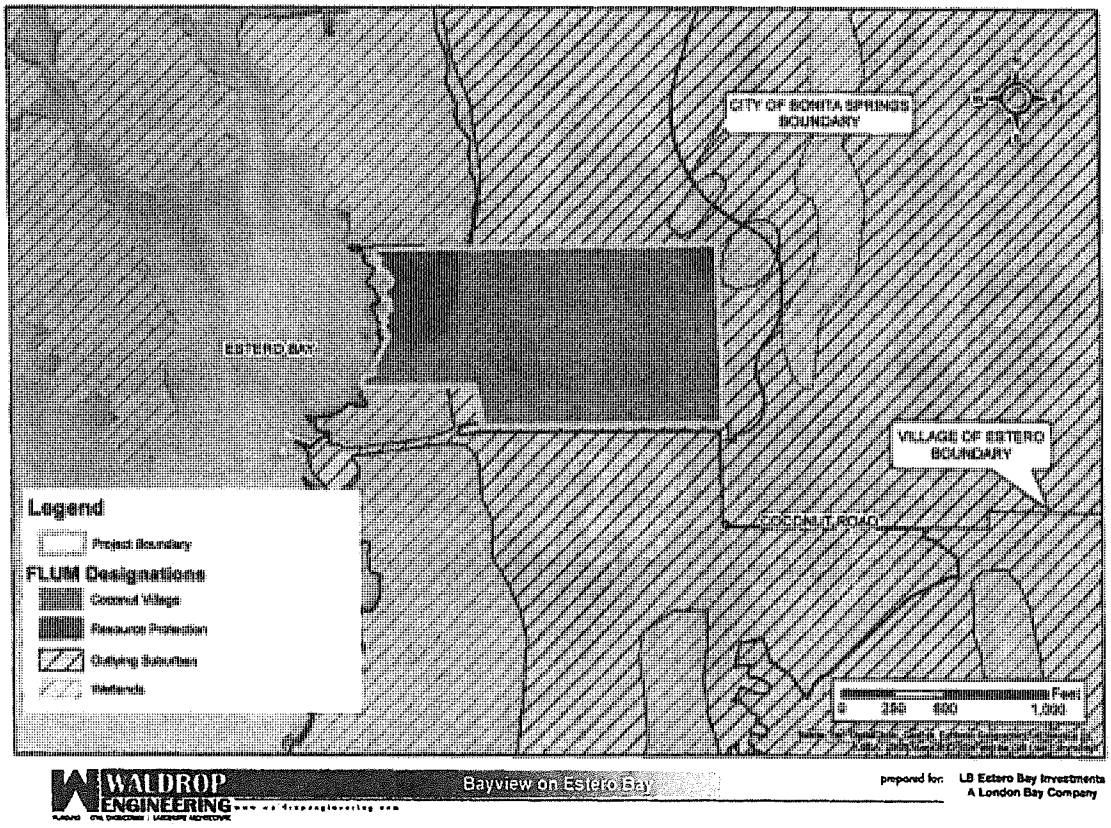
i. Buildings over 75 feet from the base flood (FEMA + 1') elevation to the eaves shall be limited to locations that do not negatively impact adjacent property view corridors or neighborhood compatibility.

ii. Compatibility with surrounding buildings.

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

f. Coastal High Hazard. Impacts on sheltering and evacuation resulting from development/redevelopment activities within the CHHA shall be mitigated through cooperation and coordination with Lee County Emergency Management Operations at time of local development order and shall be consistent with Chapter 163, Florida Statutes.

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



(Ord. No. 14-23, § 1, 10-15-14; Ord. No. 17-08, § 1, 6-7-17; Ord. No. 20-07, § 2, 10-21-20; Ord. No. 20-09, § 2, 10-21-20)

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

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

(Ord. No. 17-08, § 1, 6-7-17; Ord. No. 20-07, § 2, 10-21-20)

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

a. The permitted form and land uses in the Downtown District are designated by the Downtown Plan as set forth in the City's LDC and that described in the Terry Street Subdistrict.

b. The following requirements shall apply to the Downtown District:

1. Density. The maximum density within the Downtown District is limited to 20 du/acre. The City of Bonita Springs Downtown Plan in the City's LDC provides additional specificity on densities.

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

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

Mixed-use developments are intended to permit a mix of residential uses, not to exceed 20 units per acre, with commercial, light industrial and public and semi- public uses to provide live-work opportunities for residents within the area. Such uses shall accommodate retail or commercial uses and residential units in the same building. The appropriate form in mixed use areas shall comply with the standards set forth in the City's LDC.

3. Maximum allowable height of structures shall be 65 feet as measured from 12 inches above the crown of the frontage road.

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

Objective 22.1: Commercial Water-Dependent Uses - The City shall continue to support its programs which enhance and protect commercial water-dependent uses.

Policy 22.1.1: Commercial Marinas shall be zoned for marina use to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.

Policy 22.1.2: The City shall designate the area between Imperial Shores Boulevard and the Bonita Beach Road bridge to Little Hickory Island as a marine-related water-dependent use zone. The City shall:

a. Examine the area for general consistency with the City's marina siting criteria as identified in this Comprehensive Plan.

b. Identify any existing impediments to potential future marine related water dependent uses.

c. Identify potential incentives to promote such uses in the zone.

d. Prepare a marine-related water dependent uses overlay zone in the City's land development regulations for application to the area. The intensity of the zone shall not exceed that identified on the future land use map.

Policy 22.1.3: The City shall encourage the maximum use of dry storage by commercial marinas when reviewing rezoning and/or development-of regional-impact applications.

Objective 22.2: Criteria for Prioritizing Shoreline Uses - Priority shall be given to new and substantially expanded shoreline land uses as indicated in the following policies.

Policy 22.2.1: Existing commercial marinas classified by the City under marina zoning shall have their rights to rebuild and expand to prevent their conversion to non-water-dependent uses without a public hearing.

Policy 22.2.2: In all other non-wetland shoreline areas, water-dependent land uses shall have priority over water-related uses. Water-related land uses that provide some form of water access for the public shall be encouraged, particularly when the site has previously provided water access for the public. (This policy shall not be interpreted as a prohibition of new land uses which are only water-related, but instead as a reminder of the diminishing opportunities for water access in the City and the desirability of maintaining and increasing such access.)

a. Water-dependent uses: Land uses are those for which water access is essential and which could not exist without water access.

b. Water-related uses: Land uses that might be enhanced by proximity to the water, but for which water access is not essential.

Objective 22.3: Marina Siting Criteria - The City of Bonita Springs shall consider the following marina siting criteria in evaluating requests for new and substantially expanded marinas, other wet slip facilities, and boat ramps in order to make efficient use of limited shoreline locations and to minimize environmental impacts.

Policy 22.3.1: Proposed marinas (and expansion of wet slips at existing marinas and new boat ramps) in the following areas face a variety of technical, legal, or environmental obstacles which much be addressed during the review process:

a. Aquatic Preserve (FDEP)

b. Outstanding Florida Waters (FDEP)

c. Class I Waters (FDEP)

d. Maine or Estuarine Sanctuaries (NOAA)

e. Manatee Sanctuaries or Critical Manatee Habitats FFWCC, USFWS, COE)

f. Approved or conditionally approved shellfish harvesting area's FFWCC)

g. Bridge/road right-of-way easement (County DOT, State DOT)

h. Other Endangered/Threatened Species Habitat (USFWS, FFWCC, COE)

Extra caution and consideration shall be given prior to authorizing use of areas with high environmental values.

Policy 22.3.2: Cumulative effects of several marinas and/or boat ramps in a small area shall be considered in the review of proposed marina projects.

Policy 22.3.3: Marina and/or boat ramp siting shall be consistent with the aquatic preserve management plan.

Policy 22.3.4: Marinas and boat ramp siting shall be consistent with the following recommendations of the FDNR Blue Ribbon Marina Committee (Final Report, January 1983):

a. Priority should be given to the expansion of existing facilities, if environmentally sound, over new facilities.

b. Marinas are encouraged in previously disturbed areas and in areas that have historically been used for marina-related activities.

c. Marinas should be located as close as possible to boating demand.

d. Marinas should be encouraged where adequate uplands are available to develop related support activities and to allow for possible future expansion.

e. Location of marinas in highly productive marine habitats should be discouraged.

f. Location of marinas in or near well-flushed, deep-water areas should be encouraged.

g. Impacts upon state-designed manatee sanctuaries should be considered. Particular marina locations or design features which threaten manatees in sanctuaries should be discouraged.

Policy 22.3.5: The siting of all boat facilities in the City of Bonita Springs shall be consistent with the guidelines, methodologies, procedures, and policies established in the *Boat Facility Siting Plan for Lee County*. This applies to any plans for the expansion of existing facilities or the development of new facilities.

Policy 22.3.6: New marinas shall be designed to avoid erosion on adjacent shorelines.

Policy 22.3.7: Marina and boat ramp siting preference shall be given to those properties which are located in proximity to large navigable water bodies outside areas of critical manatee concern.

Policy 22.3.8: Marinas, multi-slip docking facilities, and boat ramps which would disturb or destroy wetlands or grassbeds must demonstrate a pressing need and public purpose for the proposed facility and must provide for continued use by the general public.

Policy 22.3.9: New marinas should be located in areas of maximum physical advantage (e.g. adequate water depth). Adequate existing water depths between the proposed facility and any navigational channel, inlet, or deep water, are preferred, as only minimal dredging may be considered.

Policy 22.3.10: Marina and boat ramp locations which minimize natural shoreline disruption are preferred.

Policy 22.3.11: Marina and boat ramp construction in dead-end canals are discouraged due to difficulty in meeting State water quality standards.

Policy 22.3.12: Proposed marinas and boat ramps shall demonstrate that the marina site has adequate uplands to provide support facilities for all activities proposed on site without damaging or removing wetlands or rare and unique systems.

Policy 22.3.13: Rezoning and DRI applications for marinas and boat ramps shall be evaluated in the context of cumulative impacts on manatees and marine resources.

Objective 22.4: Marina Design Criteria - The City shall utilize the following criteria in evaluating the design of new marinas or expansion of wet slip facilities at existing marinas in order to minimize negative impacts to water quality. Detailed regulations on these subjects may be contained in the City's Land Development Regulations.

Policy 22.4.1: Piling construction and other non-dredge-and-fill techniques shall be utilized where possible to minimize habitat destruction.

Policy 22.4.2: Mitigation or restoration to offset proposed adverse environmental effects will be required as a condition of approval for any new or expanded marina facilities. Mitigation/restoration is not preferred over preservation of existing resources.

Policy 22.4.3: To reduce dredging, docks should extend to naturally deep waters when possible. City regulations shall specify the criteria for such extensions.

Policy 22.4.4: Dry storage of small boats should be encouraged, with dry storage structures located inland as far as feasible.

Policy 22.4.5: Marina designs shall not reduce water quality in adjacent natural water bodies in order to accommodate an increase in water quality in the marina basin itself.

Policy 22.4.6: Existing navigational channels shall be used to access new marina sites where possible.

Policy 22.4.7: Expansion of dry storage capabilities shall be strongly encouraged to reduce dredging.

Objective 22.5: The Regional Planning Council will be the lead agency addressing the need for adequate sites for water-dependent uses on a regional basis.

Policy 22.5.1: The City will cooperate with the Regional Planning Council in addressing the need for water-dependent sites on a regional basis.

Goal 23: Environmental Education. An environmentally informed and educated citizenry who will thus protect the environmental resources within the City.

Objective 23.1: To provide better environmental protection the City shall take an active support role in environmental education and show the importance and involvement of the City in environmental protection and the need of support from its citizenry.

Policy 23.1.1: The City shall encourage its schools to offer environmental based contests where a City dignitary presents awards.

Policy 23.1.2: The City shall prepare news releases for its environmental programs and projects and encourage other agencies working in the City to do the same.

Issue: DCA10-DEC-146. The petitioner seeks a declaratory statement requesting clarification of whether it is the intent of the 2007 FBC, Residential to require the same code standards for bungalows/cabins that are not permanent residences? The petitioner states he is in the process of reviewing a wood frame structure on concrete piers tied down with helix auger hurricane anchors that is 1023 sq. ft. The occupancy load of the structure will in most cases will be about 4. The structure has 2 bunk rooms, a living room, a kitchen, and a bathroom. All rooms meet the requirements of FBC Sect. 303. The structure is designed by a Florida Design Professional and meets the wind load requirements.

Additionally, the petitioner states that the electric will be powered by a generator, the heat and cooking is provided by propane gas. There is a well on site.

The petitioner request' that the Commission issues a Declaratory Statement to answer the following questions:

1. Would these type structures be included in the classification as residential in accordance with FBC 2007 Residential?
2. If they are considered residential, even though they will be used on a part time basis (2 weeks per year), would they still be required to meet all the criteria as set forth in the code?
3. Would the building be defined as living and habitable space i.e. sleeping, eating, and bathing? Heating and sanitation purposes, as set forth in FBC 2007 Residential.
4. If the answer to the above questions is yes, then would it also have to meet all the requirements as set forth in NEC 2008 for residential construction?

Background:

FBC, RESIDENTIAL CODE:

R101.2 The provisions of the *Florida Building Code, Residential*, shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade in height with a separate means of egress and their accessory structures.

R202 DEFINITIONS:

Building. Building shall mean any one- and two-family dwelling or portion thereof, including townhouses, that is used, or designed or intended to be used for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof, and shall include accessory structures thereto. (emphasis added)

FBC, BUILDING CODE:

310.1 Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the *Florida Building Code, Residential* in accordance with Section 101.2. (Emphasis added)

102.2 (FBC, Building). Exempted buildings 102.2 Building. The provisions of the *Florida Building Code* shall apply to the construction, erection, alteration, modification, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every public and private building, structure or facility or floating residential structure, or any appurtenances connected or attached to such buildings, structures or facilities. Additions, alterations, repairs and changes of use or occupancy group in all buildings and structures shall comply with the provisions provided in Chapter 34 of this code. The following buildings, structures and facilities are exempt from

Sec. 4-879. Definitions.

(a) *Definitions of building uses.*

Accessory building: an accessory dwelling with an accessory unit.

Accessory unit: means an apartment not greater than 800 square feet sharing ownership and utility connections with a principal building; it may or may not be within an accessory dwelling. See Table 10 and Table 17. (Syn: Ancillary unit).

Affordable housing: means dwellings consisting of rental or for-sale units that have a rent (including utilities) or mortgage payment typically no more than 30 percent of the income of families earning no more than 80 percent of median incomes by family size for the county. (Alt. definition: Rental or for-sale dwellings that are economically within the means of the starting salary of a local elementary school teacher.)

Allee: means a regularly spaced and aligned row of trees usually planted along a thoroughfare or path.

Apartment: means a residential unit sharing a building and a lot with other units and/or uses; may be for rent, or for sale as a condominium.

Arcade: means a private frontage conventional for retail use wherein the facade is a colonnade supporting habitable space that overlaps the sidewalk, while the facade at sidewalk level remains at the frontage line.

Attic: means the interior part of a building contained within a pitched roof structure.

Avenue (AV): means a thoroughfare of high vehicular capacity and low to moderate speed, acting as a short distance connector between urban centers, and usually equipped with a landscaped median.

Awning: means a sheet of canvas or other material stretched on a frame and used to keep the sun or rain off a storefront, window, doorway, or deck.

Backbuilding: means a single-story structure connecting a principal building to an accessory dwelling.

Base density: means the number of dwelling units per acre before adjustment for other functions and/or TDR. See *Density.*

Bed and breakfast: means an owner-occupied lodging type offering one to five bedrooms, permitted to serve breakfast in the mornings to guests.

Bicycle lane (BL): means a dedicated lane for cycling within a moderate-speed vehicular thoroughfare, demarcated by striping.

Block: means the aggregate of private lots, passages, rear alleys and rear lanes, circumscribed by thoroughfares.

Block face: means the aggregate of all the building facades on one side of a block.

Brownfield: means an area previously used primarily as an industrial site.

By right: means characterizing a proposal or component of a proposal that complies with the Code and is permitted and processed administratively, without public hearing. See *Warrant and special exception.*

Civic: means the term defining not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking.

Civic building: means a building operated by not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking, or for use approved by the legislative body.

Civic parking reserve: means parking structure or parking lot within a quarter-mile of the site that it serves.

Live-work: means a mixed use unit consisting of a commercial and residential function. The commercial function may be anywhere in the unit. It is intended to be occupied by a business operator who lives in the same structure that contains the commercial activity or industry. See *Work-live.* (Syn: Flexhouse).

Lodging: means premises available for daily and weekly renting of bedrooms.

Lot: means a parcel of land accommodating a building or buildings of unified design. The size of a lot is controlled by its width in order to determine the grain (i.e., fine grain or coarse grain) of the urban fabric.

Lot line: means the boundary that legally and geometrically demarcates a lot.

Lot width: means the length of the principal frontage line of a lot.

Main civic space: means the primary outdoor gathering place for a community. The main civic space is often, but not always, associated with an important civic building.

Manufacturing: means premises available for the creation, assemblage and/or repair of artifacts, using table-mounted electrical machinery or artisanal equipment, and including their retail sale.

Marquee: means a metal or wood protective projection usually over a building entrance or storefront. (Syn: Canopy).

Meeting hall: means a building available for gatherings, including conferences, that accommodates at least one room equivalent to a minimum of ten square feet per projected dwelling unit within the pedestrian shed in which it is located.

Mixed use: means multiple functions within the same building through superimposition or adjacency, or in multiple buildings by adjacency, or at a proximity determined by warrant.

Mobile food vendor: means a 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 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 public seating for all vehicles serving in the park.

Net site area: means all developable land within a site including thoroughfares but excluding land allocated as civic zones.

Office: means premises available for the transaction of general business but excluding retail, artisanal and manufacturing uses.

Open space: means land intended to remain undeveloped; it may be for civic space.

Park: means a civic space type that is a natural preserve available for unstructured recreation.

Parking structure: means a building containing one or more stories of parking above grade.

Passage (PS): means a pedestrian connector, open or roofed, that passes between buildings to provide shortcuts through long blocks and connect rear parking areas to frontages.

Path (PT): means a pedestrian way traversing a park or rural area, with landscape matching the contiguous open space, ideally connecting directly with the urban sidewalk network.

Pedestrian shed: means an area that is centered on a common destination. Its size is related to average walking distances for the applicable community unit type. Pedestrian sheds are applied to structure communities. (Syn: Walkshed, walkable catchment).

Planter: means the element of the public frontage which accommodates street trees, whether continuous or individual.

Plaza: means a civic space type designed for civic purposes and commercial activities in the more urban transect zones, generally paved and spatially defined by building frontages.

Principal building: means the main building on a lot, usually located toward the frontage.

Principal entrance: means the main point of access for pedestrians into a building.

Principal frontage: means on corner lots, the private frontage designated to bear the address and principal entrance to the building, and the measure of minimum lot width. Prescriptions for the parking layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages of a corner lot. See *Frontage.*

Private frontage: means the privately held layer between the frontage line and the principal building facade.

Public frontage: means the area between the curb of the vehicular lanes and the frontage line.

Rear alley (RA): means a vehicular way located to the rear of lots providing access to service areas, parking, and accessory dwellings and containing utility easements. Rear alleys should be paved from building face to building face, with drainage by inverted crown at the center or with roll curbs at the edges.

Rear lane (RL): means a vehicular way located to the rear of lots providing access to service areas, parking, and accessory dwellings and containing utility easements. Rear lanes may be paved lightly to driveway standards. The streetscape consists of gravel or landscaped edges, has no raised curb, and is drained by percolation.

Rearyard building: means a building that occupies the full frontage line, leaving the rear of the lot as the sole yard. (Var: Rowhouse, townhouse, apartment house).

Recess line: means a line prescribed for the full width of a facade, above which there is a stepback of a minimum distance, such that the height to this line (not the overall building height) effectively defines the enclosure of the enfronting public space. (Var: Extension line).

Regulating plan: means a zoning map or set of maps that shows the transect zones, civic zones, special districts if any, and special requirements if any, of areas subject to, or potentially subject to, regulation by the Code.

Residential: means characterizing premises available for long-term human dwelling.

Retail: means characterizing premises available for the sale of merchandise and food service.

Retail frontage: means frontage designated on a regulating plan that requires or recommends the provision of a shopfront, encouraging the ground level to be available for retail use. See *Special requirements.*

Road (RD): means a local, rural and suburban thoroughfare of low-to-moderate vehicular speed and capacity. This type is allocated to the more rural transect zones (T3).

Rowhouse: means a single-family dwelling that shares a party wall with another of the same type and occupies the full frontage line. See *Rearyard building.* (Syn: Townhouse, single-family attached).

Secondary frontage: means on corner lots, the private frontage that is not the principal frontage. As it affects the public realm, its first layer is regulated.

Setback: means the area of a lot measured from the lot line to a building facade or elevation that is maintained clear of permanent structures. (Var: Build-to-line).

Shared parking factor: means an accounting for parking spaces that are available to more than one function.

Shall: means indicates code standards which are regulatory in nature. Deviations from these standards shall only be permitted by variance or special exception.

Shopfront: means a private frontage conventional for retail use, with substantial glazing and an awning, wherein the facade is aligned close to the frontage line with the building entrance at sidewalk grade.

describe the physical form and character of a place, according to the density and intensity of its land use and urbanism.

Transect zone (T-zone): means one of several areas on a zoning map regulated by the SmartCode. Transect zones are administratively similar to the land use zones in conventional codes, except that in addition to the usual building use, density, height, and setback requirements, other elements of the intended habitat are integrated, including those of the private lot and building and public frontage.

Turning radius: means the curved edge of a thoroughfare at an intersection, measured at the inside edge of the vehicular tracking. The smaller the turning radius, the smaller the pedestrian crossing distance and the more slowly the vehicle is forced to make the turn.

Two-family dwelling: means two residential units sharing a single lot and having the massing, appearance, and setbacks of a single-family dwelling and where each unit is assigned its own yard space. These units can be attached side-by-side, sharing a party wall, or occur one above the other. (Syn: Duplex, two-family attached).

Warrant: means a ruling that would permit a practice that is not consistent with a specific provision of this Code, but that is justified by its intent. Warrants are usually granted administratively by the city.

Work-live: means a mixed use unit consisting of a commercial and residential function. It typically has a substantial commercial component that may accommodate employees and walk-in trade. The unit is intended to function predominantly as work space with incidental residential accommodations that meet basic habitability requirements. See *Live-work.* (Syn: Live-with).

Yield: means characterizing a thoroughfare that has two-way traffic but only one effective travel lane because of parked cars, necessitating slow movement and driver negotiation. Also, characterizing parking on such a thoroughfare.

Zoning map: means the official map or maps that are part of the zoning ordinance and delineate the boundaries of individual zones and districts. See *Regulating plan.*

(Ord. No. 20-10 , § 2(Exh. A, § 14), 11-4-2020)

Sec. 4-489. - Property development regulations table.

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

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

	Special Notes or Regulations	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TFC-1	TFC-2	TF-1
Minimum lot area and dimensions:	4-1921, 4-1922, 4-1841									
Single-family detached:										
Lot area (square feet)		6,500	7,500	12,500	20,000	40,000	2 acres	6,000	7,500	7,500
Lot width (feet)		65	75	100	100	100	130	50	75	75
Lot depth (feet)		75	100	100	100	100	130	100	100	100
Duplex:										
Lot area (square feet)		-	-	-	-	-	-	6,000	7,500	10,000
Lot width (feet)		-	-	-	-	-	-	50	75	75
Lot depth (feet)		-	-	-	-	-	-	100	100	100
Two-family attached:										
Lot area per unit (square feet)		-	-	-	-	-	-	-	3,750	12,000
Lot width per unit (feet)		-	-	-	-	-	-	-	37.5	120
Lot depth (feet)		-	-	-	-	-	-	-	100	100
Minimum setbacks:										
Street (feet)	Note (1) 4-1892 et seq.	Variable according to the functional classification of the street or road. See section 4-1893.								
Side yard (feet):	Notes (1) and (3), 4-1892 et seq.									
Single-family or duplex		6.5	7.5	10	12	15	15	6	7.5	7.5
Two-family attached		-	-	-	-	-	-	-	0/7.5	10(2)
Rear yard (feet)	Note (1), 4-1892 et seq.	20	20	20	20	20	20	20	20	20
Water body (feet):	4-1892 et seq.									
Gulf of Mexico:		50	50	50	50	50	50	50	50	50
Other		25	25	25	25	25	25	25	25	25

Special regulations:		Refer to the section specified for exceptions or additions to the minimum setback requirements listed in this table.							
Animals, reptiles, marine life	4-1045 et seq.								
Consumption on premises	4-1020 et seq.								
Docks, seawalls, etc.	4-1588 et seq.								
Essential services	4-1362 et seq.								
Essential service facilities (4-408(c)(13))	4-1362 et seq.								
Fences, walls, gate-houses	4-1841 et seq.								
Nonroofed accessory structures	4-1894(c)(3)								
Railroad right-of-way	4-1895								
Maximum height (feet)	4-1871 et seq.	35	35	35	35	35	35	35	35	35
		Note: Special height limitations apply to all uses located within Bonita Beach and the Bonita Beach Road Corridor. See section 4-1874.							
Maximum lot coverage (percent of total lot area)		45%	40%	40%	40%	40%	40%	45%	40%	45%

Notes:

(1) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted by variance only. See section 4-1892 et seq.

(2) Accessory buildings and uses can be located closer to the front of the property than the main building, but must comply with all other setback requirements for accessory building uses.

(3) No side yard setback required from common side lot line for two-family attached.

(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; Ord. No. 20-12 , § 2, 11-4-2020)

DIVISION 2. LOCATION AND DESIGN

Sec. 7-356. Shoreline and water quality protections.

(a) All structures must be placed so as to provide the least possible impact to aquatic or native shoreline vegetation and benthic resources.

(b) During work that will generate turbidity, turbidity screens must be installed and properly maintained until turbidity levels are reduced to normal (ambient) levels.

(Ord. No. 21-08 , § 2(Exh. A), 10-20-2021; Ord. No. 23-11 , § 2(Exh. A), 9-6-2023)

Sec. 7-357. Multi-slip commercial and residential facilities (greater than 4 slips)

(a) The general screening process in the Manatee Protection Plan will be used to identify desirable locations for new marine facilities, as well as to evaluate the redesign and expansion of existing sites. The results of the screening process will also result in a determination of the maximum number of slips that may be approved at a requested location. The screening, design, and location criteria are set forth in chapter 4, the Manatee Protection Plan and Bonita Plan Objective 22.3 and 22.4, with its associated policies.

(b) In order to reduce the pollution from copper bottom paint and bilge water, all new or modified multifamily or commercial docking facilities shall be required to install one boat lift per slip. Slips that contain boats with a gross weight of over 10,000 pounds are not required to have boat lifts and boats are required to be stored on boat lifts when not in use. Slips used to moor boats less than 24 hours are not required to install boat lifts.

(c) Except when a reduced water depth for a public service marina has been approved by variance, there must be a minimum depth of one foot clearance between the deepest draft of a boat (with the engine in the down position) and an unvegetated bottom or the top of submerged aquatic vegetation (e.g., seagrasses) at mean low water, with a minimum water depth of at least four feet within mooring areas, turning basins, and ingress and egress pathways.

(d) Transfer of (boat) slip credits (TSC).

  (1) The Manatee Protection Plan provides for the transfer of boat slips when certain requirements are satisfied.

  (2) Credits from shorelines with legally existing docks. The Manatee Protection Plan contains provisions that may give credit for the removal of legally existing docks.

  (3) Procedural rules for creating transfer watercraft slip credit under the Lee County Manatee Protection Plan. Until such time the city finds it necessary to adopt its own regulations, it will use Lee County regulations to guide credit issuance. The city may also consider transfer of slips outside of its jurisdiction by interlocal agreement with another government.

(e) All multi-slip and marina docking facilities, except boat davits, in or adjacent to natural waterbodies must be set back a minimum of 25 feet from all adjoining side lot lines.

(Ord. No. 21-08 , § 2(Exh. A), 10-20-2021)

Sec. 7-358. Primary structures single/two family docks, fishing piers, kayak/canoe launch, boat ramps; boardwalks.

(a) *Number of slips.*

(1) No more than one boat mooring dock with two wet slips is permitted per single-family lot, and no more than two boat mooring docks with up to four wet slips is permitted per two-family unit on a single lot. If a parcel abuts both a natural waterbody and an artificial waterbody, one slip may be allowed on each waterbody.

(2) A shared property line dock can be permitted for up to four wet slips with a joint use agreement.

(3) More than two slips may be approved with a special exception in accordance with section 4-131(c).

(b) *Length of docks.*

(1) No structure, including mooring area, may be permitted or constructed to exceed 25 percent of the navigable channel width. Boat mooring areas that are waterward of the dock will be deemed ten feet in width.

(2) Docks and their associated watercraft mooring areas in the Estero Bay Aquatic Preserve shall not exceed 20 percent of the waterway width measured from mean high water line to mean high water line.

(3) No structure addressed by this section shall extend further into a closed waterbody, such as a lake, than where a reasonable water depth for a single boat mooring is achieved, and in no event shall such depth exceed five feet during normal hydrological conditions unless existing natural conditions of the waterbody necessitate a greater water depth to allow safe mooring conditions.

(4) The director may permit administrative deviations from the length allowed by this subsection (2) based upon the following criteria:

a. The proposed dock has been approved by all applicable state and federal agencies; and

b. The increased length will not result in a hazard to navigation; and

c. The proposed dock is compatible with docks or other structures and uses on adjoining lots; and, except for closed waterbodies.

d. If the increase in length results in an area over water of 500 square feet or greater, a benthic species survey assessment conducted between June 1 and September 30 may be required demonstrating the increase in length will lessen the dock's impacts on seagrass beds or other marine resources.

(c) *Design and maximum dimensions.*

(1) Structures permitted by this section must comply with the following maximum dimensional requirements. The application of these regulations is illustrated in Figures 7-1 through 7-3. For the purposes of this section, the term vessel on the following figures shall be synonymous with boat and seawall shall be synonymous with shoreline.

g. Boardwalks over or adjacent to waterbodies shall meet all of the following criteria:

1. Shall be ADA compliant.
2. Shall have hardened handrails.
3. If part of a development, may require architectural review and shall be compliant with any other part of the city's regulations and applicable zoning ordinances or resolutions.
4. Shall be designed, constructed, and maintained to avoid adverse effects to the water body.
5. Shall be no higher than five feet above the ordinary high water line or MHWL except and only where necessary to make a connection to the upland shore.
6. Vertical elements such as pilings and railings shall extend no higher than four feet above the boardwalk surface and shall not include or accommodate screen houses or other enclosed structures.

(2) Except for a kayak launch that is normally built closer to the water line, only one structure as permitted in this section shall be allowed per lot unless the lot abuts both a natural and artificial waterbody or the lot has a shoreline greater than 150 linear feet. Docks, fishing piers, and kayak launches may be combined and built at the same height so long as state and federal permits can be obtained as applicable.

(3) Dock facilities, fishing piers, kayak launch structures, boardwalks, or any combination thereof with 500 square feet or greater over water may be required to provide a benthic species survey assessment if benthic resources are expected to be found. If the assessment shows resources will be impacted, adjustment to the site plan or a mitigation plan will be required. An assessment will not be required for closed waterbodies such as lakes.

(4) All wood pilings shall be wrapped from one foot above of the mean highwater line to one foot below the sediment line with PVC so as to reduce the leaching of wood preservation materials.

(5) Plastic or marine-resistant materials shall be used on all docks in the tidal range. Except for pilings in the tidal range, wood should not be used for construction of any dock or related facility.

(6) Deviations from this section that do not result in an increase to the size of the structure may be approved with a special exception in accordance with section 4-131(c).

(d) *Setbacks.*

(1) All structures in natural waterbodies must be set back from all adjoining side lot and side riparian lines as follows:

a. Marginal docks, boat lifts, and mooring pilings—No less than ten feet.

b. All other boat mooring docks, fishing piers, boardwalks, or combination thereof—No less than 25 feet for lots with a water frontage of 65 feet or more and no less than 15 feet for lots with a water frontage of less than 65 feet.

All docking facilities, fishing piers, and boardwalks in artificial waterbodies must be set back from all adjoining side lot and side riparian lines as follows:

a. Five feet for lots with a water frontage of less than 65 feet;

b. Ten feet for lots with a water frontage of 65 feet or greater;

c. Lots abutting the end or concave corner of a canal shall follow the structure and vessel limitation limits as shown in Figures 7-1a through 7-1e.

(2) All boat ramps must be set back ten feet from all adjoining side lot and side riparian lines.

(3) The director, in his discretion, may permit administrative deviations from the setbacks required by this subsection (d) subject to the following:

a. Construction of the structure outside the setback area will not cause or will minimize damage to wetland vegetation or other environmental resources or will not cause greater damage than will occur if the deviation is not granted; and

b. The decreased setback will not create a hazard to navigation; and

c. Adjoining property owners execute a written agreement in recordable form, agreeing to a setback less than that required or to a zero setback.

(e) *Location.*

(1) Docking structures in natural or artificial waterbodies that create a hazard to navigation are prohibited.

(2) Boat ramps located in a manner that will result in a change in the mean high-water line are prohibited.

(3) Docks located at the end or bend of a canal will require a survey sealed by a PSM depicting the riparian area. The dock must be designed to allow for adequate ingress/egress and mooring within the subject property's riparian area.

(4) A minimum canal width of 40' is required for docking facilities including boat lifts unless the boat lift is of diagonal style to pull the boat completely over land or davits are used.

(5) Docking facilities will be placed at the most impacted area of the property as long as the other criteria of this section can be met. If impacts to natural resources such as mangroves cannot be avoided, replacement may be required as described in section 7-362.

(f) *Minimum water depths.* Boat slips shall project into natural waterbodies no less than necessary:

(1) To reach a minimum depth of minus three feet mean low water; or

(2) So as to maintain, from the lowest point of the keel or propeller, whichever is lower, of the boat to be berthed at the dock, a minimum clearance over any submerged bottom lands or the top of submerged aquatic vegetation or other marine resources (e.g., seagrasses) of one foot as measured at mean low water.

(Ord. No. 21-08 , § 2(Exh. A), 10-20-2021; Ord. No. 23-11 , § 2(Exh. A), 9-6-2023)

Sec. 7-359. Seawalls, retaining walls and riprap revetment.

(a) Riprap rock or other similar approved material must be placed waterward along 50 percent of the linear length of a new or replacement seawall where not prohibited by state or federal agencies. This riprap is not required where it would interfere with designated boat tie-up areas. The rock must be placed a minimum of three feet in height above the bottom, waterward of the seawall, or up to the mean high-water line. The rock must be a minimum average size of 12 inches in diameter.

(b) *Seawalls on artificial waterbodies*

(1) New seawalls may be permitted in artificial canals except for V flood zones. A new seawall must be installed in line with the existing seawall(s) and new or replacement seawalls may be constructed at no more than a maximum of two feet above the adjacent seawall(s), vertically transitioning at no greater than a 45-degree angle or a return wall is used to sufficiently provide for the break in grade at the property line, as required by the drainage plan per subsection (e) within this section. Replacement seawalls may be installed no greater than one foot waterward of an existing seawall. Until the backfill area is stabilized, silt fence or sod must be placed immediately landward of the seawall cap to minimize erosion into the water.

Sec. 4-295. Application.

(a) *Minimum required information for all planned development zoning applications.* Rezoning applications for planned developments must include the following information, supplemented, where necessary, with written material, maps, plans, or diagrams. Wherever this section calls for the exact or specific location of anything on a map or plan, the location must be indicated by dimensions from an acceptable reference point, survey marker or monument.

(5) *Explanation.* A narrative explanation as to how the proposed development complies with the Bonita Plan, the design standards set forth in section 4-325, and the guidelines for decision-making embodied in section 4-131.

The subject project, which is located on Big Bend Road, is currently zoned Riverbend RPD (ZO-10-02).

Sec. 4-131. Zoning board standard for review.

(d) *Zoning matters.*

(3) *Findings.* Before preparing their recommendation to the city council on a rezoning, the zoning board must find that:

a. The applicant has proved entitlement to the rezoning or special exception by demonstrating compliance with the Bonita Plan, this Land Development Code, and any other applicable code or regulation;

Future Land Use Element

The property is located within the Medium Density Residential Future Land Use Category. This land use category is described in Policy 1.1.8 of the City of Bonita Springs Comprehensive Plan, Policy 1.1.8.

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

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

b. As an alternative to a duplex structure, and in order to encourage dispersing affordable housing throughout the community, one accessory dwelling, such as a garage apartment or accessory apartment, may be located on a single lot occupied by one single-family structure, provided development of the lot remains within the maximum allowable

density. Conditions on accessory dwelling units may be required within the Land Development Regulations to prevent over crowding and to ensure compatibility.
c. Maximum allowable height of structures shall be 55 feet from the base flood elevation to the eaves.

The RPD amendment proposes to reduce the permitted number of dwelling units from the currently authorized 16 dwelling units to a maximum of 10 dwelling units. The RPD approval in 2010 authorized a combination of single family, two-family, townhouse and multi-family dwelling unit types. The proposed amendment would authorize only single-family dwelling unit structures, which have been termed and defined as "detached villas" for purposes of this RPD. This detached unit is consistent with the types of units authorized in this land use category. The resulting density is 6.5+/- dwelling units per acre, which is below the maximum density of 11.6 dwelling units per acre authorized under the comprehensive plan. Further, FLUE Policy 1.1.4 provides for the City to determine that other uses not specifically listed within a land use category are permitted where similar in character, intensity, and impacts. We submit that the detached villa as defined in this RPD is similar in character to a single-family dwelling, which is specifically permitted in this land use category.

Transportation Element

Access to the property is Big Bend Road, an existing two-lane local roadway. Policy 1.1.3 establishes a level of service standard D for local roads. The TIS prepared in support of the RPD application concludes that Big Bend Road will continue to operate at level of service C after approval of the RPD.

Conservation and Coastal Management Element

The subject property is located within the Coastal High Hazard Area (CHHA) and Coastal Management Area as depicted on Figures 9 and 7 respectively in the Future Land Use Element. Goal 5, and implementing objectives and policies discuss development in the Coastal Management Area and CHHA in order to minimize flood risk for at risk areas within the City.

> ***Policy 5.2.4:*** *Development in the Coastal Management Area, except as otherwise restricted by 5-2 1 and the City's redevelopment project on Old U.S. 41, shall be infill only and shall not exceed the surrounding properties' density/intensity except as allowed by existing zoning at the time of the adoption of this Comprehensive Plan.*

The subject RPD amendment is an infill project, and the proposed density/intensity reflects a reduction over the existing RPD entitlements, which would allow a density of 11.6 du/ac versus the proposed 6.5 du/ac.

> ***Policy 5.2.6:*** *All development and major redevelopment in the Coastal Management Area shall conform to the City's Flood Damage Protection Ordinance and be consistent with the flood-resistant construction requirements in the Florida Building Code and applicable flood plan management regulations set forth in 44 C.F.R. part 60.*

The proposed development is not considered a major redevelopment; however, structures will be built in conformance with the City's Flood Damage Protection Ordinance.

> ***Policy 7.12.1:*** *The City shall adopt a stream protection overlay zone for the Imperial River and Bayside drainage area of Little Hickory Island. The overlay zone shall require the use of "state of the art" Best Environmental Management techniques for new development and redevelopment and will target pollution control and water conservation education to existing residents.*

The City has not adopted specific stream protection standards in the Land Development Code. Policy 7.12.1 does discuss several considerations for development within the protection zone:

> *a. Request the USDA Natural Resources Conservation Service (NRCS) make avail-able the services of a mobile irrigation lab to, on request of the property owner, provide expert advice on lawn watering, fertilizer, pesticide and herbicide use in the zone. The City should also request the NRCS to examine the river and its tributaries for the sources of erosion and provide specific methods and means for controlling erosion and the resulting sedimentation and shoaling in the estuary. Water conservation, erosion and pollutant control is a major goal of the Service.*
> *b. Prohibit outside storage of fertilizer, pesticides, and herbicides.*
> *c. Sponsor special pickups for disposal of hazardous containers, oil and such potential pollutants.*
> *d. Promote erosion control through non-structural means where natural native vegetation within flowways and natural systems will be retained to the greatest extent possible.*
> *e. Promote removal of invasive exotic species.*
> *f. Produce and/or distribute educational brochures on pollution control and other environmental topics, including Manatee protection, germane to the zone's residents.*
> *g. Urge existing residents to use xeriscape plants when gardening or installing new shrubbery. Require such use for new development in the zone to conserve water and reduce pollution.*
> *h. Allow no further channelization of remaining natural watercourses to occur.*
> *i. Minimize impervious surfaces where possible.*
> *j. Use swales for water quality benefits where possible.*
> *k. Target compliance and enforcement of existing environmental regulations as a top priority for regulatory agencies*
> *l. Involve neighborhood organizations.*
> *m. Use non-structural approaches versus structural approaches for water resource management solutions.*
> *n. Demonstrate the use of best management practices in all city road planning and construction and all other city projects in the zone.*
> *o. Retain the relic natural features of the tributary bank contours.*
> *p. Reconnect, where possible, historic natural flowways that have been diverted or severed.*

q. Allow no special accommodations for boats (e.g. no cutting of overstory vegetation, no removal of oxbows, no dredging or filling except for permitted maintenance of navigation channels).

r. Promote programs such as the "Keep it Clean" and "Florida Yards and Neighborhoods" to minimize inputs of stormwater pollutants into the bay.

s. Examine the City's required 25-foot setback from water bodies as it applies to the Imperial River and its tributaries for adequacy of riparian vegetation, erosion, water quality and flood protection.

The development that will occur following the RPD approval will not channelize the Imperial River, nor fill or dredge the river. The existing sea wall is proposed to be removed and riverine plantings and rip rap will be utilized for the upland development.

Policy 9.3.1: *The City shall require new developments requiring a development order to design stormwater treatment systems using a treatment train (multiple-method) approach incorporating multiple Best Management Practices (BMPs) to ensure the maximum potential treatment of stormwater. Such treatment train approach would require a selection of five Best Management Practices from the enclosed Table V-1 labeled Southwest Florida Basin BMPs. The site and the surface water management system design shall include: a minimum of two (2) BMPs from Group A of Table V-1; and a minimum of two (2) BMPs from Group B of Table V-1; and a minimum of one (1) BMP from Group C of Table V-1. The City will consider alternative BMPs which are not listed in Table V-1, provided that the application includes: descriptions and construction plans for the proposed BMPs; information demonstrating the effectiveness of the proposed BMPs; calculations that demonstrate that no impacts to flood protection will occur; and operation and maintenance plans for the proposed BMPs. "Best Management Practices (BMPs)" means structural and non-structural facilities or practices intended to reduce pollution either through source control or treatment of stormwater. Additionally, pre- and post-construction water quality monitoring shall be required (according to FDEP Water Quality Sampling protocol) to demonstrate whether post-development pollutant loadings are equal to or less than pre-development pollutant loadings and to assure that the numerical standard adopted by the City are attained. If monitoring indicates that the development is contributing to increased pollutant loading over predevelopment conditions, or the numerical standard has not been attained, additional BMPs will be required until monitoring indicates that loading is reduced to equal or less than pre-development and the numeric standard is attained. In all developments, there shall be no reduction in Groundwater Recharge.*

The resulting development will be in compliance with the best management practices required by this policy. A series of on-site surface water management systems will be utilized for the project prior to discharge to the Imperial River. The site will be required by the SFWMD and the City of Bonita Springs to demonstrate compliance at the time of Development Order Approval. In accordance with Policy 9.3.3., the project will also provide an additional 50% water quality treatment.

Policy 7.7.9: *The City shall utilize the Boat Facility Siting Plan for Lee County to review proposed marina and other boat facility permitting requests.*

The RPD includes an environmental assessment, which has addressed the siting criteria for boat docking facilities as well as protection of the West Indian Manatee consistent with this policy.

Goal 15: Wetlands. *The City shall maintain and enforce a regulatory program for development in wetlands that is cost-effective, complements federal and state permitting processes, and protects the fragile ecological characteristics of wetland systems.*

Response: There are proposed fish attractors (pallet balls) to be placed under and between the access dock and the proposed seawall. These will create habitat for sessile organisms and attract fish, thus supporting the ecological functions of the aquatic system. Additionally, the proposed fill landward of the proposed seawall will act as a buffer between the upland system and the proposed boat lifts and finger piers, assisting in protecting the wetland system around the project site and supporting the ecological characteristics of the wetland system. Riverine plantings and rip rap will also be utilized for the upland development, providing another layer of protection to the natural system. There is a proposed wetland fill of 3,273 sf./0.075 acres associated with the entrance drive, and another proposed wetland fill of 855sf./0.02 acres associated with stormwater detention (refer to Detail B- Proposed Site Plan). These impacts will be offset by buying mitigation credits through Little Pine Island Mitigation Bank.

Policy 15.1.6: *The natural functions of wetlands located in the City, as identified in the wetland inventory and evaluation contained in the Conservation/Coastal Management Element, shall be maintained and not degraded; and, degraded wetlands shall be restored whenever possible.*

There is a proposed wetland fill of 3,273 sf./0.075 acres associated with the entrance drive, and another proposed wetland fill of 855sf./0.02 acres associated with stormwater detention (refer to Detail B- Proposed Site Plan). These impacts will be offset by buying mitigation credits through Little Pine Island Mitigation Bank.

Policy 15.1.7: *All mangrove swamp wetlands (FLUCCS #612) and stream and lake swamp wetlands (FLUCCS #615) located in the City, as identified in the wetland inventory and evaluation contained in the Conservation/Coastal Management Element, shall be afforded the highest degree of protection.*

Understood.

Policy 15.1.8: *Where a portion of a wetland is protected through an existing development order, the City shall notify the SFWMD to stringently review any proposed alteration to the remaining wetland area to prevent loss of any of the wetland's*

hydrology, functions and habitat; and, if alterations must be made for exotic removal, etc., such alterations shall not negatively impact the protected wetland.

There is no known existing development order protecting the wetland in the project area.

Policy 15.1.9: Wetland #1 as identified on the map of evaluated wetlands contained in the Future Land Use Map Series and classified as FLUCCS #621, is by far the largest freshwater wetland in the City and should be nominated for public purchase under the 20/20 program or other appropriate program; and,

a. An average 25-foot buffer shall be required around this wetland, and

b. No industrial or commercial land uses shall be allowed adjacent to this wetland except where such uses clearly demonstrate that through the use of Best Environmental Management Practices (BEMP), that such uses will not negatively impact the wetland.

Understood; there is no proposed industrial or commercial land use adjacent to the wetland.

Policy 15.1.10: *Wetlands infested with exotics shall, where feasible, be restored to their historical hydrology, functions, and habitat.*

Understood.

b. The request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request;

There are no performance or locational standards for the uses. The proposed uses are to be sited in a compatible manner with the surrounding community but taking into account the relationship with the adjacent roads and access.

c. The request, including the use of TDR or affordable housing bonus density units, is consistent with the densities, intensities and general uses set forth in the Bonita Plan;

The proposed use of residential dwelling units will be in compliance with the LDC and Comprehensive Plan.

d. The request is compatible with existing or planned uses in the surrounding area;

The surrounding areas are residential to the south and east. The imperial river is to the west and a mangrove preserve is to the north.

e. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development;

The traffic impact statement (TIS) submitted with this application confirms the proposed uses will not have an adverse impact on capacity.

f. Where applicable, the request will not adversely affect environmentally critical areas and natural resources;

The site is currently developed with single family residential units.

g. In the case of a planned development rezoning, the decision of the zoning board must also be supported by the formal findings required by section 4-299(a)(2) and (4);

Acknowledged.

h. The zoning board must also find that public facilities are, or will be, available and adequate to serve the proposed land use.

Acknowledged.

Chapter 4-325 Consistency

The CPD/RPD as proposed is in compliance with the General Standards for Planned Developments found in Chapter 4-325.

(a) All planned developments shall be consistent with the provisions of the Bonita Plan.

As discussed in the Chapter 4—295 analysis, the project is consistent with the Bonita Springs Comprehensive Plan.

(b) All planned developments, unless otherwise excepted, shall be designed and constructed in accordance with the provisions of all applicable city development regulations in force at that time.

Except as approved by deviation, the planned development is designed and will be consistent with applicable City regulations in effect at the time of Development Order approval.

(c) The tract or parcel proposed for development under this article must be located so as to minimize the negative effects of the resulting land uses on surrounding properties

and the public interest generally, and must be of such size, configuration and dimension as to adequately accommodate the proposed structures, all required open space, including private recreational facilities and parkland, bikeways, pedestrian ways, buffers, parking, access, on-site utilities, including wet or dry runoff retention, and reservations of environmentally sensitive land or water. In large residential or commercial planned developments, the site planner is encouraged to create subunits, neighborhoods or internal communities which promote pedestrian and cyclist activity and community interaction.

The MCP identifies the areas to be developed for residential uses. The MCP also identifies areas of buffers, open space, and water management areas, which minimize impacts to surrounding properties.

(d) The tract or parcel shall have access to existing or proposed roads:

(1) In accordance with chapter 3 and as specified in the Bonita Plan traffic circulation element or the official trafficways map of the county;

(2) That have either sufficient existing capacity or the potential for expanded capacity to accommodate both the traffic generated by the proposed land use and that traffic expected from the background (through traffic plus that generated by surrounding land uses) at a level of service D or better on an annual average basis and level of service E or better during the peak season, except where higher levels of service on specific roads have been established in the Bonita Plan; and

(3) That provide ingress and egress without requiring site-related industrial traffic to move through predominantly residential areas.

Project access for the 10 detached units will be via Big Bend Road. The TIS prepared for the RPD concludes that fewer trips are generated from the proposed project for the existing PD. No LOS roadway issues result from the project.

(e) If within the Lee Tran public transit service area, the development shall be designed to facilitate the use of the transit system.

The closest Lee Tran stop is located on the corner of Bonita Beach Road and U.S 41.

(f) Development and subsequent use of the planned development shall not create or increase hazards to persons or property, whether on or off the site, by increasing the probability or degree of flood, erosion or other danger, nor shall it impose a nuisance on surrounding land uses or the public's interest generally through emissions of noise, glare, dust, odor, air or water pollutants.

The proposed revisions to the PD will not create hazards to persons or property off-site. The site has previously been issued an ERP through the SFWMD and will be modified to be consistent with the proposed revised plan. Glare, dust and odor will not be issues as the site is less intense than originally approved.

(g) Every effort shall be made in the planning, design and execution of a planned development to protect, preserve or to not unnecessarily destroy or alter natural, historical or archaeological features of the site, particularly mature native trees and other threatened or endangered native vegetation. Alteration of the vegetation or topography that unnecessarily disrupts the surface water or groundwater hydrology, increases erosion of the land, or destroys significant wildlife habitat is prohibited. That habitat is significant that is critical for the survival of rare, threatened or endangered species of flora or fauna.

There are no known archeological sites on the property. The site has been previously developed and there are no native vegetation communities remaining on the site.

(h) A fundamental principle of planned development design is the creative use of the open space requirement to produce an architecturally integrated human environment. This shall be coordinated with the achievement of other goals, e.g., the preservation or conservation of environmentally sensitive land and waters or archaeological sites.

The site has been designed to utilize open spaces for integration of the human environment. The dry detention areas will be designed to provide areas for human and pet use during the dry season.

(i) Site planning and design shall minimize any negative impacts of the planned development on surrounding land and land uses.

The site has been designed to have no impact on surrounding uses. Building heights, setbacks and placement of open space areas are utilized to reduce any negative impacts.

(j) Where a proposed planned development is surrounded by existing development or land use with which it is compatible and of an equivalent intensity of use, the design emphasis shall be on the integration of this development with the existing development, in a manner consistent with current regulation.

The PD amendment proposes to reduce the number of dwelling units to 10 which is the existing number formally on-site before the flooding from Hurricane Ian. The

proposed units are to be detached single family dwellings in lieu of the previously approved multi-family units.

(k) Where the proposed planned development is surrounded by existing development or land use with which it is not compatible or which is of a significantly higher or lower intensity of use (plus or minus ten percent of the gross floor area per acre if a commercial or industrial land use, or plus or minus 20 percent of the residential density), or is surrounded by undeveloped land or water, the design emphasis will be to separate and mutually protect the planned development and its environs.

The uses located within the PD have been designed to lessen any impact to neighboring properties by providing units that are detached single family dwellings.

(l) In large residential or commercial planned developments, the site planner is encouraged to create subunits, neighborhoods or internal communities which promote pedestrian activity and community interaction.

The project is approximately 1.5 acres in size and due to the size it is not possible to create subunits. The site will be arranged so that all residents will have good access to project amenities.

(m) In order to enhance the viability and value of the resulting development, the designer shall ensure the internal buffering and separation of potentially conflicting uses within the planned development.

Buffers will be provided as identified on the MCP. The master developer intends to develop an integrated community.

(n) Density or type of use, height and bulk of buildings and other parameters of intensity should vary systematically throughout the planned development. This is intended to permit the location of intense or obnoxious uses away from incompatible land uses at the planned development's perimeter, or, conversely, to permit the concentration of intensity where it is desirable, e.g., on a major road frontage or at an intersection.

The perimeter of the PD is protected by the placement of open space areas including buffers and water management areas.

(o) Unless otherwise provided for in this article, minimum parking and loading requirements shall be as set forth in article VI, divisions 25 and 26, of this chapter. Where it can be reasonably anticipated that specified land uses are generators of occasional peak demand for parking space, a portion of the required parking may be pervious or semi-pervious surfaces subject to the condition that it be constructed and

maintained so as to prevent erosion of soil. In all cases, however, sufficient parking shall be provided to prevent the spilling over of parking demand onto adjacent properties or rights-of-way at times of peak demand.

Parking is intended to be developed at a ratio consistent with that needed for the development per the LDC.

(p) Joint use of parking by various land uses within the planned development may be permitted by special condition where it can be demonstrated or required that the demand for parking by the various uses will not conflict. Joint parking agreements between uses within and uses without the planned development shall be governed by agreement per general regulation (see section 4-1730), without exception.

No parking agreement is necessary as each unit will have dedicated parking.

(q) Internal consistency through sign control, architectural controls, uniform planting schedules and other similar controls is encouraged.

The Developer will establish architecture and buffers schedules which will insure internal consistency.

27523 Big Bend Road

Section 32, Township 47 South, Range 25 East

Lee County, Florida

Revised 2-9-24



Photo from Lee County Property Appraiser Website

Prepared for:

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INTRODUCTION

The project is located on a residential development on the Imperial River within the Estero Bay Aquatic Preserve, Section 32, Township 47 South, Range 25 East, Lee County, Florida. The site is bordered by a vegetated area to the north and a residential property to the south. East of the site is a mangrove swamp, and west of the site is an open waterway of the Imperial River.

SITE CONDITIONS

This site is an open residential area with maintained landscape. This site has two existing finger piers and an existing boat ramp. There is no vegetation around any of these structures. There is a small pocket of red mangrove on the northeast side of the project site, located east of the northern existing finger pier.

VEGETATIVE CLASSIFICATIONS

The predominant vegetative associations were mapped on a 2022, 1"= 60' scale, aerial photograph. Three vegetative associations were identified using the Florida Land Use, Cover and Forms Classification System (FLUCCS) obtained from the Florida Department of Transportation Handbook, January 1999. Table 1 summarizes the acreages by FLUCCS Code. A description of each code is provided.

Table 1. Acreage by FLUCCS Code

FLUCCS CODE	DESCRIPTION	ACREAGE
131	Fixed Single Family Units	1.39
510	Streams and Waterways	0.11
612	Mangrove Swamps	0.02
	Total	1.52

FLUCCS Code 131, Fixed Single Family Units

The site contains six single family dwellings, along with two sheds on the property line. There is an open maintained landscape, with access roads to the dwellings and parking area. The site is composed of landscaped grass with a few coconut palm trees.

FLUCCS Code 510, Streams, and Waterways

This site is on an open waterway of the Imperial River, in the Estero Bay Aquatic Preserve. The width of the river at the project site is approximately 360 feet. The area calculated for this code was based on open water within the property boundary established by Grady Minor.

FLUCCS Code 612, Mangrove Swamps

The northern adjacent property is composed of red and white mangroves (*Rhizophora mangle; Laguncularia racemosa*), Brazilian pepper (*Schinus terebinthifolia*), coin vine (*Dalbergia ecastaphyllum*), mahoe (*Taliparitі tiliaceum*), and air potato (*Dioscorea bulbifera*). West of Big Bend Road along the east property line is an existing drainage ditch. At the very northern extent of the ditch we observed red and white mangroves, an insignificant number of black mangroves (*Avicennia germinans*), coin vine and mahoe. There is a large mahoe tree on the northeast corner of the property line. The area occupied by mangroves within the northeast corner property limits is 0.02 ac.

SURVEY METHOD

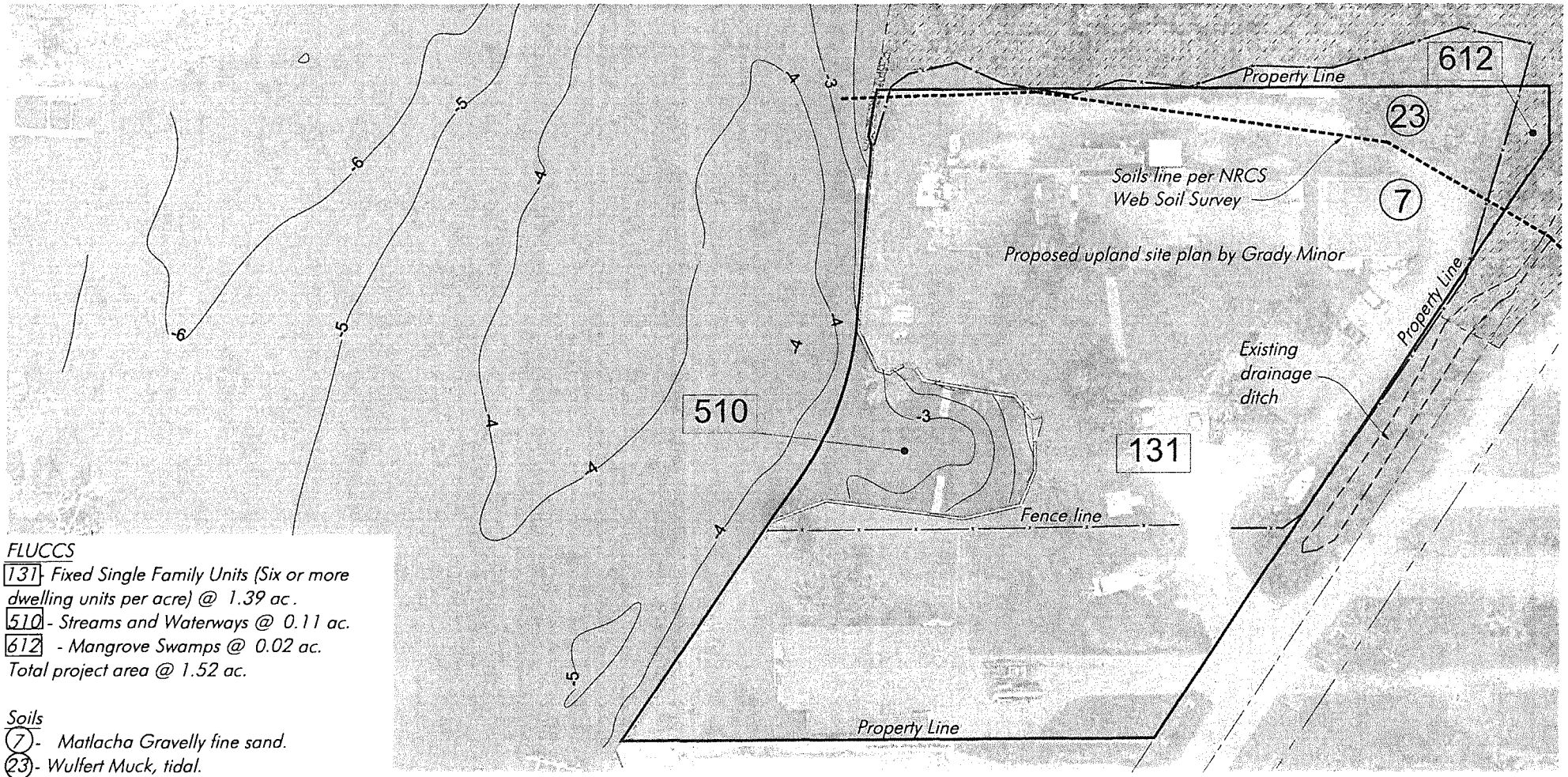
The City of Bonita Springs has adopted the Lee County Protected Species Ordinance No. 89-34, via LDC Section 3-455, which lists protected species of animals that could potentially occur on-site based on the vegetative associations within the project limits. The site was surveyed for the occurrence of any species that may be present using meandering linear pedestrian belt transects. This survey methodology is based on the Lee County administratively approved Meandering Transect Methodology. Due to the open unvegetated nature of the site, it was able to be thoroughly walked and observed, and since the site is an open unvegetated landscaped area, there was at least 80 percent visual coverage of habitat types as listed in Ordinance No. 89- 34. In the FLUCCS area code 612, Mangrove Swamps, four transects were placed to determine the species present in the ditch and mangrove swamp habitat. Species that could potentially use this site for foraging are the American alligator (*Alligator mississipiensis*), herons, and egrets (*Egretta spp.*), and limpkins (*Aramus guarauna*). These species may also use an exposed mud flat for foraging during an extreme low tide, as well as wood storks (*Mycteria americana*) and brown pelicans (*Pelecanus occidentalis*). Swimming birds may utilize the waterway, like Anhingas (*Anhinga anhinga*) and Cormorants (*Phalacrocoracidae sp.).* Exotic species that were observed onsite include iguanas (*Ctenosaura spp.).*

Species that may be present in the open waterway of the Imperial River include the American alligator, West Indian Manatee (*Trichechus manatus*), Smalltooth sawfish (*Pristis pectinata*), and various fish including but not limited to Snook (*Centropomus undecimalis*), Red fish (*Sciaenops ocellatus*), Jack crevalle (*Caranx hippos*), Spotted Sea trout (*Cynoscion nebulosus*), Mojarras (*Ulaema spp.*), and Peacock cichlids (*Aulonocara sp.*). The listed species survey was conducted during July and August 2022.

SURVEY RESULTS

No imperiled species listed in the FWS or FWC species database were observed onsite or immediately adjacent to the project for the protected species survey.

SECTION: 32
TOWNSHIP: 47 South
RANGE: 25 East



FLUCCS
131 - Fixed Single Family Units (Six or more dwelling units per acre) @ 1.39 ac.
510 - Streams and Waterways @ 0.11 ac.
612 - Mangrove Swamps @ 0.02 ac.
Total project area @ 1.52 ac.

Soils
(7) - Matlacha Gravelly fine sand.
(23) - Wulfert Muck, tidal.

Detail A - FLUCFCS/Soils

SCALE: 1" = 20' on 24" x 36" paper

FLUCFCS Codes from Florida Dept. of Transportation Handbook, January 1999.

Notes: Bathymetric survey completed by HWA, Inc. on 12-16-21. Depths reference MLW per DEP Tidal Datum Request. MLW El = -0.58' NAVD88.

HWA
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MARINE and ENVIRONMENTAL CONSULTANTS

Riverbend RPL
Idyll Construction

DATE: 8-25-23
Revised 7.9.24
FILE: RAUD-1
DRAFTER: HJWW
DATUM: NAVD

Sec. 7-356. - Work in this division will be permitted in accordance with the following regulations.

(a) All structures must be placed so as to provide the least possible impact to aquatic or native shoreline vegetation.

(b) During work that will generate turbidity, turbidity screens must be installed and properly maintained until turbidity levels are reduced to normal (ambient) levels.

Response: The project design will have little impact to aquatic and native shoreline vegetation. No seagrasses were observed in the basin or offshore of the vertical seawall. The design adds habitat to the base of the existing seawall, eliminates a dead end pocket by filling the basin, and includes placement of 31 Pallet Balls for intertidal habitat. The project design includes placement of turbidity curtains during all phases of in-water construction, including turbidity reporting requirements.

Sec. 7-357. - Multi-slip commercial and residential facilities (greater than 4 slips)

(a) The general screening process in the Manatee Protection Plan will be used to identify desirable locations for new marine facilities, as well as to evaluate the redesign and expansion of existing sites. The results of the screening process will also result in a determination of the maximum number of slips that may be approved at a requested location. The screening, design, and location criteria are set forth in chapter 4, the Manatee Protection Plan and Bonita Plan Objective 22.3 and 22.4, with its associated policies.

(b) In order to reduce the pollution from copper bottom paint and bilge water, all new or modified multifamily or commercial docking facilities shall be required to install one boat lift per slip. Slips that contain boats with a gross weight of over 10,000 pounds are not required to have boat lifts and boats are required to be stored on boat lifts when not in use. Slips used to moor boats less than 24 hours are not required to install boat lifts.

(c) Except when a reduced water depth for a public service marina has been approved by variance, there must be a minimum depth of one foot clearance between the deepest draft of a boat (with the engine in the down position) and an unvegetated bottom or the top of submerged aquatic vegetation (e.g., seagrasses) at mean low water, with a minimum water depth of at least four feet within mooring areas, turning basins, and ingress and egress pathways.

(d)Transfer of (boat) slip credits (TSC).

(1) The Manatee Protection Plan provides for the transfer of boat slips when certain requirements are satisfied.

(2) Credits from shorelines with legally existing docks. The Manatee Protection Plan contains provisions that may give credit for the removal of legally existing docks.

(3) Procedural rules for creating transfer watercraft slip credit under the Lee County Manatee Protection Plan. Until such time the city finds it necessary to adopt its own regulations, it will use Lee County regulations to guide credit issuance. The city may also consider transfer of slips outside of its jurisdiction by interlocal agreement with another government.

(e) All multi-slip and marina docking facilities, except boat davits, in or adjacent to natural waterbodies must be set back a minimum of 25 feet from all adjoining side lot lines.

Response: (a) This multi-slip residential facility meets the criteria associated with the Lee County Manatee Protection Plan allowing up to 25 boat slips. Refer to the attached correspondence with Lee County Natural Resources. Residential facilities do not exceed 4 slips per dock. (b) All slips are proposed to include boat lifts. (c) There is a minimum of 4' of depth in the mooring and access areas. (d) There is no transfer of boat slip credits proposed at this time. (e) All docks meet the minimum 25' setbacks from the adjoining lot lines extended as riparian lines consistent with DEP SLER 0950 standards for establishing riparian lines.

Sec. 7-358. - Primary structures single/two family docks, fishing piers, kayak/canoe launch, boat ramps; boardwalks.

(a) *Number of slips.*

(1) No more than one boat mooring dock with two wet slips is permitted per single-family lot, and no more than two boat mooring docks with up to four wet slips is permitted per two-family unit on a single lot. If a parcel abuts both a natural waterbody and an artificial waterbody, one slip may be allowed on each waterbody.

(2) A shared property line dock can be permitted for up to four wet slips with a joint use agreement.

(3) More than two slips may be approved with a special exception in accordance with section 4-131(c).

Response: (a) This is a multi-slip residential marina.

(b) *Length of docks.*

(1) No structure, including mooring area, may be permitted or constructed to exceed 25 percent of the navigable channel width. Boat mooring areas that are waterward of the dock will be deemed ten feet in width.

Response: Proposed finger piers do not exceed 25 percent of the navigable channel width, which includes the boat mooring areas. Refer to Detail B- Proposed Site Plan for additional information.

(2) Docks and their associated watercraft mooring areas in the Estero Bay Aquatic Preserve shall not exceed 20 percent of the waterway width measured from mean high water line to mean high water line.

Response: This project is located on the Imperial River within the Estero Bay Aquatic Preserve. As shown on Detail B – Proposed Site Plan the docks are well within the 25% mark and meet the 20% limit outlined in Chapter 18-20 F.A.C.

(3) No structure addressed by this section shall extend further into a closed waterbody, such as a lake, than where a reasonable water depth for a single boat mooring is achieved, and in no event shall such depth exceed five feet during normal hydrological conditions unless existing natural conditions of the waterbody necessitate a greater water depth to allow safe mooring conditions.

Response: This project is proposed in the open water body of the Imperial River.

(4) The director may permit administrative deviations from the length allowed by this subsection (2) based upon the following criteria:

a.The proposed dock has been approved by all applicable state and federal agencies; and

b.The increased length will not result in a hazard to navigation; and

c.The proposed dock is compatible with docks or other structures and uses on adjoining lots; and, except for closed waterbodies.

d.If the increase in length results in an area over water of 500 square feet or greater, a benthic species survey assessment conducted between June 1 and September 30 shall be provided demonstrating the increase in length will lessen the dock's impacts on seagrass beds or other marine resources.

Response: The multi-slip dock component does not have any proposed deviations from the LDC.

(c) *Design and maximum dimensions.*

(1) Structures permitted by this section must comply with the following maximum dimensional requirements. The application of these regulations is illustrated in Figures 7-1 through 7-3, Dock Structure Plan View.

a. The access walkway to the docking facility, fishing pier, or kayak launch shall not exceed four feet in width and finger piers extending from docking facilities shall not exceed three feet in width.

Response: All docks meet the design criteria in this section.

b. In natural water bodies the terminal platform shall not exceed 160 square feet.

Response: There is no proposed terminal platform.

c. Marginal docks may have a maximum access walkway length of 25 feet to a dock running parallel to the shoreline and immediately adjacent to any existing wetland vegetation.

Response: There are no proposed marginal docks. The proposed access dock is 55 feet in length.

d. Docks and other water-oriented structures permitted by this section may protrude up to ten feet landward of the mean highwater line to provide access to the structure and allowed uses. The landward portion of the structure shall not be higher in elevation than the adjacent land. Docks and other structures permitted in this section may connect to additional accessory structures via stairway or access walkways as long as said structures are in compliance with other Code sections.

Response: The proposed finger piers and access dock is all waterward of the seawall and mean high water line.

(2) Except for a kayak launch that is normally built closer to the water line, only one structure as permitted in this section shall be allowed per lot unless the lot abuts both a natural and artificial waterbody or the lot has a shoreline greater than 150 linear feet. Docks, fishing piers, and kayak launches may be combined and built at the same height so long as state and federal permits can be obtained as applicable.

(3) Dock facilities, fishing piers, kayak launch structures, boardwalks, or any combination thereof with 500 square feet or greater over water shall provide a benthic species survey assessment. If the assessment shows resources will be impacted, adjustment to the site plan or a mitigation plan will be required. An assessment will not be required for closed waterbodies such as lakes.

Response: (2) The multi-slip docks is located on landed owned as a common element of the residents. (3) The total over water coverage (673 sf.) exceeds the 500 sf. limit. Benthic surveys at the site and the surrounding areas have shown no seagrasses to be present.

(4) All wood pilings shall be wrapped from one foot above of the mean highwater line to one foot below the sediment line with PVC so as to reduce the leaching of wood preservation materials.

Response: Proposed wood pilings include plans to be PVC wrapped from 1 foot below the mud line to 1 foot above the mean highwater line. Reference Cross Section A-A.

(5) Plastic or marine-resistant materials shall be used on all docks in the tidal range. Except for pilings in the tidal range, wood should not be used for construction of any dock or related facility.

Response: The docks will be constructed using CCA treated pilings and substructure lumber, treated for salt water exposure. The decking of the proposed docks will be a composite.

(d) *Setbacks.*

(1) All structures in natural waterbodies must be set back from all adjoining side lot and side riparian lines as follows:

a. Marginal docks, boat lifts, and mooring pilings—No less than ten feet.

b. All other boat mooring docks, fishing piers, boardwalks, or combination thereof—No less than 25 feet for lots with a water frontage of 65 feet or more and no less than 15 feet for lots with a water frontage of less than 65 feet.

Response: Proposed structures have a 25-foot setback from riparian lines.

(e) *Location.*

(1) Docking structures in natural or artificial waterbodies that create a hazard to navigation are prohibited.

(2) Boat ramps located in a manner that will result in a change in the mean high-water line are prohibited.

Response: Proposed finger piers and boat lifts do not pose a hazard to navigation as they are less than 25 percent of the navigable waterway. There are no proposed boat ramps.

(3) Docks located at the end or bend of a canal will require a survey sealed by a PSM depicting the riparian area. The dock must be designed to allow for adequate ingress/egress and mooring within the subject property's riparian area.

Response: N/A

(4) A minimum canal width of 40' is required for docking facilities including boat lifts unless the boat lift is of diagonal style to pull the boat completely over land or davits are used.

Response: N/A

(5) Docking facilities will be placed at the most impacted area of the property as long as the other criteria of this section can be met. If impacts to natural resources such as mangroves cannot be avoided, replacement may be required as described in section 7-362.

Response: This project does not include impacts to mangroves. The applicant will be filling a dead end boat basin and creating intertidal habitat. Refer to Detail B- Proposed Site Plan.

(f) *Minimum water depths.* Boat slips shall project into natural waterbodies no less than necessary:

(1) To reach a minimum depth of minus three feet mean low water; or

(2) So as to maintain, from the lowest point of the keel or propeller, whichever is lower, of the boat to be berthed at the dock, a minimum clearance over any submerged bottom lands or the top of submerged aquatic vegetation or other marine resources (e.g., seagrasses) of one foot as measured at mean low water.

Response: The proposed docks and boat lifts extend to minus four feet mean low water. The lowest component of any of the boats will still retain at least 12" of clearance above the bottom on a mean low tide.

Sec. 7-359. - Seawalls, retaining walls and riprap revetment.

(a) Riprap rock or other similar approved material must be placed waterward along 50 percent of the linear length of a new or replacement seawall where not prohibited by state or federal agencies. This riprap is not required where it would interfere with designated boat tie-up areas. The rock must be placed a minimum of three feet in height above the bottom, waterward of the seawall, or up to the mean high-water line. The rock must be a minimum average size of 12 inches in diameter.

Response: Proposed riprap is to be placed where it would not interfere with boat mooring areas. The riprap will be placed in accordance with this section of the LDC. Refer to Cross Section C-C for details.

(b) *Seawalls on artificial waterbodies*

(1) New seawalls may be permitted in artificial canals except for V flood zones. A new seawall must be installed in line with the existing seawall(s) and new or replacement seawalls may be constructed at no more than a maximum of two feet above the adjacent seawall(s), vertically transitioning at no greater than a 45-degree angle or a return wall is used to sufficiently provide for the break in grade at the property line, as required by the drainage plan per subsection (e) within this section. Replacement seawalls may be installed no greater than one foot waterward of an existing seawall. Until the backfill area is stabilized, silt fence or sod must be placed immediately landward of the seawall cap to minimize erosion into the water.

Response: A retaining wall and fill is proposed in the artificially created boat basin.

(c) *Seawalls on natural waterbodies.*

(1) New or expanded seawalls are not allowed along natural waterbodies, including the Gulf of Mexico, however hardened structures, including, but not limited to, geotextiles tubes, groin, fencing and other similar structures, may be permitted along natural waterbodies, if emergency situations exist.

Response: All retaining wall work is taking place within the artificially created boat basin.

(2) Lawfully existing seawalls along natural waterbodies may be maintained or repaired and may be replaced, built no more than a maximum of two feet above the existing seawall height, vertically transitioning at no greater than a 45-degree angle when adjacent to existing seawalls at a lower height or a return wall is used to sufficiently provide for the break in grade at the property line, as required by the drainage plan per subsection (e) within this section. Replacement seawalls may be placed no greater than one foot waterward of an existing seawall if the seawall will not be waterward of the existing seawall alignment on adjacent shorelines. Until the backfill area is stabilized, silt fence or sod must be placed immediately landward of the seawall cap to minimize erosion into the water. Seawalls must be maintained or replaced with another seawall or different method of shoreline protection.

Response: N/A

(d) *Retaining walls.*

(1) A retaining wall may be built as an alternative to a vertical seawall, provided that all activities, including dredging, filling, slope grading, or equipment access and similar activities and all portions of the wall are located at one of the following distances, whichever is further:

a. Five feet landward of the mean high water line, or

b. Landward of any wetland vegetation, or

c. Landward of a wetland area adjacent to surface water as depicted in the image below.

Response: N/A

(e) Seawalls, retaining walls, and riprap revetments shall be designed and installed to prevent erosion adjacent to the ends of the wall and to fully contain added fill so as to have no adverse impact to adjacent properties. Any addition, or removal, of material used to alter the elevation of the property, as measured from the top of the bank (TOB) landward, will be required to meet the drainage requirements as outlined in LDC section 4-2224.

Response: The proposed retaining wall is designed to contain fill at an elevation consistent with the existing seawalls. Refer to Cross Section B-B.

(f) *Drainage systems.* French drains or other drainage systems that divert water from going over the retaining wall and/or seawall are required on all new or replacement seawalls and retaining walls and must be approved by the city. See example in Figure 7-5. The drainage system must run the entire length of the seawall or retaining wall.

Response: The upland site is part of a multi-family development and will include a stormwater management system that diverts all surface run-off to interior treatment areas before discharge to waters of the state. The new retaining wall will include a French drain treatment.

(g) *Riprap revetment.*

(1) Riprap must be located and placed so as not to damage or interfere with the growth of wetland vegetation.

Response: The proposed riprap is located 75 feet away from wetland vegetation to the north and 20 feet away to the south. This will not damage or interfere with the growth of wetland vegetation.

(2) Material used for riprap should be sized properly for intended use, be a minimum average of 12 inches in diameter, and installed at a 45-degree angle or less on top of filter fabric or equivalent material to prevent erosion of subgrade. Riprap must be clean and free of debris deemed harmful to the environment and public safety. Riprap shall not be cemented together.

Response: The material used for riprap will vary in diameter from 36" at the toe to nothing less than 12" diameter, evenly distributed in rock sizes.

From: Haynes, Lesli
To: Jack Archambault
Cc: "Hans Wilson"
Subject: RE: [EXTERNAL] Raud1 SlipCountRatio 2-15-22
Date: Monday, February 21, 2022 12:28:20 PM
Attachments: image002.jpg
image001.png
image007.png
image004.jpg
BB Sunset Properties LLC.xlsx

Mr. Archambault,

Good afternoon. As requested, we've reviewed the below listed properties for consistency with the Lee County Manatee Protection Plan (MPP). Based on current conditions and data, the project ranks out as follows. The full score sheet is attached for reference.

2/18/2022

Facility	Corps reach	Shore ft	existing "slips"	ratio	rounded	Slips per 100'	max slip	expansion
BB Sunset Properties LLC	30	445	not provided	4.45	5	5	25	
				0	0			
2 parcels								

In accordance with Section 8.4 of the MPP, the project qualifies as**Conditional**. This property can construct a total of 25 slips and remain compliant with the MPP. This number is the total number of allowed slips and existing slips should be subtracted from any new construction. Please note that assumptions have been made about the depth and presence of submerged aquatic vegetation that may need to be specifically addressed by the applicant.**Mitigation measures** for new slips at this property include but are not limited to: 1. Standard manatee construction conditions; 2. Manatee education activities as required per section 8.4.5; and 3. Funding for enhanced marine law enforcement per section 8.4.5. Note that the MPP determination does not alleviate the need to comply with zoning and all other applicable local, state and federal regulations, some or all of which may be more restrictive. Please feel free to contact me with any questions.

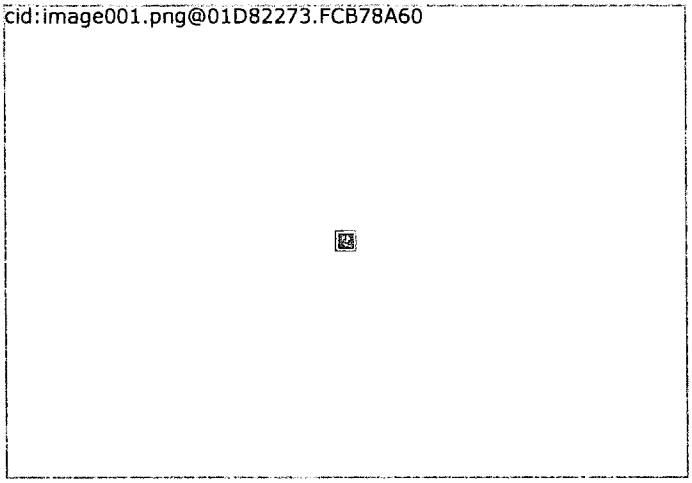
Thank you,
Lesli

Lesli Haynes | Marine Environmental Specialist
Natural Resources Division
1500 Monroe Street, 3rd Floor
Fort Myers, FL 33901
office: (239) 533-8566
email:lhaynes@leegov.com
website: www.leegov.com

From: Jack Archambault <jack@hanswilson.com>
Sent: Tuesday, February 15, 2022 1:58 PM
To: Haynes, Lesli <LHaynes@leegov.com>
Cc: 'Hans Wilson' <hans@hanswilson.com>
Subject: [EXTERNAL] Raud1 SlipCountRatio 2-15-22

Good afternoon Lesli,

Requesting a slip count ratio for 27523 Big Bend Rd based off the Lee County Manatee Protection Plan. The property is being constructed into a multi-slip facility. Referring to the Layouts attached, the 1974 and 2021 aerials showing comparisons of the shorelines. It appears the seawall and basin were existing before 1989 and therefore applies to the definition of a linear shoreline and can be included in the shoreline count. The shoreline was calculated using a 1974 aerial of Lee County. Refer to "Raud1OverallAerial19742-15-22.pdf" (attached). The shoreline's limits were extended from the property boundaries that were surveyed by Grady Minor & Associates. The shoreline, according to the 1974 aerial and the Grady Minor surveyed property lines, is about 445 linear feet. Refer to "Raud1ShorelineCompare2-15-22.pdf" (attached).



Best Regards,

Jack W. Archambault, EI
O: 239-334-6870
C: 239-464-7307
F: 239-334-7810
www.hanswilson.com

KNOWLEDGE QUALITY SERVICE

Receive updates from Lee County Government bysubscribing to our newsletter

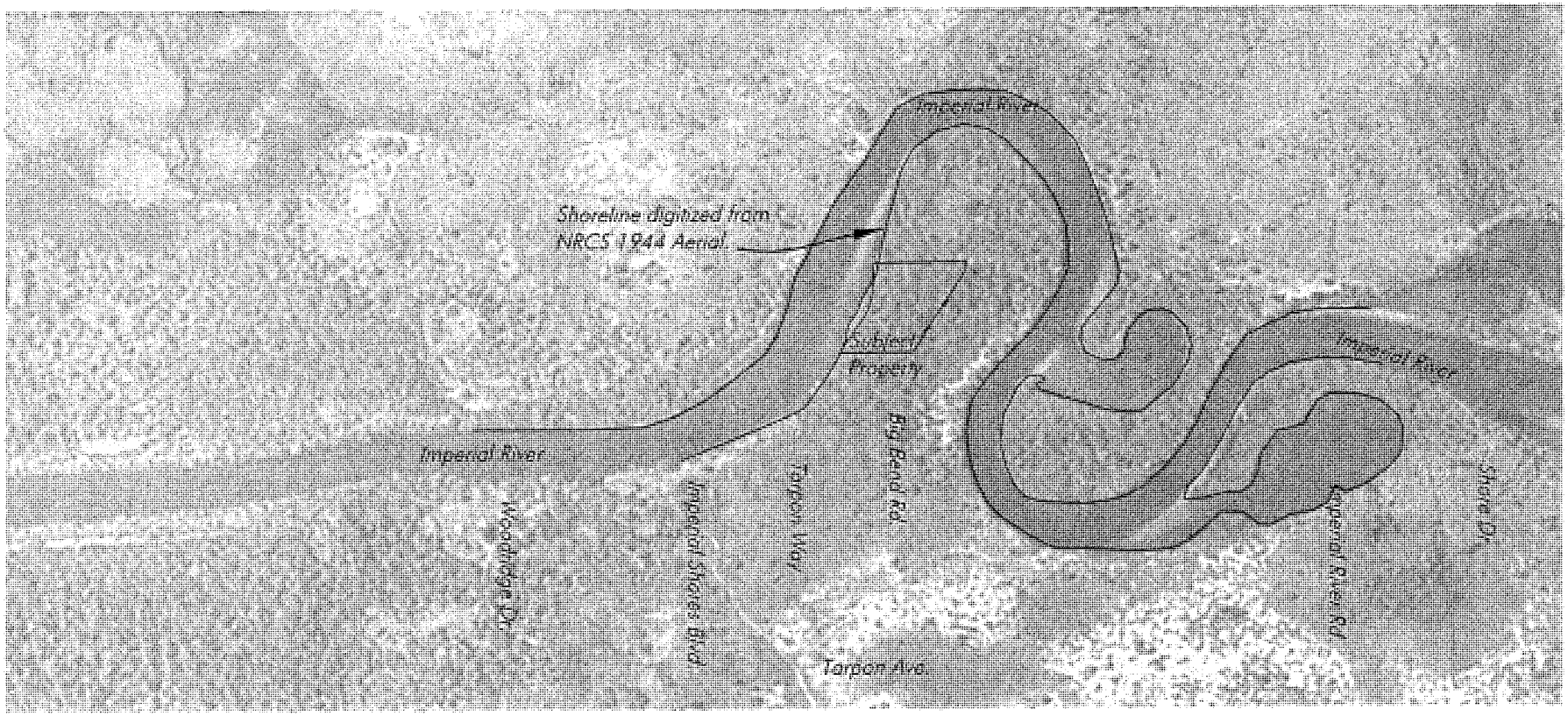
Please note: Florida has a very broad public records law. Most written communications to or from County Employees and officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

SECTION: 32
TOWNSHIP: 47 South
RANGE: 25 East

NRCS Aerial 1944

0 250 500
SCALE FEET



Overall Aerial - 1944

SCALE: 1" = 500'

DISCUSSION PLANS, NOT FOR CONSTRUCTION

February 14, 2024 5:02:07 p.m.
Drawing: RAUD1MASTER.DWG

HWA Hans Wilson & Associates
1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

2-14-24

JWA

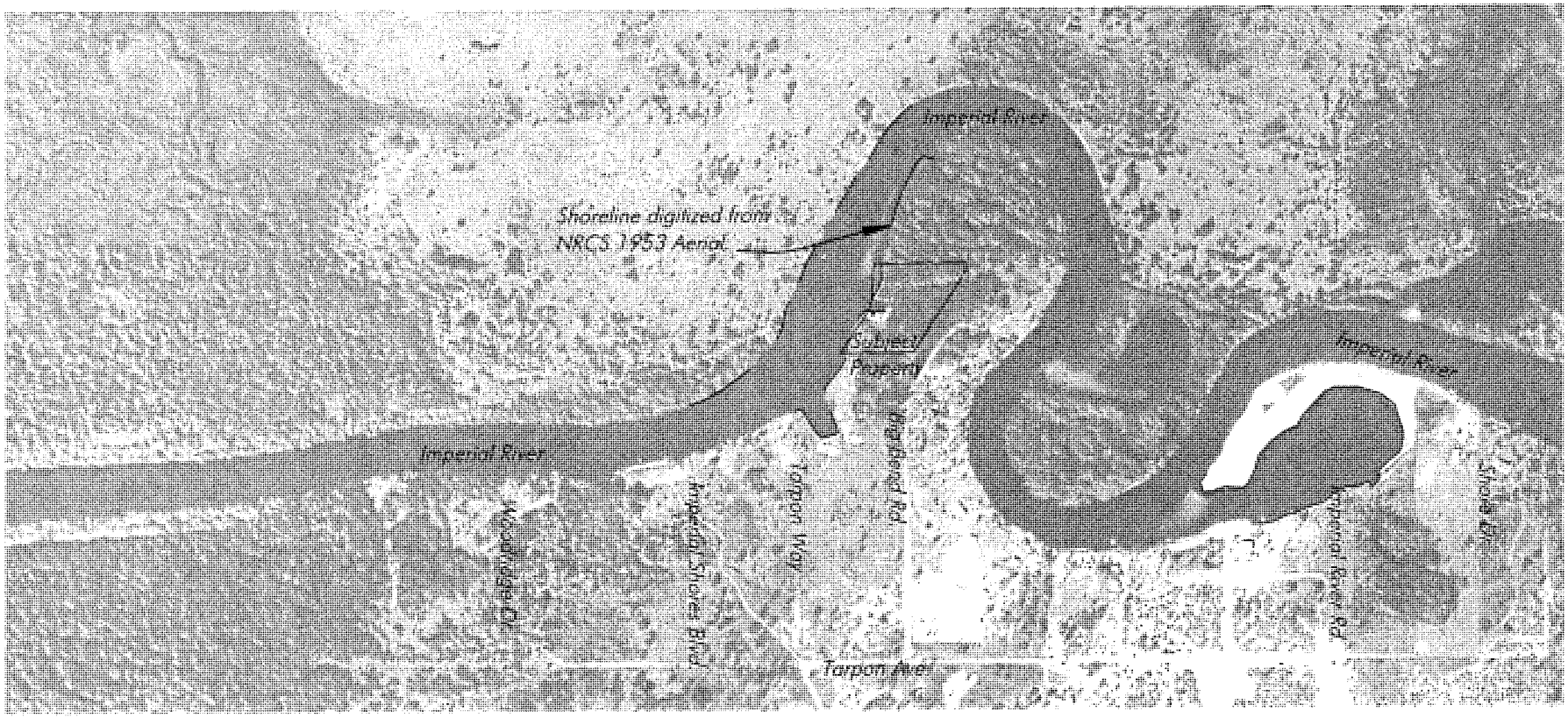
Idyll Construction, Inc.

SHEET

SECTION: 32
TOWNSHIP: 47 South
RANGE: 25 East

NRCS Aerial 1953

0 250 500
SCALE FEET



Overall Aerial - 1953

SCALE: 1" = 500'

DISCUSSION PLANS, NOT FOR CONSTRUCTION

February 14, 2024 5:02:07 p.m.
Drawing: RAUD1MASTER.DWG

HWA Hans Wilson & Associates
1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

10-18-22
JWA

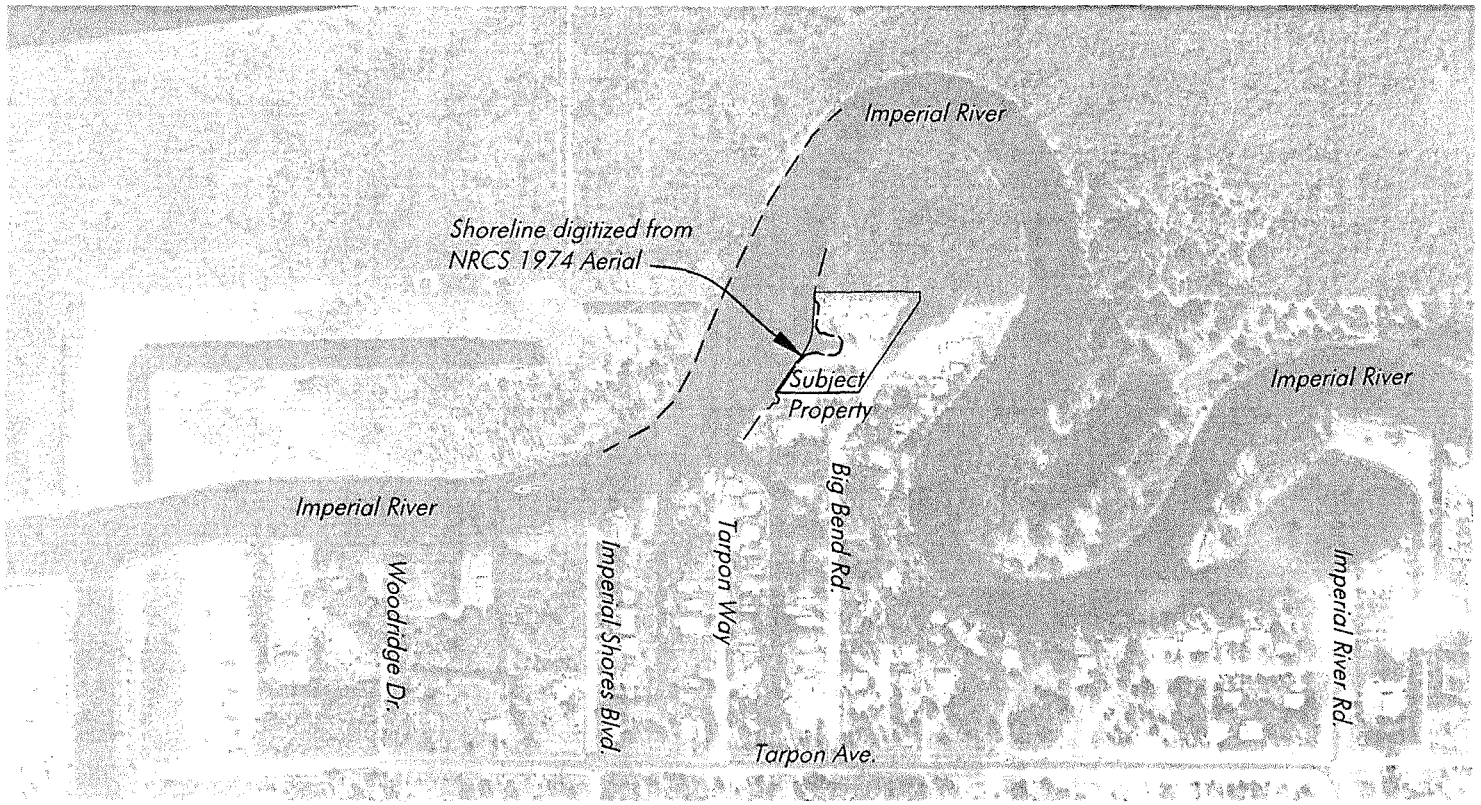
Idyll Construction, Inc.

SHEET

SECTION: 32
TOWNSHIP: 47 South
RANGE: 25 East

Lee County Aerial 1974

0 250 500
SCALE FEET



Overall Aerial - 1974

SCALE: 1" = 500'

Note: Property lines surveyed by Grady Minor & Associates.

DISCUSSION PLANS, NOT FOR CONSTRUCTION

February 14, 2024 5:02:07 p.m.
Drawing: RAUD1MASTER.DWG

HWA Hans Wilson & Associates
1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

2-14-24

JWA

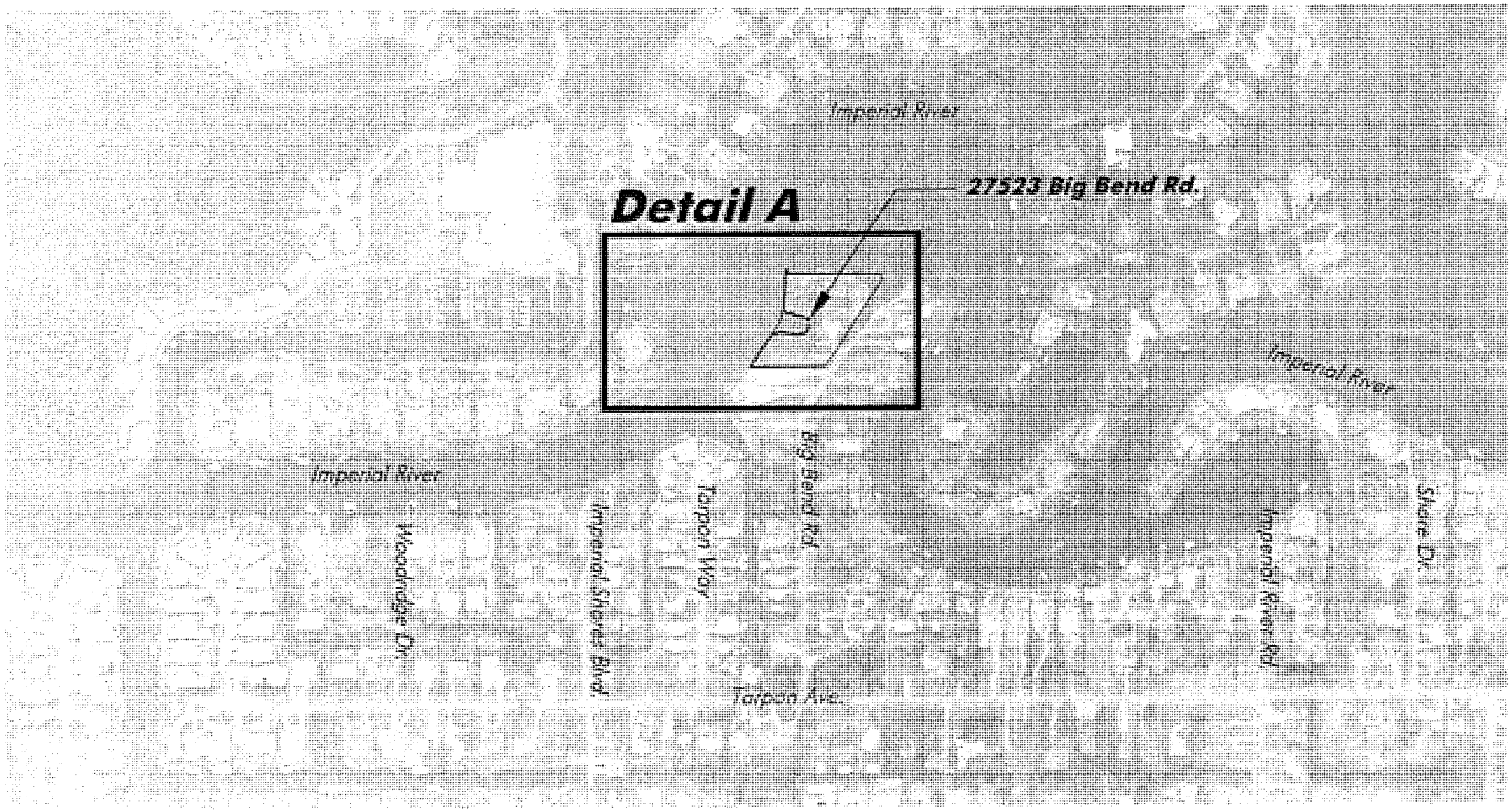
Idyll Construction, Inc.

SHEET

SECTION: 32
TOWNSHIP: 47 South
RANGE: 25 East

Lee County Aerial 2021

0 250 500
SCALE FEET



Overall Aerial

SCALE: 1" = 500'

DISCUSSION PLANS, NOT FOR CONSTRUCTION

February 14, 2024 5:02:07 p.m.
Drawing: RAUD1MASTER.DWG

HWA Hans Wilson & Associates
1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

2-14-24
JWA

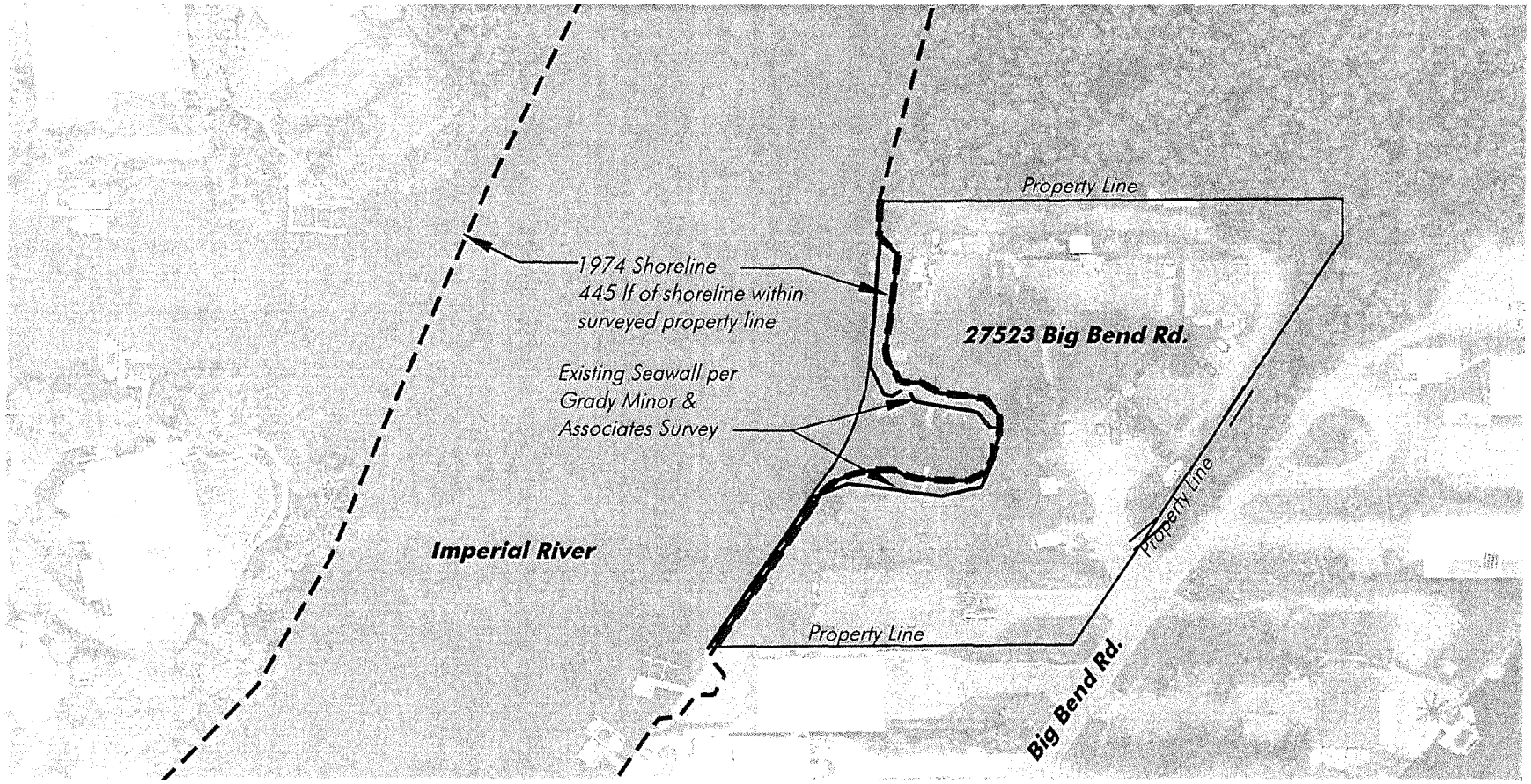
Idyll Construction, Inc.

SHEET

SECTION: 32
TOWNSHIP: 47 South
RANGE: 25 East

Lee County Aerial 2021

0 50 100
SCALE FEET



Detail A - Shoreline Comparison

SCALE: 1" = 100'

Note: Property lines surveyed by Grady Minor & Associates.

DISCUSSION PLANS, NOT FOR CONSTRUCTION

February 14, 2024 5:02:07 p.m.
Drawing: RAUD1MASTER.DWG

HWA Hans Wilson & Associates
1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

2-14-24

JWA

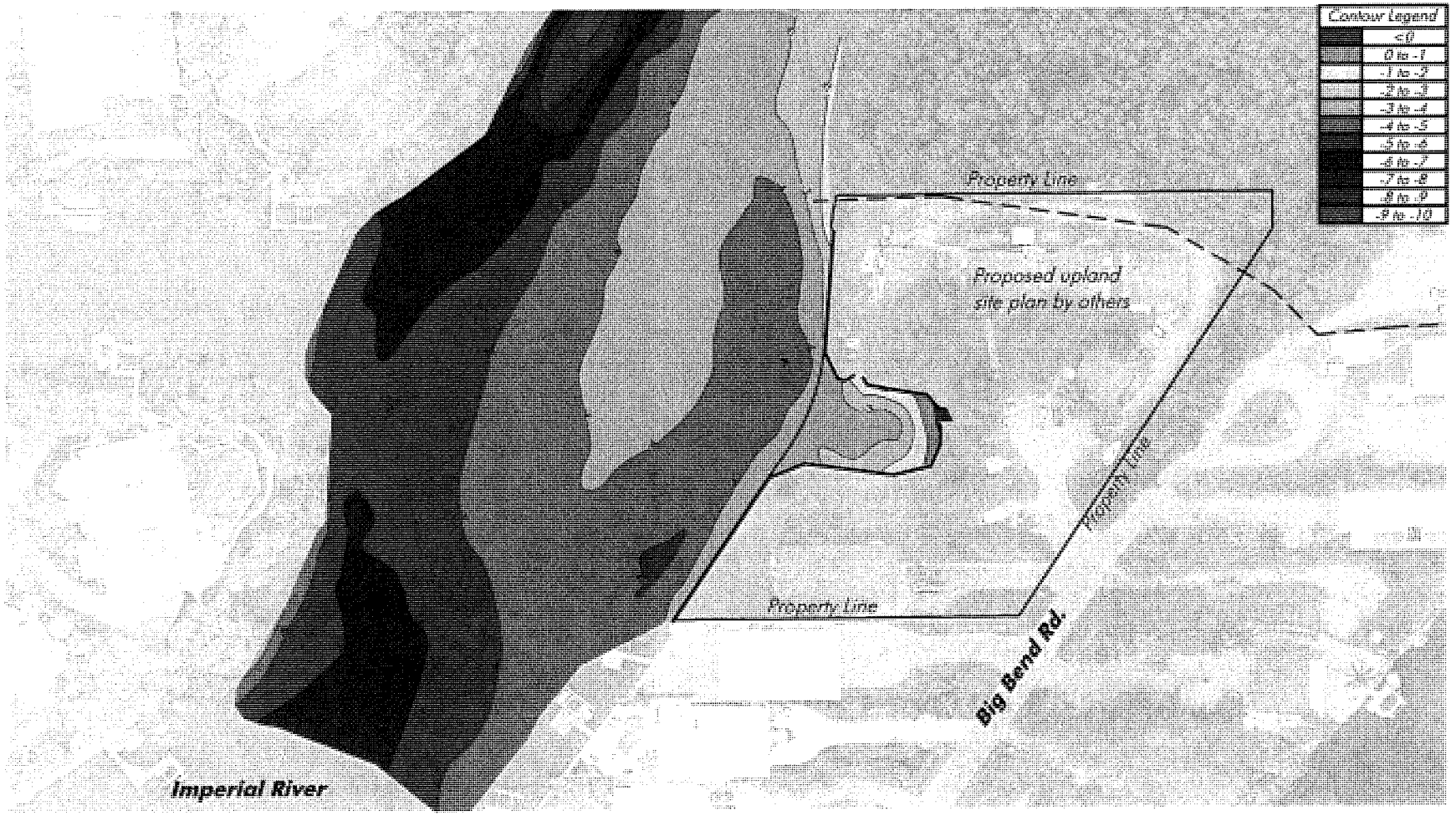
Idyll Construction, Inc.

SHEET

SECTION: 32
TOWNSHIP: 47 South
RANGE: 25 East

Lee County Aerial 2021

0 50 100
SCALE FEET



Notes: Bathymetric survey completed by HWA, Inc. on 12-16-21. Depths reference MLW per DEP Tidal Datum Request. MLW El = -0.58' NAVD88.

Detail A - Bathymetric Survey

SCALE: 1" = 100'

February 14, 2024 5:02:07 p.m.
Drawing: RAUD1MASTER.DWG

DISCUSSION PLANS, NOT FOR CONSTRUCTION

HWA Hans Wilson & Associates
1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

2-14-24

JWA

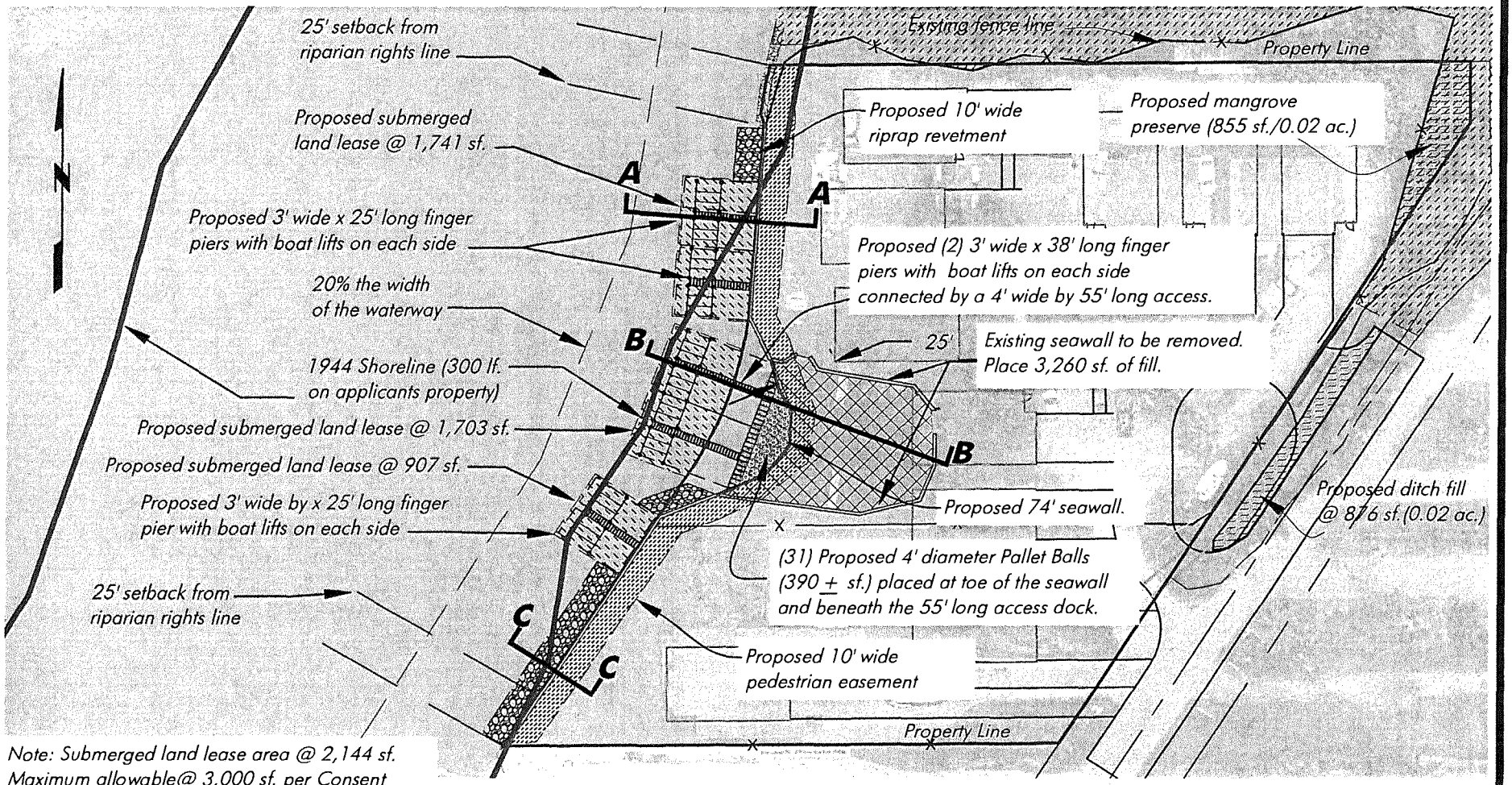
Idyll Construction, Inc.

SHEET

SECTION: 32
TOWNSHIP: 47 South
RANGE: 25 East

Lee County Aerial 2021

0' 30' 60'
SCALE FEET



Note: Submerged land lease area @ 2,144 sf. Maximum allowable@ 3,000 sf. per Consent to Use (Chap. 18-21 F.A.C.)

Detail B - Proposed Site Plan

SCALE: 1" = 60'

Notes: Bathymetric survey completed by HWA, Inc. on 12-16-21. Depths reference MLW per DEP Tidal Datum Request. MLW El = -0.58' NAVD88.

DISCUSSION PLANS, NOT FOR CONSTRUCTION

Proposed upland site plan by Grady Minor.

February 14, 2024 5:02:07 p.m.
Drawing: RAUD1MASTER.DWG

HWA Hans Wilson & Associates
1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

2-14-23

HJMW

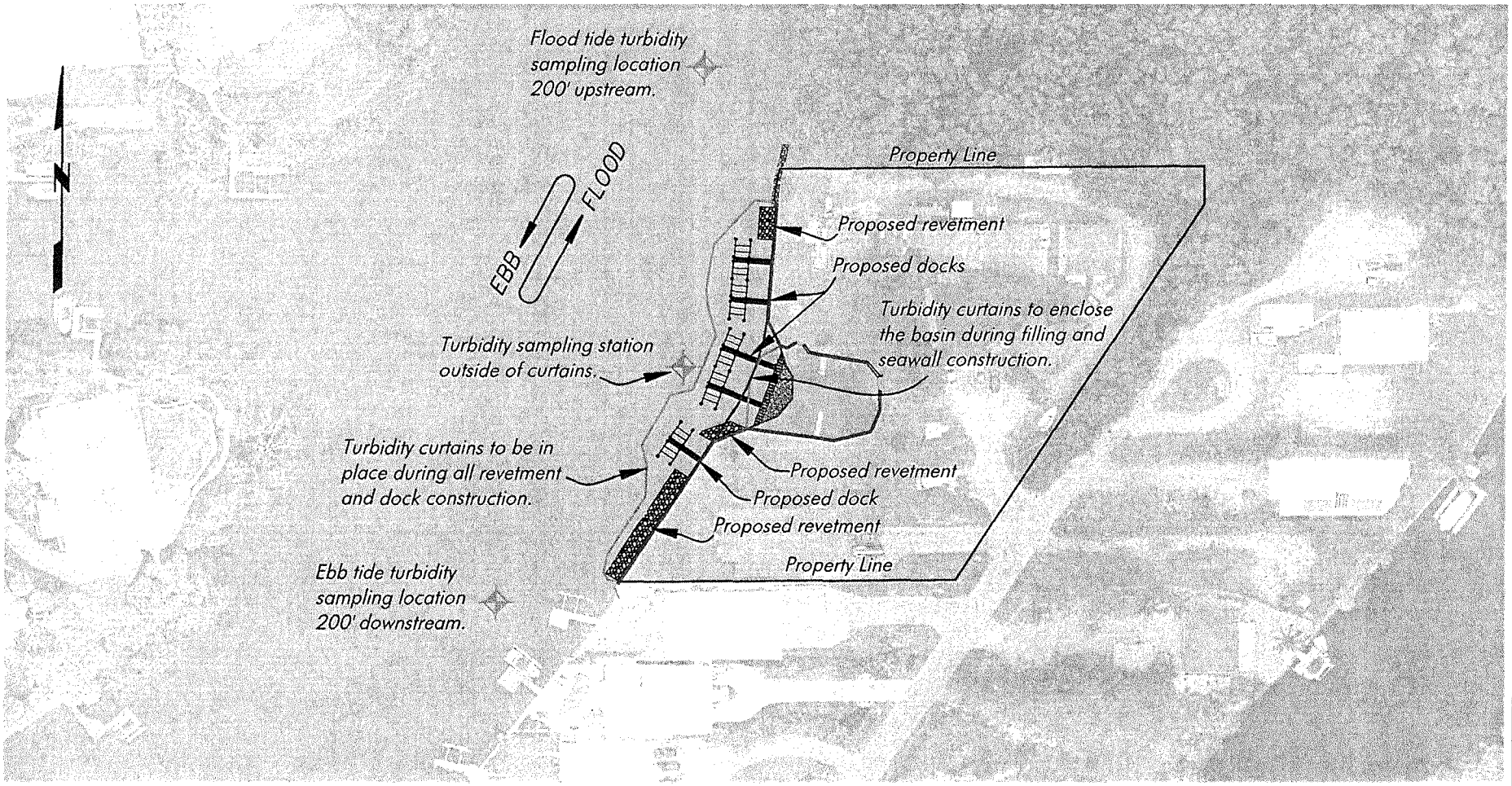
Idyll Construction, Inc.

SHEET

SECTION: 32
TOWNSHIP: 47 South
RANGE: 25 East

Lee County Aerial 2021

0' 50' 100'
SCALE FEET



Detail B - Proposed Turbidity Mgmt

SCALE: 1" = 100'

Notes: Bathymetric survey completed by HWA, Inc. on 12-16-21. Depths reference MLW per DEP Tidal Datum Request. MLW El = -0.58' NAVD88.

DISCUSSION PLANS, NOT FOR CONSTRUCTION

February 14, 2024 5:02:07 p.m.
Drawing: RAUD1MASTER.DWG

HWA Hans Wilson & Associates

1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

2-14-24

HJMW

Idyll Construction, Inc.

SHEET

Sharon Umpenhour

From: Vovsi, Eman M. <Eman.Vovsi@DOS.MyFlorida.com>
Sent: Tuesday, August 15, 2023 12:01 PM
To: Sharon Umpenhour
Subject: RE: BBSPDO | Historical/Archaeological Search
Attachments: Template_102.pdf

Completed; no cultural resources detected

From: Sharon Umpenhour <SUmpenhour@gradyminor.com>
Sent: Tuesday, August 15, 2023 8:55 AM
To: FMSFILE <FMSFILE@dos.myflorida.com>
Subject: BBSPDO | Historical/Archaeological Search

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Good morning,
I would like to request an historical/archaeological search for Section 32, Township 47 East, Range 25 South, more particularly a 1.5+/- acre parcel located on the north end of Big Bend Road in the City of Bonita Springs, Florida.

Property address is 27495-511 and 27523 Big Bend Road, Bonita Springs, FL.

Attached are Location Maps for reference.

Regards,

Sharon Umpenhour
Senior Planning Technician

GradyMinor

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Bonita Springs, FL 34134
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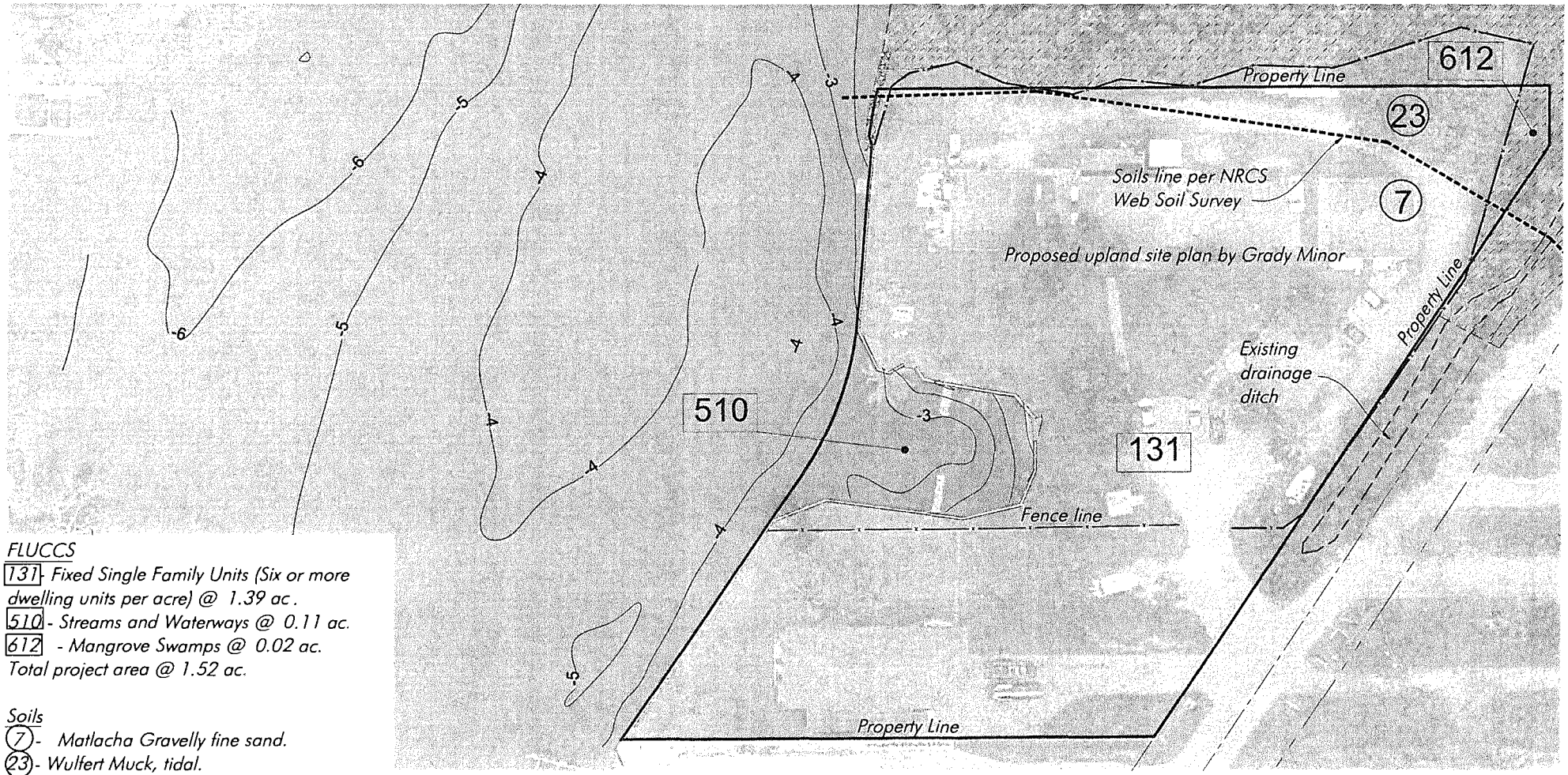
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the responsibility of the recipient to reconcile this electronic file/data with the approved and certified "plan of record" along with actual project site conditions. Q. Grady Minor & Associates, P.A. reserves the right to revise, update and improve its electronically stored data without notice and assumes no responsibility due to a virus or damages caused by receiving this email.



SECTION: 32
TOWNSHIP: 47 South
RANGE: 25 East



FLUCCS
131- Fixed Single Family Units (Six or more dwelling units per acre) @ 1.39 ac.
510 - Streams and Waterways @ 0.11 ac.
612 - Mangrove Swamps @ 0.02 ac.
Total project area @ 1.52 ac.

Soils
(7) - Matlacha Gravelly fine sand.
(23) - Wulfert Muck, tidal.

Detail A - FLUCFCS/Soils

SCALE: 1" = 20' on 24" x 36" paper

FLUCFCS Codes from Florida Dept. of Transportation Handbook, January 1999.

Notes: Bathymetric survey completed by HWA, Inc. on 12-16-21. Depths reference MLW per DEP Tidal Datum Request. MLW El = -0.58' NAVD88.

HWA
Hans Wilson & Associates
1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

Riverbend RPD
Idyll Construction

DATE: 8-25-23
Revised: 2-9-24
FILE: RAUD-1
SCALE
DRAFTER: HWW
DATUM: NAVD
SHEET

1. Deviation 1 seeks relief from LDC Section 3-418 (d)(6) requires if roads, drives, or parking areas are located less than 125 feet from an existing residential subdivision or residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet. Where residences will be constructed between the road, drive, or parking area and the existing residential subdivision or lots, the wall or wall and berm combination are not required. Uses or activities that generate noise, dust, odor, heat, glare, or other similar impacts, must provide a type C or F buffer unless it can be shown the proposed development will not have a significantly adverse impact on adjacent property to instead allow a 10' wide buffer with 8' high wall and landscaped between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet.

   Justification:
   The proposed development will "appear" to be single family residence but will "function" as multi-family without lot lines and associated HOA docs. The appearance of the development will be consistent with the abutting residential neighborhood. Furthermore, each home will have a driveway or shared driveway that connects directly to Big Bend Road. The driveways don't function like a traditional roadway.

2. Deviation 2 is approved, subject to **Condition 9**, granting relief from Land Development Code ~~§34-934~~Section 4-740, use regulations table, requiring that model units be approved with an Administrative Action, to allow Model Units to be approved as a permitted use with the RPD rezoning. **(Previously approved by ZO-10-02)**

3. Deviation 3 seeks relief from LDC Section 3-417 (b)(6), Indigenous native vegetation. Setbacks, which requires a minimum 30-foot setback from all preserve (wildland) areas is required for buildings and accessory structures for the purposes of fire protection. Buildings and accessory structures located closer than 30 feet from a preserve (wildland) area shall require special mitigation measures as determined by the Bonita Springs Fire Control and Rescue District, in accordance with the National Fire Protection Association ("NFPA"), Standard 1144, "Standard for Protection of Life and Property from Wildfire." To instead allow structures to be located 10 feet from an off-site preserve and to provide a wildland mitigation plan with the development order.

   Justification:
   The off-site preserve is a mangrove preserve. The area north of the RPD is adjacent to the Imperial River and the risk from wildfire is non-existent. The risk of fire in this location is de minimis. The Bonita Springs Fire and Rescue District has approved the deviation, subject to submission of a Wildland Fire Mitigation Plan. There is a proposed 10-foot-wide pedestrian easement that allows structures to be located 10 feet from the on-site preserve, subject to submission of a Wildland Fire Mitigation Plan Reference Detail B- Proposed Site Plan.

4. Deviation 4 seeks from relief LDC Section 3-418 (d)(3), buffering requirements, which requires a 15 foot wide type 'D' buffer to instead allow a modified landscape buffer with an average of 1 tree per ROW abutting residential unit, planting within the ROW abutting dry detention area (cypress trees or similar), and no buffer required when abutting mangroves".

   Justification:
   In an attempt to have a unified appearance with the existing residential community, the proposed development is looking to have similar landscaping as the existing abutting residential homes, with open view corridors, limited shrubs or bushes, and front yard canopy trees.

5. Deviation 5 seeks relief from LDC Section 3-417(b)(1)a, Indigenous native vegetation, which requires a minimum setback of 30 feet is required from any habitable structure to instead allow for a minimum setback of 10 feet from the .02 acre mangrove preserve.

   Justification:
   The reduced setback is applicable for a single structure and the 10-foot dimension is for the closest portion of the home to the preserve. The .02-acre preserve is immediately adjacent to Big Bend Road and has been impacted by the road construction. The Bonita Springs Fire and Rescue District has approved the deviation from a preserve setback, and we will provide a Wildland Fire Mitigation Plan with the Development Order.

6. Deviation 6 seeks relief from LDC Section 4-741(b)(1)b, Minimum setbacks of structures and buildings from development perimeter boundaries, which requires all buildings and structures must be set back from the development perimeter a distance equal to the greater of:

   Fifteen feet, if the subject property is, or will be zoned RPD, MHPD, CFPD, or CPD.

   To instead allow buildings #1, #7 and #10 to have a ten-foot setback from the perimeter of the RPD boundary as shown on the MCP.

   Justification:
   The proposed setback reduction to 10 feet only applies to buildings #1, #7 and #10. Building #1 is adjacent to a mangrove preserve and the applicant has requested a deviation from the 30-foot setback from a preserve. The setback is supported by the Bonita Springs Fire and Rescue District with submission of a wildland mitigation plan with the D.O. For building #10 the reduction in perimeter setback is only applicable to the southeast corner of the proposed structure, which can actually be a minimum of 11 feet from the RPD boundary. the balance of the structure will comply with the 15-foot setback requirement. The slight reduction in setback will allow the internal drive to have appropriate turning radii for emergency vehicles and to provide for appropriate building separation.

DIVISION 2. APPLICATION AND PROCEDURE FOR APPROVAL

Sec. 4-293. Generally.

All applications for planned development zoning or master concept plan approval must follow the requirements detailed in sections 4-193 through 4-195 and the requirements set out in this division.

(Ord. No. 11-02, § 3(4-371), 1-19-2011)

Sec. 4-294. Preapplication conference.

The applicant may initiate the planned development process by requesting an optional preapplication conference with the department staff. In this request, the applicant shall provide a description of the property in question, the location of the property, the existing use, special features and the use proposed. Through this meeting, the applicant may avail himself of staff in order to be oriented to the planned development process, to determine what application materials are required (if a minor planned development), and to be advised of the impacts of the Bonita Plan, surrounding development and zoning, and other public policy on the development proposal.

(Ord. No. 11-02, § 3(4-372), 1-19-2011)

Sec. 4-295. Application.

(a) *Minimum required information for all planned development zoning applications.* Rezoning applications for planned developments must include the following information, supplemented, where necessary, with written material, maps, plans, or diagrams. Wherever this section calls for the exact or specific location of anything on a map or plan, the location must be indicated by dimensions from an acceptable reference point, survey marker or monument.

(1) *General application.* A general application for public hearing in accordance with the requirements set forth in sections 4-193, through 4-195. Two or more planned development categories may be combined in one application under the following circumstances:

a. The subject property is divided into development areas, each of which corresponds to a different planned development category; and

b. Each development area is identified by a separate legal description and boundary sketch.

(2) *Filing fee.* The filing fee in accordance with the duly adopted fee schedule. (See section 4-31.)

(3) *Covenants.* A covenant and documentation of unified control. (See section 4-296.)

(4) *Description of existing conditions.* The application for a planned development must be accompanied by:

a. A map or other depiction of the existing zoning and current land uses (i.e., single-family residence, multiple-family building, retail commercial, office building, etc.) surrounding the tract or parcel to a distance of 375 feet.

b. An aerial photograph with the site clearly delineated.

c. Maps drawn at the same scale as the master concept plan marked or overprinted to show:

1. Soils, classified in accordance with the USDA/SCS system;

2. Vegetation and ground cover, classified in accordance with the state land use and cover classification system;

3. Significant areas of rare and unique upland habitats as defined in the Bonita Plan; and

4. A county topographic map (required if available) or a USGS quadrangle map showing the subject property.

d. A map or other depiction of the property in relation to existing and proposed public transit routes, as well as to bus stops, if located within the Lee Tran public transit service area.

e. A map showing the location of the property to be developed in relation to arterial and collector streets as well as the location of existing easements and rights-of-way on or abutting the property.

f. The nature and location of any known or recorded historical or archaeological sites as listed on the state master site file or the county historical Site survey, and the location of any part of the property that is located within Level 1 or Level 2 zones of archaeological sensitivity pursuant to chapter 5. The plan must show the outline of historic buildings and approximate extent of archaeological sites. A description of proposed improvements that may impact archaeological or historical resources must also be provided.

(5) *Explanation.* A narrative explanation as to how the proposed development complies with the Bonita Plan, the design standards set forth in section 4-325, and the guidelines for decision-making embodied in section 4-131.

(6) *Master concept plan.* All applications must be accompanied by a graphic illustration (master concept plan) of the proposed development. Copies of the master concept plan must be provided in two sizes, 24 inches by 36 inches, and 11 inches by 17 inches in size. Both sizes of the master concept plan must be clearly legible and drawn at a scale sufficient to adequately show and identify the following information:

a. The exact location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development. If a subdivision, the plan must also show the general location of all proposed internal street rights-of-way or easements and the general location of all points of vehicular ingress and egress from the proposed internal rights-of-way or easements into multiple-family, commercial, or industrial use lots.

b. Where the subject property will be divided into lots or parcels, the plan must indicate the general location, configuration, and approximate dimensions of the lots or parcels (including outparcels) as well as lot coverage, and the minimum proposed setbacks for principal structures. The proposed use of the lots or parcels must be keyed to the list of proposed uses submitted with the application. If the property development regulations for a specific zoning district will be used, reference to the specific district will be sufficient.

c. Individual development areas (i.e., residential, retail, office, manufacturing, mixed use-listed, etc.) with detail showing:

1. The boundary of each development area within which buildings, parking or other uses will be located;

2. The maximum height, in feet and number of habitable stories; if parking under the buildings is proposed, the number of stories proposed for parking must be indicated and included in the total maximum height of the building;

3. If residential, the maximum number of dwelling units by type;

4. If a hotel or motel, the number of rooms by size;

5. If a health care facility, the number of beds; and

6. If commercial or industrial, the types and the total floor area of each use.

d. The general location of service areas for delivery of goods or services must be shown for all developments that are not residential subdivisions.

e. The general location of proposed parks and recreation areas and facilities, as well as indigenous areas to be preserved.

f. The percentage of open space, unless the proposed development is a development consisting solely of conventional single-family dwelling units on lots of no less than 6,500 square feet. For commercial and industrial developments, the percentage of open space within each lot or outparcel must be as set forth in section 4-328(c).

g. The minimum width and composition of all proposed buffers along the perimeter of the subject property, as well as between the individual uses, if the types of proposed uses require buffer separations. References to types of buffers as described in chapter 3 are acceptable.

h. Proposed access and facilities for public transit in accordance with sections 4-325(e) and 3-450.

i. The general location of excavations for on-site fill and wet retention. If the applicant proposes to remove excavated material from the property a planned development for mining and a general mining permit may be required. See section 3-331.

j. If the development is located within a floodplain or flow way, it is the applicant's responsibility at the time of local development order or district permitting to compensate for impacts to flood storage capacity or flow ways due to filling of the site.

k. The location of any requested deviations, keyed to the schedule of deviations, including drawings demonstrating the effect on the site plan.

(7) *Traffic impact statement.* A traffic impact statement in a format and to the degree of detail required by a form furnished by the city and in conformance with the adopted administrative code. Upon written request, the director may waive this requirement for minor planned developments.

(8) *Schedule of uses.* A schedule of uses keyed to the master concept plan as well as a summary for the entire property, including the following information, as well as:

a. The types of uses proposed for the entire site. For projects with residential uses, the summary must include the types of proposed dwelling units.

b. The number of units (gross square feet for commercial/industrial uses, number of units for residential or motel/hotel uses, beds for institutional types of uses, etc.) for each proposed use.

c. The proposed percentage of open space for the entire site.

(9) *Schedule of deviations.* A schedule of deviations and a written justification for each deviation requested as part of the master concept plan. The location of each requested deviation must be indicated on the master concept plan.

(10) *Filling of site to compensate for impacts.* If the development is located within a floodplain or flow way, it is the applicant's responsibility to compensate for impacts to flood storage capacity or flow ways due to filling of the site at the time of local development order or district permitting.

(b) *Additional required information for all major planned development zoning.*

(1) A written description of the surface water management plan that includes:

a. The runoff characteristics of the property in its existing state.

b. In general terms, the drainage concept proposed, including the outfall to canals or natural water bodies, including how drainage flows from adjacent properties will be maintained.

c. The retention features (including existing natural features) that will be incorporated into the drainage system and the legal mechanism which will guarantee their maintenance.

d. How existing natural features will be preserved. Include an estimate of the ranges of existing and post development water table elevations, where appropriate.

e. If the property is subject to seasonal inundation or subject to inundation by a stream swollen by the rains of a 100-year storm event, indicate the measures that will be taken to mitigate the effects of expectable flooding.

(2) For large developments (defined in chapter 9), a protected species survey as required by section 3-455.

(3) If the development is to be constructed in phases or if the traffic impact statement utilized phasing, then a description of the phasing program must be submitted.

(4) Developments of regional impact. The contents of a complete and sufficient application for development approval (ADA) per F.S. ch. 380 duplicate or exceed the submittal requirements of this chapter.

(c) *Amendments to built planned developments (PD).*

(1) Part or all of a planned development which is built may be the subject of an application for a variance or other approval covered by this chapter wherein the subject property is the only part of the original planned development for which the approval is sought. If the subject property meets the threshold for a development of city impact, it will be reviewed in accordance with the provisions in this chapter which apply to developments of city impact. If the subject property is not a development of city impact, it will be reviewed in accordance with the provisions in this chapter which apply to conventional zoning districts. In either case, the applicant will be the owner of the subject property and the consent of the owners of the remainder of the original planned development will be unnecessary. However, these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property.

(2) For purposes of this subsection (c), the term "built" means that all of the roads, utilities, buffering, open space, surface water management features and structures, common space, common amenities, common landscaping, gatehouses, entrance signs, entrance ways and other similar items identified as part of the final approved master concept plan have been constructed and acknowledged by the city as complete. In the case of residential planned developments or mixed developments which include residential structures, the term "built" does not mean that all residential structures must have been constructed on individual platted lots.

(d) *Sufficiency.*

(1) No hearing will be scheduled for an application for a planned development until the application has been found sufficient.

a. All applications for planned developments will be deemed sufficient unless a letter advising the applicant of insufficiencies has been provided within 45 working days of submittal of the application.

b. All amended applications will be deemed sufficient unless a subsequent letters advising the applicant of any insufficiencies has been mailed within 45 working days of the resubmittal. The contents of insufficiency letters will be limited to brief explanations of the manner in which insufficient applications do not comply with the formal requirements in this section and any provisions within the Land Development Code.

c. Staff may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. Before a third request for additional information, the applicant must be offered a meeting to attempt to resolve outstanding issues. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the city, at the applicant's request, shall proceed to process the application for approval or denial.

d. After notice of insufficiency, the applicant has 60 days to submit supplemental or corrected documents, unless a longer time is agreed to in writing by the director and the applicant prior to the expiration of the 60 days. If the supplement or corrections are not submitted within the 60 days (or other time period agreed to) the application will be deemed withdrawn.

e. Once an application has been found sufficient, it will be scheduled for public hearing. Any new information submitted by the applicant, or any changes made to information submitted for the sufficiency review, which is provided after the finding of sufficiency may, at the discretion of the director, be grounds for a deferral or continuance of the public hearing, depending on the advertised status of the hearing.

(2) DRIs. Where a proposed planned development is identified by staff as a possible development of regional impact, the applicant will be notified that the application will be deemed sufficient only when accompanied by either a binding letter of interpretation from DEO or a complete and sufficient application for development approval (ADA). Failure by the city to notify the applicant in a timely manner (within 30 days of the application) will nullify any finding of insufficiency based on this requirement. Assuming the application is sufficient in all other respects, staff will commence its review of the planned development. However, there will be no hearing held before the zoning board until the applicant submits a binding letter of interpretation from DEO or a complete and sufficient ADA.

(Ord. No. 11-02, § 3(4-373), 1-19-2011; Ord. No. 17-04 , § 1, 4-5-2017)

Sec. 4-296. Covenant of unified control.

(a) Any applicant for a rezoning or master concept plan confirmation under the planned development regulations as provided in this article must submit documentation corroborating unified control over the subject property.

(b) If the initial applicant conveys all or part of the subject property to a subsequent purchaser, the conveyance is subject to the original covenant of unified control unless an amended covenant is filed with the director. This document must be filed within 60 days of closing, and must be recorded with other notices related to the planned development. This requirement does not apply to individual homesites or units (apartments) of a residential development or to any development wherein the obligation to enforce the regulations and conditions or covenants and restrictions is delegated to property owners or a condominium association or cooperative.

(Ord. No. 11-02, § 3(4-374), 1-19-2011)

Sec. 4-297. Prehearing conference.

Prior to the public hearing by the zoning board on an application under this division, community development may schedule and conduct a conference to facilitate a meeting of the applicant and staff persons from all relevant city, county, state, substate regional and federal agencies and special use districts. The purpose of this meeting is to identify, discuss and resolve various issues and to advise the applicant of staff concerns and potential recommendations. The product of this conference will include the staff's recommendations based upon the original or an amended application, and the applicant's written objections, if any.

(Ord. No. 11-02, § 3(4-375), 1-19-2011)

Sec. 4-298. Prehearing stipulation.

(a) If the applicant wishes to enter a stipulation under this division he must file a stipulation setting out the issues on which he and the staff do not agree, with the zoning board no less than one working day prior to the date of the hearing. The stipulation must be signed by the applicant or his representative and, if there are any disputed issues, by the city planner responsible for the preparation of the staff report. Neither the staff nor the applicant may alter their positions on issues that were not listed as disputed on the stipulation at the hearing without the consent of the other party or the zoning board.

(b) The prehearing stipulation will not be construed to limit the issues that may be raised by the zoning board or members of the general public. Neither the applicant nor the staff will be bound by the terms of the stipulation to the extent that new issues may be raised by the general public or the zoning board.

(c) If the stipulation is not filed by the date required in subsection (a) of this section, the hearing must be continued unless the zoning board determines that the absence of the stipulation will not materially impair the ability to understand the case.

(Ord. No. 11-02, § 3(4-376), 1-19-2011)

Sec. 4-299. Public hearing.

(a) *Hearing before zoning board.* After the staff prehearing conference required by this division, the application will be scheduled for a public hearing before the zoning board.

(1) At the public hearing the zoning board will consider the application in accordance with article II of this chapter.

(2) The recommendation made to the city council must be supported by formal findings that address the guidelines set forth in section 4-131. In addition, the findings must address whether the following criteria can be satisfied:

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

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

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

(3) If the zoning board determines that a recommended condition is insufficient, they may recommend an alternate condition for consideration by the city council.

(4) If the application includes a schedule of deviations pursuant to section 4-326, the zoning board's recommendation must approve, approve with modification or reject each requested deviation based upon a finding that each item:

a. Enhances the achievement of the objectives of the planned development; and

b. Preserves and promotes the general intent of this chapter to protect the public health, safety and welfare.

If the zoning board concludes that the application omits necessary deviations, they may include those omitted deviations in its recommendation without an additional hearing.

(5) As a condition of approval of a deviation, the zoning board may recommend that the applicant receive administrative approval of a more detailed development plan for each affected development area. Applications for administrative approval will be processed as administrative amendments in accordance with section 4-302 and may be granted by the director upon a finding that public health, safety, and welfare will not be adversely affected by the request.

(b) *Hearing before city council.*

(1) After the zoning board's hearing, an application for a planned development, together with all attendant information, staff reports and the zoning board minutes and draft ordinance of the recommendation, will be forwarded to the city council. The city council will consider the application in public hearing in accordance with article II of this chapter.

a. After reviewing all the identified information, the city council may either:

1. Continue further consideration until additional information is provided by the applicant or staff or until the applicant makes changes in the application, subject to re-review by the staff and the zoning board as required; or

2. Formally approve, approve with modification, or deny the application.

b. If the city council denies the application without prejudice, it may remand the proposal to the staff with directions to bring the application back to the zoning board once the application is amended. If new or additional information, not previously provided to the staff or the zoning board, is supplied by the applicant subsequent to the zoning board hearing, the city council may remand the application to the zoning board for rehearing.

(2) The decision of the city council must be supported by a formal finding that, in addition to the guidelines set forth in article II of this chapter, the criteria set forth in subsection (a)(2) of this section have or have not been satisfied.

(3) In addition to adopting a master concept plan for the planned development, the city council may adopt any special conditions necessary to address unique aspects of the subject property in the interest of protecting the public health, safety and welfare. If any recommended special condition is found to be insufficient, the city council may substitute its own language for such special condition in the final resolution.

(4) If a schedule of deviations from other provisions of this chapter (see section 4-326) is a part of the planned development application, the city council may approve, approve with modification, or reject the entire schedule or specific items based upon their finding that each item:

a. Enhances the achievement of the objectives of the planned development; and

b. Preserves and promotes the general intent of this chapter to protect the public health, safety and welfare.

(5) The city council may require, as a condition of approval of the deviation, that the applicant receive administrative approval of a more specific development plan for each affected development area or parcel. Applications for administrative approval will be processed as administrative amendments in accordance with section 4-302 and may be granted by the director only upon a finding that the public health, safety, and welfare will not be adversely affected by the request.

(6) If the city council denies or modifies the requested use, deviation, or other information shown on the master concept plan, a revised master concept plan must be submitted to community development reflecting the substance of the approved ordinance prior to execution of the ordinance. Legible copies of the revised master concept plan must be provided in three sizes, 24 inches by 36 inches, 11 inches by 17 inches, and 8½ inches by 11 inches.

(7) An application remanded for further consideration must be brought to hearing before the zoning board within six months of the date the remand order is rendered. If the application is not brought forward as ordered within six months, it will be deemed withdrawn. Thereafter, the applicant will be required to file a new application for consideration by the zoning board and the city council.

(Ord. No. 11-02, § 3(4-377), 1-19-2011; Ord. No. 12-13, § 1(4-377), 8-15-2012)

Sec. 4-300. Effect of planned development zoning.

(a) *Compliance with applicable regulations.* After the adoption of the master concept plan and the conditions and auxiliary documentation that govern it, any and all development and subsequent use of land, water and structures within the planned development must be in compliance with the following, in order of precedence:

(1) The Bonita Plan.

(2) Divisions 1, 2 and 3 of this article.

(3) The master concept plan and attendant conditions and auxiliary documentation.

(4) Applicable city development regulations in force at the time of final plan submission.

(5) The general provisions of this chapter, unless otherwise excepted by an approved schedule of deviations.

(b) *Applicability of development regulations.* All approvals of general aspects of the master concept plan (see section 4-295(a)(5)) are conceptual only, and are subject to all development regulations established to protect health, safety and welfare that are in force at the time of the final plan review. Reliance in detail on the approval of a general aspect of the master concept plan is not justified and is not in good faith.

(c) *Recording of notice.* The department must record a notice of master concept plan approval in the official records of the county. The notice should include a statement which explains that the master concept plan approval is an encumbrance on the real estate described in the plan.

(d) *Prohibitions.*

(1) The introduction of a use of land or water not provided for on the master concept plan or attendant documentation thereto.

(2) Creation of a development parcel or outparcel not specified on the master concept plan.

(3) No development parcel or outparcel may be created that is not of sufficient size and configuration to support the principal use proposed together with all accessory land and water uses, such as open space, parking, surface water management and the like, or that does not have permanent and irrevocable rights to such space or use on adjacent and abutting property.

(e) *Enforcement.* The obligation to enforce the conditions attached to the master concept plan remains with the original applicant until all of the subject property is developed and certificated for use and occupancy or until a subsequent owner assumes that obligation for all or part of the subject property. Completion or vacation of a phase of the development, or conveyance of a development parcel or outparcel, will relieve the original applicant only as to that phase, development parcel or outparcel, and then only when notice is filed and recorded in accordance with section 4-296. The obligation to enforce the conditions attached to a reaffirmed master concept plan will lie with whoever files the covenant of unified control for that reaffirmation.

(f) *Noncompliance.* If the city discovers noncompliance with the regulations or the master concept plan and its attachments, the city may withhold any permit, certificate or license to construct, occupy or use any part of the planned development. This will not be construed to injure the rights of tenants of previously completed and properly occupied phases.

(Ord. No. 11-02, § 3(4-378), 1-19-2011)

Sec. 4-301. Binding nature of approval of master concept plan.

All terms, conditions, safeguards and stipulations made at the time of the approval of a master concept plan are binding upon the applicant or any successor in title or interest to all or part of the planned development. Departure from the approved plans or failure to comply with any requirement, condition or safeguard constitutes a violation of this chapter.

(Ord. No. 11-02, § 3(4-379), 1-19-2011)

Sec. 4-302. Amendments to approved master concept plan.

(a) Amendments to an approved master concept plan or its attendant documentation may be requested at any time during the development of or useful life of a planned development.

(b) Amendments that may be approved by the director include, in general, any change to the interior of the development which does not increase density or intensity (i.e., number of dwelling units or quantity of commercial or industrial floor area), or decrease buffers or open space. The director may not approve a change which results in the substantial underutilization of public resources and public infrastructure committed to the support of the development. In addition, the director may not approve changes which result in a reduction of total open space, buffering, landscaping and preservation areas or which adversely impacts on surrounding land uses.

(c) All other requests for amendments to a master concept plan or its auxiliary documentation will treated procedurally as minor planned developments, but with application information and materials specified by section 4-295(a)(7).

(d) Any application for an amendment that proposes a development which, taken by itself, would constitute a major planned development (development of city impact see sections 4-195(b) and 4-272(b)(1)) may not be treated as a minor planned development unless it clearly meets the criteria set forth in section 4-272(b)(2). Otherwise, it must proceed as a new and separate major planned development.

(e) Notice of a plan amendment must be recorded in the same manner as the approved master concept plan itself.

(Ord. No. 11-02, § 3(4-380), 1-19-2011)

Sec. 4-303. Duration of rights conferred by adopted master concept plan.

(a) *Duration of rights for planned developments.*

(1) All development rights conferred by an adopted master concept plan are valid for five years from the date the planned development was approved by the city council, unless a greater time is approved for a development of regional impact (DRI). A master concept plan that is approved as part of a (DRI) is valid from the date the planned development was approved by the city council until the initial build out date provided in the DRI development order.

(2) An applicant must acquire a development order for a substantial portion of the project within five years of the date of the approval of the planned development, unless a greater time is approved in accordance with the provisions below. The development order must be submitted before the master concept plan expires. A substantial portion of the project is defined as no less than 20 percent of the lots, dwelling units, square feet, or other applicable measurements of intensity as applicable, unless a lesser percentage is approved by the city council.

(3) Master concept plans for planned developments that do not require development orders pursuant to chapter 3 are not subject to the time frames in this section.

(4) The duration of a master concept plan that is part of a development of regional impact DRI will be automatically extended if the DRIs phasing or build-out dates are extended. The MCP duration extension is limited to the length of the extension of the build-out date granted in the DRI.

(b) *Status of expired master concept plans.* When a master concept plan expires the property will remain zoned planned development, but no additional development can occur or be approved until a new master concept plan is approved in compliance with section 4-295 et seq.; the original master concept plan is reinstated in accordance with subsection (d) of this section; or the property is rezoned.

(c) *Extensions of master concept plans through public hearing process.*

(1) An approved master concept plan that is not vacated may be extended by the city council at a public hearing for one additional extension not to exceed four years; provided that:

a. The applicant submits a completed application form for extension (on a form provided by the community development) not more than one year and not fewer than 120 days prior to the date the current master concept plan vacates as provided in subsection (a) of this section together with the appropriate fee. The application must include, unless waived by the city council, at a minimum:

1. All submittal requirements for a public hearing pursuant to sections 4-193 and 4-194;

2. A copy of the approved master concept plan amended in accordance with section 4-299(b)(6) to reflect the uses, deviations and other modifications set forth in the approving ordinance (no changes may be made to the master concept plan);

3. A copy of the approved planned development zoning ordinance and all approved amendments;

4. A written statement describing how the criteria listed in subsection (c)(1)b. of this section have been met;

5. A current traffic impact statement (TIS) pursuant to section 4-295(a)(7); and

6. A detailed narrative explaining why the required development order is not approved and a chronology documenting that the required development order has been diligently pursued.

7. The director may require additional information as described in section 4-295 if necessary to review the request.

The director may require additional information as described in section 4-295 if necessary to review the request.

b. The city council, after reviewing the recommendation of the staff, determines that:

1. The master concept plan is consistent with the Bonita Plan;

2. The master concept plan is compatible with existing and approved development;

3. There will be sufficient capacity for potable water, sanitary sewer, surface water management, solid waste disposal, parks and recreation, roadway facilities and public schools to serve the development at the time the impacts of the development will occur without causing these facilities and services to function at a level of service below the minimum regulatory levels established in the Bonita Plan; and

4. The reason the required development order is not approved is reasonably beyond the control of the applicant and the applicant is diligently pursuing approval of the required development order.

(2) Prior to granting any extension, the city council will review uses for compatibility with existing and approved development, and may remove uses or add conditions to make the use consistent with the Bonita Plan. The city council may approve, deny, or limit the requested extension to a period less than the applicant's request. The decision of the city council is discretionary. A master concept plan that has not received a development order and diligently pursued construction, prior to the master concept plan extension expiration, may not receive a second extension but must be reviewed in accordance with section 4-295 et seq.

(d) *Reinstatement of master concept plans not permitted.*

(1) An expired master concept plan or a phase of a master concept plan may only not be reinstated by the city council; unless an application was submitted to community development prior to August 1, 2017. Any application submitted before such date must meet former section 4-303(d) and will be processed in accordance with said section. The director may require additional information as described in section 4-295 if necessary to review the request.

(Ord. No. 11-02, § 3(4-381), 1-19-2011; Ord. No. 12-13, § 1(4-381), 8-15-2012; Ord. No. 17-09 , § 1, 7-21-17)

Secs. 4-304—4-324. Reserved.

NEIGHBORHOOD PETITION TO OPPOSE

REZONE APPLICATION RIVERBEND RPD PD22-95976- BOS

Dear Members of the Bonita Springs City Council and City Staff,

I own residentially zoned property in the neighborhood directly adjacent on the Imperial River to the proposed RIVERBEND RPD PD22-95976-BOS. The application is not legally sufficient and does not comply with the City's Comprehensive Plan and Code. Further, requested deviations 1, 4, 5 and 6 should be denied on the basis that they: 1. are not justified, 2. create incompatibilities with the surrounding area, 3. reduce the City Code's health, safety and welfare protections by more than doubling the allowable boat traffic for this property and impairing navigation on the Imperial River; and 4. reduce Code protections for both the on-site and off-site mangrove preserves.

The Project's Master Concept Plan does not contain the required "lot" and other detail pursuant to Sec 4-295 (a)(6) b of the Code, and it does not demonstrate how such "lots" would comply with the dimensional standards of the LDC for single family docks. In fact, the applicant cannot comply with the Code and achieve 10 "lots" having dock access for each "lot" owner. The applicant focuses on its single-family use component in relation to permitted use and density provisions of the City's Comprehensive Plan in support of its 10 single-family homes, however the applicant cannot, at the same time, reject Code provisions appliable to single family docks and claim use entitlement under the Comprehensive Plan for its proposed multi-slip residential marina.

Given the aging condition of neighboring homes along the same side of the Imperial River, the precedent created by approving a multi-slip residential marina for this single-family residential project will incentivize more projects like this, adversely impact the Imperial River and undermine the City's Comprehensive Plan and Code.

Dated May 7, 2024

OWNER NAME

Print Name: ADEN SHEA

Address:
27761 MARINA POINTE DR
BONITA SPRINGS, FL 34134

NEIGHBORHOOD PETITION TO OPPOSE

REZONE APPLICATION RIVERBEND RPD PD22-95976- BOS

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Dated May 8, 2024

OWNER NAME

Print Name: Christopher Shea

Address: 27781 Marina Pointe Dr
Bonita Springs, Fl. 34134

NEIGHBORHOOD PETITION TO OPPOSE REZONE APPLICATION RIVERBEND RPD PD22-95976-BOS

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Dated May _____, 2024

OWNER NAME

Karen A. Feringa

Print Name: Karen A. Feringa

Address:
3808 Saruna Circle
Bonita Springs, FL
34134

NEIGHBORHOOD PETITION TO OPPOSE REZONE APPLICATION RIVERBEND RPD PD22-95976-BOS

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Dated May _____, 2024

OWNER NAME

Print Name: Scott D. Feringa

Address:
3808 Survey Circle
Bonita Springs, FL
34134

NEIGHBORHOOD PETITION TO OPPOSE

REZONE APPLICATION RIVERBEND RPD PD22-95976- BOS

Dear Members of the Bonita Springs City Council and City Staff,

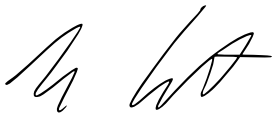
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Dated May ___6____, 2024

OWNER NAME



Print Name: Wolfgang Oster_____

Address:
27381 Oak Knoll Drive
Bonita Springs, FL 34134

NEIGHBORHOOD PETITION TO OPPOSE

REZONE APPLICATION RIVERBEND RPD PD22-95976- BOS

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Dated May 5, 2024

OWNER NAME

Print Name: LOUIS GIDDING

Address:
4971 BONITA BAY BLVD
#1403
BONITA SPRINGS, FL 34134

NEIGHBORHOOD PETITION TO OPPOSE

REZONE APPLICATION RIVERBEND RPD PD22-95976- BOS

Dear Members of the Bonita Springs City Council and City Staff,

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Dated May 5, 2024

OWNER NAME

Susan Gidding

Print Name: Susan Gidding

Address:
4971 Bonita Bay Blvd.
Unit 1403
Bonita Springs, FL 34134

Attn: Mike Fiigon
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135
mfiiaon(öcityofbonitaspringscd.ora

~~Support~~ Oppose X

Application: PD22-95976-BOS: Riverbend Residential Planned Development

BOAT TRAFFIC CONGESTION, LOSS OF HABITAT FOR MANATEES, DAMAGE TO MANGROVES, AND OVERBUILDING ARE A FEW OF THE REASONS I OPPOSE THIS DEVELOPMENT

I AUTHORIZE WOLFGANG OSTER TO UTILIZE MY SPEAKING TIME AT ALL PUBLIC HEARINGS ON THIS APPLICATION

DATE: 4-14-24

NAME: LOUIS M GIDDING PHONE: 908 421 0643

ADDRESS: 4971 BONITA BAY BLVD #1403 CITY/STATE/ZIP: BONITA SPRINGS FL 34134

RECOMMENDATIONS AND POSTPONEMENTS: The Board may accept, reject or modify staff recommendations and take other appropriate and lawful action including continuing said public hearings.

CONDUCT OF HEARINGS: These hearings are quasi-judicial and must be conducted to afford all parties due process. Any communication that Council Members have outside of the public hearing must be fully disclosed at the hearing. Anyone who wishes to speak at the hearing will be sworn in and may be subject to questions by the board, city staff or applicant. Public comment is encouraged, and all relevant information should be presented to the Board so a fair and appropriate decision can be made. Tapes are limited to three (3) minutes in length and are to be submitted to the Zoning Division one week prior to the meeting date for review. All tapes/information submitted for the public record will not be returned.

GROUP REPRESENTATIVES: Any person representing a group or organization must provide written authorization to speak on behalf of that group. The representative shall inform Staff prior to the hearing of their intent to speak on behalf of a group and provide staff the name of that group.

I will have a representative at the Zoning Board Hearing and/or City Council. My representative's name, address, and phone are:

NAME: WOLFGANG OSTER PHONE: 267 421 4498

ADDRESS: 27381 OAK KNOLL DR CITY/STATE/ZIP: BONITA SPRINGS FL 34134

APPEALS: If a person decides to appeal any final decision made by the City Council, with respect to any matter considered at such hearing, they are responsible at their own expense for ordering from a court reporter to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence on which the appeal is to be based.

CITY OF BONITA SPRINGS COMMUNITY DEVELOPMENT DEPARTMENT

SED**NOTICE OF PUBLIC HEARING
APPLICATION: PD22-95976-BOS

This is a courtesy notice of a proposed zoning action within 375 feet of property you own. You are encouraged to attend these public hearings and/or complete and return the attached Citizen Response Form, should you have any comments or concerns regarding this matter. If you have any questions or would like further information, please contact Mike Fiigon, Planner, at (239) 444-6151, or mfiigon@cityofbonitaspringscd.org. Copies of the staff report will be available one week prior to the hearing. This file may be reviewed at the Community Development department, 9220 Bonita Beach Road, Suite 109, Bonita Springs, FL 34135 or online at:

http://cityofbonitasprings.org/cms/one.aspx?pageId=13788499

Zoning Board of Adjustments:	City Council:
April 16th, 2024 at 9:00am Bonita Springs City Hall 9101 Bonita Beach Road Bonita Springs, FL 34135	May 1 5th, 2024 at 9:00am (Tentative) Bonita Springs City Hall 9101 Bonita Beach Road Bonita Springs, FL 34135 June 5th, 2024 at 5:30pm (Tentative) Bonita Springs City Hall 9101 Bonita Beach Road Bonita Springs, FL 34135

CASE	PD22-95976-BOS
CASE NAME:	Riverbend Residential Planned Development
REQUEST:	An amendment to a Residential Planned Development (RPD) to develop up to ten (10) detached villas, boat docks and other accessory uses, and to add five (5) deviations.
LOCATION:	The subject property is located at 27495/511 and 27523 Big Bend Rd. Bonita Springs FL 34135. STRAP: 32-47-25-B2-00003.OOOO and 32-4725-B2-00003.0010.

The City of Bonita Springs will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income, or marital status. To request an ADA-qualified reasonable modification at no charge to the requestor, please contact City Clerk Mike Sheffield by calling (239) 9496262 at least 48 hours prior to the meeting.

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

RETURN TO:

City of Bonita Springs
Community Development Department
Attn: Mike Fiigon
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135
mfiigon@cityofbonitaspringscd.org

Support_____ Oppose X_____

Application: PD22-95976-BOS: Riverbend Residential Planned Development

DATE:April 14, 2024

NAME:Edward and Julie Malmstrom PHONE:917-655-4602

ADDRESS:27391 Oak Knoll Dr.CITY/STATE/ZIP:Bonita Springs/FL/34134

RECOMMENDATIONS AND POSTPONEMENTS: The Board may accept, reject or modify staff recommendations and take other appropriate and lawful action including continuing said public hearings.

CONDUCT OF HEARINGS: These hearings are quasi-judicial and must be conducted to afford all parties due process. Any communication that Council Members have outside of the public hearing must be fully disclosed at the hearing. Anyone who wishes to speak at the hearing will be sworn in and may be subject to questions by the board, city staff or applicant. Public comment is encouraged, and all relevant information should be presented to the Board so a fair and appropriate decision can be made. Tapes are limited to three (3) minutes in length and are to be submitted to the Zoning Division one week prior to the meeting date for review. All tapes/information submitted for the public record will not be returned.

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I will have a representative at the Zoning Board Hearing and/or City Council. My representative's name, address, and phone are:

NAME: Wolfgang Oster_____ PHONE:267-421-4498

_____

ADDRESS: 2727381 Oak Knoll Dr. Bonita Springs/FL/34134

_____ CITY/STATE/ZIP:_____

APPEALS: If a person decides to appeal any final decision made by the City Council, with respect to any matter considered at such hearing, they are responsible at their own expense for ordering from a court reporter to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence on which the appeal is to be based.

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RETURN TO:

City of Bonita Springs
Community Development Department
Attn: Mike Fiigon
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135
mfiiaoncityofbonitaspringscd.ora

Support_____ Oppose Yes Oppose X

Application: PD22-95976-BOS: Riverbend Residential Planned Development

---

DATE: 4/13/2024

NAME: Daniel Robbins PHONE: 612-396-1955

ADDRESS: 27711 Marina Pointe Dr CITY/STATE/ZIP: Bonita Springs, FL 34134

RECOMMENDATIONS AND POSTPONEMENTS: The Board may accept, reject or modify staff recommendations and take other appropriate and lawful action including continuing said public hearings.

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CASE NUMBER:	PD22-95976-BOS
CASE NAME:	Riverbend Residential Planned Development
REQUEST:	An amendment to a Residential Planned Development (RPD) to develop up to ten (10) detached villas, boat docks and other accessory uses, and to add five (5) deviations.
LOCATION:	The subject property is located at 27495/511 and 27523 Big Bend Rd. Bonita Springs FL 34135. STRAP: 32-47-25-B2-00003.OOOO and 32-4725-B2-00003.0010.

The City of Bonita Springs will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income, or marital status. To request an ADA-qualified reasonable modification at no charge to the requestor, please contact City Clerk Mike Sheffield by calling (239) *9496262 at least 48 hours prior to the meeting.*

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

RETURN TO:

City of Bonita Springs
Community Development Department
Attn: Mike Fiigon
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135

mfiiaon(öcityofbonitaspringscd.ora

Support _____ Oppose X

Application: PD22-95976-BOS: Riverbend Residential Planned Development

DATE: April 14 2024.

NAME: PHONE: 239 405 4514 Robert Scott.

ADDRESS: CITY/STATE/ZIP: 27701 Marina Pointe. Bonita Springs FL. 34104.

RECOMMENDATIONS AND POSTPONEMENTS: The Board may accept, reject or modify staff recommendations and take other appropriate and lawful action including continuing said public hearings.

CONDUCT OF HEARINGS: These hearings are quasi-judicial and must be conducted to afford all parties due process. Any communication that Council Members have outside of the public hearing must be fully disclosed at the hearing. Anyone who wishes to speak at the hearing will be sworn in and may be subject to questions by the board, city staff or applicant. Public comment is encouraged, and all relevant information should be presented to the Board so a fair and appropriate decision can be made. Tapes are limited to three (3) minutes in length and are to be submitted to the Zoning Division one week prior to the meeting date for review. All tapes/information submitted for the public record will not be returned.

GROUP REPRESENTATIVES: Any person representing a group or organization must provide written authorization to speak on behalf of that group. The representative shall inform Staff prior to the hearing of their intent to speak on behalf of a group and provide staff the name of that group.

I will have a representative at the Zoning Board Hearing and/or City Council. My representative's name, address, and phone are:

NAME: W. Oster PHONE: 267-421-4498

ADDRESS: 27381 Oak Knoll CITY/STATE/ZIP: Bonita Springs, FL

APPEALS: If a person decides to appeal any final decision made by the City Council, with respect to any matter considered at such hearing, they are responsible at their own expense for ordering from a court reporter to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence on which the appeal is to be based.

Attn: Mike Fiigon
9220 Bonita Beach Road, Suite 109
Bonita Springs, FL 34135
mfiiaon(öcityofbonitaspringscd.ora

Support _____ Oppose X

Application: PD22-95976-BOS: Riverbend Residential Planned Development

Please extend my 5 minutes of speaking time to Wolfgang Oster and his representatives

DATE: 4/14/24

NAME: Don & Susan Young

PHONE: 239 949 5750
203 550 9122 (mobile)

ADDRESS: 27331 Oak Knoll Drive

CITY/STATE/ZIP: Bonita Springs, FL

RECOMMENDATIONS AND POSTPONEMENTS: The Board may accept, reject or modify staff recommendations and take other appropriate and lawful action including continuing said public hearings.

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NEIGHBORHOOD PETITION TO OPPOSE

REZONE APPLICATION RIVERBEND RPD PD22-95976- BOS

Dear Members of the Bonita Springs City Council and City Staff,

I own residentially zoned property in the neighborhood directly adjacent on the Imperial River to the proposed RIVERBEND RPD PD22-95976-BOS. The application is not legally sufficient and does not comply with the City's Comprehensive Plan and Code. Further, requested deviations 1, 4, 5 and 6 should be denied on the basis that they: 1. are not justified, 2. create incompatibilities with the surrounding area, 3. reduce the City Code's health, safety and welfare protections by more than doubling the allowable boat traffic for this property and impairing navigation on the Imperial River; and 4. reduce Code protections for both the on-site and off-site mangrove preserves.

The Project's Master Concept Plan does not contain the required "lot" and other detail pursuant to Sec 4-295 (a)(6) b of the Code, and it does not demonstrate how such "lots" would comply with the dimensional standards of the LDC for single family docks. In fact, the applicant cannot comply with the Code and achieve 10 "lots" having dock access for each "lot" owner. The applicant focuses on its single-family use component in relation to permitted use and density provisions of the City's Comprehensive Plan in support of its 10 single-family homes, however the applicant cannot, at the same time, reject Code provisions appliable to single family docks and claim use entitlement under the Comprehensive Plan for its proposed multi-slip residential marina.

Given the aging condition of neighboring homes along the same side of the Imperial River, the precedent created by approving a multi-slip residential marina for this single-family residential project will incentivize more projects like this, adversely impact the Imperial River and undermine the City's Comprehensive Plan and Code.

Dated May 7, 2024

OWNER NAME

Print Name: ADEN SHEA

Address:
27761 MARINA POINTE DR
BONITA SPRINGS, FL 34134

NEIGHBORHOOD PETITION TO OPPOSE

REZONE APPLICATION RIVERBEND RPD PD22-95976- BOS

Dear Members of the Bonita Springs City Council and City Staff,

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Dated May 8, 2024

OWNER NAME

Print Name: Christopher Shea

Address: 27781 Marina Pointe Dr
Bonita Springs, Fl. 34134

NEIGHBORHOOD PETITION TO OPPOSE REZONE APPLICATION RIVERBEND RPD PD22-95976-BOS

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Dated May _____, 2024

OWNER NAME

Karen A. Feringa

Print Name: Karen A. Feringa

Address:
3808 Saruna Circle
Bonita Springs, FL
34134

NEIGHBORHOOD PETITION TO OPPOSE REZONE APPLICATION RIVERBEND RPD PD22-95976-BOS

Dear Members of the Bonita Springs City Council and City Staff,

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Dated May _____, 2024

OWNER NAME

Print Name: Scott D. Feringa

Address:
3808 Survey Circle
Bonita Springs, FL
34134

NEIGHBORHOOD PETITION TO OPPOSE REZONE APPLICATION RIVERBEND RPD PD22-95976-BOS

Dear Members of the Bonita Springs City Council and City Staff,

I own residentially zoned property in the neighborhood directly adjacent on the Imperial River to the proposed RIVERBEND RPD PD22-95976-BOS. The application is not legally sufficient and does not comply with the City's Comprehensive Plan and Code. Further, requested deviations 1, 4, 5 and 6 should be denied on the basis that they: 1. are not justified, 2. create incompatibilities with the surrounding area, 3. reduce the City Code's health, safety and welfare protections by more than doubling the allowable boat traffic for this property and impairing navigation on the Imperial River; and 4. reduce Code protections for both the on-site and off-site mangrove preserves.

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Dated May 6th, 2024

OWNER NAME

Print Name: CARL R Bengqvist

Address:
27771 Marina Pointe Dr
Bonita Springs FL
34134

NEIGHBORHOOD PETITION TO OPPOSE

REZONE APPLICATION RIVERBEND RPD PD22-95976- BOS

Dear Members of the Bonita Springs City Council and City Staff,

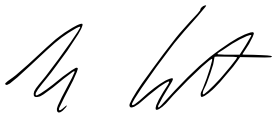
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Dated May ___6____, 2024

OWNER NAME



Print Name: Wolfgang Oster_____

Address:
27381 Oak Knoll Drive
Bonita Springs, FL 34134

NEIGHBORHOOD PETITION TO OPPOSE REZONE APPLICATION RIVERBEND RPD PD22-95976-BOS

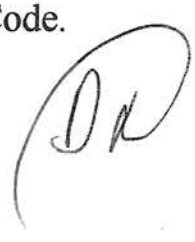
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Dated May 6, 2024



OWNER NAME

_____

Print Name: Daniel Robbins

Address: DANIEL ROBBINS

_____ 27711 Marina Pointe Dr

_____ Bonita Springs, FL 34134

_____ 612-396-1955

According to the City's "Agenda Item Summary" for the June 5, 2024 Second Hearing:

"The City's current land development code (LDC) does not contain a definition for 'detached villas,' so, at Staff's direction, the Applicant supplied the following definition: a dwelling unit that is occupied by one family and is not connected to any other structure. Multiple detached villas may be located on a single parcel."

We disagree with this definition on the following grounds:

1. Neither "villa" nor "detached villa" are terms of art in common regulatory use. Neither term appears in *The Complete Illustrated Book of Development Definitions* (4th ed., 2015); Moskowitz and Lindbloom *et al*., the 643-page standard reference for land use regulatory definitions. Moskowitz and Lindbloom do define "Detached Dwelling" as "[a] dwelling that is not attached to any other dwelling by any other means" and adds a comment: "The detached dwelling does not have any roof, wall, or floor in common with any other dwelling unit." [pg. 165.] In this case, the word "villa" is an ordinary detached dwelling with a fancy moniker.

2. Unlike other single family detached dwellings in Bonita Springs, including those in the surrounding neighborhood, the ten detached villas would not be sited on individual lots with lot lines or with front, rear, or side yards. The individual units would have the outward appearance of single family housing, but would not follow the patterns of the typical subdivision.

3. The applicant seeks to impose a *de facto* amendment to the City Land Development Regulations by introducing a new land use definition peculiar to a single parent tract, located within a neighborhood that is approaching build-out, in a manner that would invest the property with exemptions and deviations that ordinarily require public hearings and findings of fact.

DARYL MAX FORGEY, AICP
LAND USE PLANNER & EXPERT WITNESS
max@forgeyplanning.com
239.560.5864

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

May 31, 2024

SUBJECT: OPPOSITION TO REZONING APPLICATION NO. PD22-95976-BOS FOR THE RIVER BEND RPUD

1. PURPOSE OF REPORT AND QUALIFICATIONS OF EXPERT

This report, prepared on behalf of Thompson Lewis Law Firm, PLLC, outlines significant objections to rezoning application PD22-95976-BOS, which proposes a residential development with a multi-slip residential marina across from property owned by SOMAX, LLC, being the client of Thompson Lewis. The project's inconsistencies with local land use regulations, the City's Comprehensive Plan and its potential detrimental impacts on the local ecosystem, and the character of the incompatibility, as the term is defined in Florida Statutes, with the surrounding residential area will be addressed in this report. The Bonita Springs Local Planning Agency conducted a hearing on the application on April 16, 2024.

Qualifications and professional experience. The undersigned is a land use planner and expert witness with a Master of Public Affairs (MPA) degree with a concentration in Urban and Regional Planning from the O'Neill School of Public and Environmental Affairs at Indiana University Bloomington; and has been a member in good standing of the American Institute of Certified Planners (AICP) since 1993. A copy of the resume of Daryl Max Forgey, detailing his professional qualifications and career experiences, is appended to this report.

2. QUASI JUDICIAL NATURE OF CASE

Case No. PD22-95976-BOS is quasi-judicial in nature. As a quasi-judicial matter, the application requires strict scrutiny to ensure adherence to the city's land use policies, emphasizing the importance of procedural fairness and evidence-based decision-making.

In Florida, changes in zoning, as in this situation, must be amended by quasi-judicial procedures. W. Thomas Hawkins, in his magisterial *Land Use Law in Florida* [Routledge, 2021] posits that

"Florida courts call as-applied land use actions quasi-judicial, and subjects those decisions to strict scrutiny, a standard which…requires competent and substantial evidence and testimony showing that the decision meets applicable requirements of law. Additionally, parties affected by quasi-judicial decisions are entitled to procedural due process protections to which parties affected by legislative decisions are not entitled [pg. 35].

Hawkins further states that:

"Procedural due process 'serve[s] as a vehicle to ensure fair treatment through proper of justice where substantive rights are at issue.' The 'core' of procedural due process is 'the right to notice and meaningful opportunity to be heard'. And the opportunity to be heard requires 'a meaningful opportunity to contest [a possible government deprivation] usually before it is imposed." [pg. 47].

Hawkins identifies six indicia for the conduct of quasi-judicial hearings by local governments:

"In Florida, case law dictates how local governments must conduct quasi-judicial hearings. Parties to quasi-judicial hearings are generally entitled to: (1) receive notice of the hearing; (2) an opportunity to be heard; (3) present and rebut evidence; (4) cross-examine witnesses; (5) a tribunal which is impartial in the matter; and (6) be informed of all the facts on which the commission acts." [pg. 47]

3. INCOMPATIBILITY BETWEEN THE PROPOSED AND EXISTING USES

The Riverbend RPUD PD22-95976-BOS residential, infill project (the "Project") is 1.52 acres of real property owned by BB Sunset Properties, LLC and is located on the Imperial River, within the Estero Bay Aquatic Preserve, at 27495-511 and 27523 Big Bend Road, Bonita Springs, Florida 34134 (the "Property"). The Property is bordered: (i) to the north by a mangrove preserve area owned by Bonita Bay Community Association and zoned Bonita Bay PUD, (ii) to the south by a single-family residence zoned TFC-2, (iii) to the east by Big Bend Road and additional single-family residences; and (iv) to the west by the Imperial River and Bonita Bay (including the single-family residence owned by SOMAX, LLC) on the opposite side of the river. The Property was rezoned from Residential Multiple-Family (RM-2) and Residential Two-Family Conservation (TFC-2) to Residential Planned Development (RPD) under Ordinance 10-02 ("Existing RPD"). Pursuant to Section 4-303 of the City's Code, the Master Concept Plan for the Existing RPD is expired. The Property remains zoned RPD, but no development can occur under the Existing RPD's Master Concept Plan, as it has expired. The current owner bought the Property knowing that it did not have rights to develop the Property pursuant to the Existing RPD. As such the owner took title to the Property subject to a zoning risk, and this Project is not a downzoning as the Existing RPD's Master Concept Plan is expired.

Florida Statutes define "compatibility" as follows: "(9) 'Compatibility' means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by

another use or condition." [Ch. 163.3164(9)]. The proposed land use pattern—i.e. ten (10) single-family residences on land locked condominium created lots with an additional common area condominium lot that would include ten (10) common area multi-family residential marina docks each assigned to a different unit owner — would constitute a drastic change in ownership and use patterns which SOMAX, LLC. did not bargain for, and would introduce a condition of incompatibility in which a single family residence, built with the usual setback and lot size requirements embodied in the City Land Development Code, with a single dock, would be negatively impacted by the density and intensity and units without setbacks or other siting criteria, and could not coexist in extremely close proximity in a stable fashion over time without negatively impacting the land area, river and use and enjoyment which is valued by SOMAX. The proposed use fails to meet the test established in Ch. 163.3164(9), and should be denied for that reason alone.

4. AREAS OF CONCERN AND INSUFFICIENCY

A. **Comprehensive Plan Consistency: Future Land Uses**. Policy 1.1.8. of the Bonita Springs Comprehensive Plan defines the Medium Density Residential FLUM designation as "[Intended to accommodate areas with a mix of **single-family, duplex and town homes** residential development at a maximum density of up to 11.6 dwelling units per gross acre and approximately 1,056 acres of gross land area in the land use category; group homes and foster care facilities; public schools and other public, semi-public and recreational uses on a limited basis.

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

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

c. Maximum allowable height of structures shall be 55 feet from the base flood elevation to the eaves. It is noteworthy that conventional single-family housing is a permitted use, but the Comprehensive Plan does not contemplate the voiding of setback and lot line requirements, and does not contemplate shared docks as proposed."

B. **The lots that aren't lots**. "Lot" is defined in Sec. 9-27 as "a parcel of land considered as a unit." Lots are polygons with integrity, interiors surrounded by perimeters. In addition to the definition cited, there are no fewer than fourteen other definitions in the Code that include the word "lot." These include references to frontage lot, flag lot and lot depth.

These terms are crucial to good planning practice and are in common use within the Bonita Springs Land Development Code. In this instance, the applicant proposes a new concept, a "Detached Villa" which is not defined in the Code and is not permitted by the Code and Comprehensive Plan and which consists of a single-family dwelling which is sited without reference to conventional lots, which carry with them the essential metrics for land use regulations—setbacks, buffers, rights of way, and easements. Because "Detached Villa" is not defined in the Bonita Springs Land Development Code, the application improperly and artfully attempts to displace the protections in the Code and Comprehensive Plan. That being said, a "Detached Villa" is not an allowable use under Policy 1.1.8 and Policy 1.1.4, and as confirmed by the applicant's Master Concept Plan ("MPC") and as discussed below under 4.C., it is not a use that is similar in intensity and impacts to a single-family housing type located on a lot occupied by a single-family structure.

The parent tract is a lot, i.e. it is a unified parcel of land. The applicant has a clear entitlement to build "single-family, duplex and town homes." However, there are limitations under both the Code and Comprehensive Plan as to what densities and intensities of use are permitted in each of those types. In addition, the applicant cannot build docks except as ancillary to a single-family waterfront unit. The applicant has stated that it will subdivide and sell homes by filing and creating a condominium to subdivide (instead of platting single family lots) , making only the footprint of each house site a lot and making the remaining interstices to be owned by a condominium association, including the waterfront, the roadways, and common area lands, its own distinct lot containing no single-family homes. The problem here is obvious—that approach would create one single waterfront property with no future single family unit, plus 10 detached villas (perhaps up to 11 detached villas if the MCP were later amended) , none of which would be on the water and therefore not available for docks. Under these circumstances, there should be no ancillary single-family docks available at all to the applicant based on its current MCP filing.

It is clear that the applicant is selling access to the Imperial River using a stratagem that would place a shared dock facility attached to the parent tract in an effort to lure buyers and plump land prices. To achieve this goal, the applicant cleverly proposes to evade the concept of platted subdivided lots embodied in the City Code in order to improperly attempt achieve high density and to achieve the highest number of docks on the property, all of which is prohibited by Policy 1.1.8 and Policy 1.1.4 of the City's Comprehensive Plan.

C. **Land Development Code: Location, configuration, and dimensions of lots**. Sec. 4-295(a)(6)b of the Bonita Springs Land Development Code states as follows: "Where the subject property will be divided into lots or parcels, the plan must indicate the general location, configuration, and approximate dimensions of the lots or parcels (including

outparcels) as well as lot coverage, and the minimum proposed setbacks for principal structures. The proposed use of the lots or parcels must be keyed to the list of proposed uses submitted with the application. If the property development regulations for a specific zoning district will be used, reference to the specific district will be sufficient."

The MCP shows footprints but no lots or parcels are labeled as such and specifically the MCP does not illustrate the "approximate dimensions of the lots" or the "minimum proposed setbacks for principal structures." Further, the MCP fails to also state the maximum height in "number of habitable stories" and the percentage of open space in violation of Sec. 4-295(a)(6)c.2. and Sec. 4-295(a)(6)f. of the Bonita Springs Land Development Code. The MCP is therefore facially incomplete and should not be approved as proposed as no hearing can or should be scheduled whatsoever per Sec. 4-295(d)1. of the Bonita Springs Land Development Code.

D. **Land Development Code: Docks and piers**. According to Sec. 7-358(a)(1): "No more than one boat mooring dock with two wet slips is permitted per single-family lot, and no more than two boat mooring docks with up to four wet slips is permitted per two-family unit on a single lot. If a parcel abuts both a natural waterbody and an artificial waterbody, one slip may be allowed on each waterbody."

The clear intent of this section is to limit docks, piers and other water-dependent construction and the noise and traffic that accompany them. The problem with the proposed application is that there are single family detached units illustrated on the MCP, but they are not identified as belonging to, or corresponding to, single-family lots and they do not abut any waterbody.

The MCP improperly creates a multi-family development project having (i) ten (10) land-locked house-site lots (sized at the building footprint only) owned by ten (10) different individual owners, and (ii) the remaining lot (which is not a single-family lot and which is not permitted under the Comprehensive Plan and City Code) comprising common areas with no dwelling units and including all of the waterfront and dock areas owned by a condominium association, not a single-family lot owner. The MCP is simply not compatible with the surrounding land uses and it is not comparable to single-family uses and lots as contemplated by the City's Comprehensive Plan and code. Specifically, regarding the docks, the applicant has admitted that the applicant seeks approval for a multi-slip residential marina use per Sec. 7-357, not single-family docks per Section 7-358. Sec. 7-357 regulates the placement of docks in multi-family developments and commercial facilities with more than four slips. It prescribes a screening process based upon the City's Manatee Protection Plan, which is used to identify desirable locations for new marine facilities and evaluate the redesign and expansion of existing sites. Paragraph

(a) identifies the maximum number of slips that may be approved. Paragraph (a) also identifies Design Criteria Compliance with the screening, design, and location criteria set forth in Chapter 4, the Manatee Protection Plan, and Bonita Plan Objective 22.3 and 22.4.

Paragraph (b) regulates Boat Lifts in multifamily developments and commercial facilities, prescribing that all new or modified multi-family or commercial docking facilities must install one boat lift per slip to reduce pollution. Exceptions are made for slips containing boats over 10,000 pounds, boats stored for less than 24 hours, and public service marinas with an approved variance (Sec. 7-357(b)).

Paragraph (c) regulates water depth and prescribes a minimum depth of one foot clearance between the deepest draft of a boat and the bottom is required at mean low water, with at least four feet of water depth within mooring areas, turning basins, an ingress/egress pathways.

Paragraph (d) regulates transfer of slip credits and prescribes that the Manatee Protection Plan provides for the transfer of boat slips under certain conditions, using Lee County regulations to guide credit issuance.

Paragraph (e) regulates setbacks, requiring that all multi-slip and marina docking facilities must be set back a minimum of 25 feet from all adjoining side lot lines, except for boat davits.

The subject property is neither zoned Commercial nor Multifamily and the applicant's multi-slip residential marina use is not permitted under Policy 1.1.8 of the City's Comprehensive Plan and it not sited in the proper location pursuant to Objective 22.3 of the Conservation/Coastal Management Element of the City's Comprehensive Plan. The reason for citing the City's requirements for siting new docks in commercial neighborhoods is to make the point that the Bonita Springs Land Development Code establishes siting requirements for new docks attached to single-family and two-family residential lots and also
has a different criterion for docks attached to multi-family residences. The applicant is attempting to circumvent the single-and two-family requirements of the City Code, by evading the subdivision of the subject property into platted lots, while using the "Detached Villa" designation to be applied for the purpose of obtaining the benefits of a multifamily use without properly requesting a Multifamily FLUM designation on the property and opening the door to public opposition and creating a new land use designation outside the usual process of amending a comprehensive plan amendment or obtaining a special exception. This Project reduces the Code's health, safety and welfare

protections by more than doubling the allowable boat traffic for this Property and impairing navigation on the Imperial River. Based on my experience, the applicant's Project and upland site is and contains the attributes and characteristics of a multi-family development and a multi-family residential marina, not a single-family development having single-family docks.

The applicant also is not pursuing a special exception, a quasi-judicial process identified in 7-356(c), to seeking more than two slips for its single family parent lot pursuant to Section 4-131(c).

E. **Comprehensive Plan: Inadequacy of buffering**. Policy 1.1.22, "Buffering Between Different Land Uses" states as follows: "In order to minimize incompatibility when commercial, industrial, or more intensive land uses share a common boundary with residential land uses, lower intensity uses shall be located adjacent to residential uses and the Land Development Code shall include provisions for buffering in the form of fences, walls, vegetation, or spatial buffers to minimize the impacts upon the residential use." The application, MCP and proposed use does nothing to buffer or mitigate its impact on SOMAX. Setbacks in particular have been omitted from the Master Concept Plan and improperly reduced.

F. **Insufficiency of application**.
According to Land Development Code Section 4-303, "Rezoning and Special Exception Criteria for Approval" these are the criteria for approving rezoning and special exceptions:

> 1. Compliance with Codes: The applicant must demonstrate compliance with the Bonita Plan, this Land Development Code, and any other applicable code or regulation.
> 2. Performance and Locational Standards: The rezoning request must meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
> 3. Consistency with Densities, Intensities, and General Uses: The request must be consistent with the densities, intensities, and general uses set forth in the Bonita Plan, including the use of Transfer of Development Rights (TDR) or affordable housing bonus density units.
> 4. Compatibility with Surrounding Area: The request must be compatible with existing planned uses in the surrounding area.
> 5. Environmental Protection: The request must not adversely affect environmentally critical areas and natural resources.

The application does not meet any of the foregoing requirements and local land development standards. Further, (1) the Master Concept Plan lacks essential details such as lot dimensions and configurations and, per Sec. 4-295(d)1. of the Bonita Springs Land Development Code, no hearing can be scheduled; and (2) the application proposes a multi-slip residential marina and "detached villas", which are not permitted under the City's FLUE Policy 1.1.8 and Policy 1.1.4 and are not permitted under the City's existing zoning.

G. Environmental Concerns.

The development as proposed with setbacks that have been improperly reduced to accommodate the applicant's requested density threatens significant ecological impacts. Specifically, it (1) risks real harm to mangrove preserves and disruption of the Imperial River's ecosystem; and (2) it will cause increased boat traffic which may impair navigation and alter the aquatic environment.

5. RECOMMENDED FINDINGS OF FACT JUSTIFYING DENIAL OF APPLICATION

The City of Bonita Springs City Council should deny this proposed rezoning based upon all of the foregoing and the following additional, specific findings of fact:1. The proposed Master Concept Plan (Exhibit B) does not show any lots as defined in Sec. 9-27 and does not indicate the "general locations, configuration, and approximate dimensions of the lots", "lot coverage" and within the lot boundaries, the "minimum proposed setbacks for principal structures" as required by Sec. 4-295(a)(6)b of the Bonita Springs Land Development Code.

2. Because the Master Concept Plan does not show and designate the lots or parcels for the ten (10) different detached villa owners, there are no waterfront residential lots eligible for the introduction of individual or shared docks under the City's Code.

3. "Detached Villa" is not defined in the Land Development Code, and as used in this application, is not permitted under the Comprehensive Plan and City Code.

4. The Project application proposes a multi-slip residential marina and "detached villas", which are: (i) inappropriate at this location, (ii) not compatible with existing or planned uses in the surrounding area, (iii) are not permitted under the City's FLUE Policy 1.1.8 and Policy 1.1.4 and under the City's existing zoning, and (iv) are not consistent with the densities, intensities and general uses set forth in the Bonita Plan.

5. The Project application violates Policy 1.1.22 of the City's FLUE, "Buffering Between Different Land Uses."

6. The MCP fails to also state the maximum height in "number of habitable stories" and the percentage of open space in violation of Sec. 4-295(a)(6)c.2. and Sec. 4-295(a)(6)f. of the Bonita Springs Land Development Code.

7. Requested deviations 1, 4, 5 and 6 undermine the objectives of a planned development, do not provide sufficient safeguards to the public interest and are not justified, create incompatibilities with the surrounding area, reduce the Code's health, safety and welfare protections by more than doubling the allowable boat traffic and impairing navigation on the imperial river, and reduce Code protections for the onsite and off-site mangrove preserves.

8. The Existing RPD contains the following conditions that have been improperly removed from the Riverbend RPUD PD22-95976-BOS: (i) A. Conditions 4. Transportation Conditions a. through d.; (ii) A. Conditions 5. Environmental Conditions; (iii) A. Conditions 7. Flood Regulations; (iv) A. Conditions 8. Docks; (v) A. Conditions 11. through 17, undermining the intent of the Code to protect the public health, safety and welfare.

9. The Project application does not meet or exceed all applicable performance and locational standards for single family uses under the Code.

10. Project application (and the precent set by this application will adversely affect the environmentally critical mangrove preserve and Imperial River area.

11. The applicant has a bountiful entitlement on this site and can withdraw its application and submit plans to build single family and duplex units with docks that are compatible with the neighborhood and in compliance with the Comprehensive Plan and City Code.

12. The application lacks sufficient evidence to demonstrate compatibility with the surrounding area or the overall city planning objectives. Based upon the above findings, and the testimony which will be presented by the client and his neighbors, the undersigned recommends denial of this application.

Respectfully,



Max Forgey, AICP
Certification #051,330

Attachments: Resume of Daryl Max Forgey, Expert Witness Documentation

cc: Wolfgang Oster, SOMAX, LLC
Douglas A. Lewis, Esq., Thompson Lewis Law Firm

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

City of Bonita Springs
City Council
Draft Meeting Minutes

May 15, 2024
9:00 a.m.

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1. **Call to Order** - *Mayor Steinmeyer called the meeting to order at 9:00 am.*

2. **Invocation -** *Provided by Deacon Joel Livingston of St. Leo the Great Catholic Church.*

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

4. **Roll Call**

   The City Clerk called the roll:

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

   Absent: 0

5. **Mayor's Welcome** - *Mayor Steinmeyer welcomed attendees and those watching the live stream.*

6. **Approval of the Agenda** *Mayor Steinmeyer motioned to approve the agenda; Seconded by Council Member Purdon. The motion carried unanimously.*

7. **Public Comment on Agenda Items**

   Mike Gibson – *Spoke in support of an (EV) charging station (agenda Item 12a), suggesting the City parking park at the corner of Ragsdale St. and Felts Ave as the best location.*

8. **Ceremonial Presentations:**

   A. Presentation of a Certificate of Recognition to #70 Peter Simmons III, for his outstanding achievements as a defensive lineman on the University of Michigan's national championship football team. (Council Member Purdon)

   Peter Simmons III, accompanied by his family, thanked City Council for the Certificate of Recognition, which was presented by Council Member Purdon.

   B. Reading of the Lee County Republican Executive Committee's resolution in support of Israel. (Deputy Mayor Forbes, Green Sheet 24-05-076)

   Deputy Mayor Forbes introduced Tara Jenner, Vice Chair of the Lee County Republican Executive Committee, who read the resolution aloud.

9. Zoning and Land Use Items:

A. (FIRST READING AND PUBLIC HEARING) A ZONING ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; CONSIDERING A REQUEST FOR AN AMENDMENT TO A RESIDENTIAL PLANNED DEVELOPMENT (RPD) TO DEVELOP UP TO TEN (10) DETACHED VILLAS, BOAT DOCKS, AND OTHER ACCESSORY USES, AND TO ADD FIVE (5) DEVIATIONS; LOCATED AT 27495-511 BIG BEND ROAD AND 27523 BIG BEND ROAD, BONITA SPRINGS, FLORIDA 34134; PROVIDING FOR AN EFFECTIVE DATE.
(Green Sheet 24-05-071)

The City Clerk read the Ordinance title into the record, followed by the City Attorney administering the oath to the individuals intending to provide testimony.

City Attorney Rooney informed Council that the attorney representing those in opposition to the applicant's request has asked for additional time to speak. Mr. Rooney stated that one option for Council's consideration is to allow registered speakers to cede their time to this individual.

Mayor Steinmeyer stated that he prefers that each individual who wishes to speak do so during their own time rather than cede their time to another person. Council Member Carr made a motion to allow speakers to cede their time to another speaker; Seconded by Council Member Corrie. ***The motion carried 6-1*** *(Mayor Steinmeyer opposed).*

The City Clerk announced that the following individuals submitted speaker slips: Max Forgey; Virgina Clifford; Wolfgang Oster; and Douglas Lewis. The City Attorney asked the registered speakers if they intend to cede their time to Attorney Douglas Lewis; each responded in the affirmative. Mr. Lewis was given 20 minutes to speak.

Mr. Lewis introduced a binder containing 146 pages (submitted to the City Clerk, with copies for the Mayor and each Council Member). He requested that the binder be admitted into the record. Next, Mr. Lewis introduced a CV (curriculum vitae) for Max Forgey, AICP Planner, and a report written by Mr. Forgey with the subject line "OPPOSITION TO REZONING APPLICATION NO. PD22-95976-BOS FOR THE RIVERBENDRPUD" (both submitted to the City Clerk, with copies for the Mayor and each Council Member). Mr. Lewis requested that Mr. Forgey be recognized as an expert witness, and that his report be admitted into the record. Next, Mr. Max Forgey verbally presented his report.

Council Member Carr made a motion to accept the binder and Mr. Forgey's written report into the record, and to accept the credentials of Mr. Forgey as those of an expert planner; Seconded by Mayor Steinmeyer. ***The motion carried 4-3*** *(Council Members Corrie, Bogacz, and Purdon opposed).*

Next, Mr. Noel Davies briefly spoke on behalf of the applicant, stating that a full presentation will be provided at Second Reading which will include any rebuttal and cross examination of Mr. Forgey. Mr. Davies stated he objects to the statements made by Mr. Forgey and disagrees with the argument made by Mr. Lewis.

Council Member Carr made a motion to move to Second Reading; Seconded by Council Member Corrie. ***The motion carried 6-1*** *(Mayor Steinmeyer opposed).*

9:52 a.m. Mayor Steinmeyer recessed the meeting for an eight-minute break.
10:00 a.m. Mayor Steinmeyer reconvened the meeting.

10. Presentations:

A. Presentation and update of the Bonita Springs Wonder Gardens Master Plan. (Green Sheet 24-05-069)

Neil Anderson, Executive Director, Bonita Wonder Gardens presented (presentation on file in the Clerk's office).

11. Consent Agenda:

Mayor Steinmeyer pulled consent agenda item 11c for further discussion, and then motioned to approve consent items 11a, 11b, and 11d; Seconded by Council Member Carr. ***The motion carried unanimously.***

Regarding agenda item 11c, Mayor Steinmeyer asked for clarification on the additional 10% contingency amount. Following an explanation provided by Assistant City Manager Feeney and City Manager Hunter, Council Member Carr motioned to award the contract in the base bid amount plus the contingency amount; Seconded by Council Member Corrie. ***The motion carried unanimously.***

A. Approve minutes from the City Council meeting held on May 1, 2024.

B. Confirm and ratify Resolutions extending the local State of Emergency due to Hurricane Ian. (Green Sheet 24-05-068)

C. Approve a Resolution awarding the Mowing & Maintenance of Stormwater Ponds Project RFB 24-04 to P & T Lawn and Tractor Service, in the annual bid amount of $63,700.04. (Green Sheet 24-05-070)

D. Approve Amendment #3 with the Florida Department of Environmental Protection (FDEP) for the Imperial Bonita Estates/Quinn/Downs/Dean west of Imperial Parkway Drainage Improvement Project, extending the project timeline to Dec. 31, 2025. (Green Sheet 24-05-073)

- Opportunity for City Council Comments on Consent Agenda

12. Mayor and Council Member Items:

A. Direct staff to pursue an electric vehicle (EV) charging station at Riverside Park or in the downtown area. (Council Member Corrie, Green Sheet 24-05-074)

Council Member Corrie discussed the recommendation made by the Technology Advisory Board, which is to increase the number of EV charging stations in the downtown area. This service could be accomplished without out-of-pocket costs to the City by soliciting operators interested in installing/operating charging stations. The Technology Advisory Board is asking staff to review city-owned downtown locations to identify a suitable site for a EV charging station. Council Member Corrie motioned to direct staff to pursue an EV charging station in the downtown area; seconded by Council Member Fullick. ***The motion carried unanimously.***

13. City Attorney's Items:

A. Approve a Resolution of necessity for the acquisition and condemnation of parcels required for the Bonita Grande drive extension to the City's planned park facilities adjacent to the Larry Kiker Preserve. (Green Sheet 24-05-075)

Council Member Carr motioned to approve; seconded by Council Member Corrie. ***The motion carried unanimously.***

14. City Manager's Items:

A. Presentation and review of the March Financial Report. (Green Sheet 24-05-072)

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

B. Update on Hurricane Ian recovery.

City Manager Hunter provided an update on City's ongoing communications with FEMA pertaining to the *National Flood Insurance Program - Community Rating System. Staff members continue to meet with FEMA representatives several times a week and provide requested documentation. City Manager Hunter further stated that ongoing support from Senator Scott's office, Representative Donalds' office, and Senator Rubio's office has been instrumental.*

Other City Manager Items:

City Manager Hunter provided an update on Rails-to-Trails, stating that the Trust for Public Lands has communicated that the County has agreed to be the lead applicant for a $12 million grant from the ATIIP Federal Transportation Program, with a 20 % local match. This would be an appropriate time for individual Council Members to reach out to other agencies and jurisdictions, such as the MPO and individual Collier County commissioners, about participating in the local match.

Next, City Manager Hunter stated that the City received a formal request from Rep. Adam Botana, to utilize the Recreation Center at 5:30 pm, Wed., June 26, for a community town hall meeting. Council Members approved the request by consensus.

Next, City Manager Hunter discussed the regular City Council meeting scheduled for Wed., July 3. Given the number of staff and Council Members who traditionally travel for the 4'th of July holiday, she suggested canceling the meeting. However, if urgent business arises, the meeting could be rescheduled for the following week. Council Members approved by consensus.

15. Mayor and Council Member Reports

Mayor Steinmeyer - Read aloud a list of the many accomplishments of the City during the past six months.

Deputy Mayor Forbes - Made a motion to approve as read the Lee County Republican Executive Committee resolution in support of Israel; Seconded by Council Member Carr. ***The motion carried unanimously.*** *He also stated that* May is ALS Awareness Month (commonly known as Lou Gehrig's Disease) noting that public awareness and support for ALS research is needed to find a cure for this terrible disease.

Council Member Bogacz - Reported on the recent meeting of the Bonita Springs Fire Control and Rescue District where Stephanie Killinger was appointed as a new commissioner. Also, Phoenix Awards were presented to crew members who have successfully brought a person in cardiac arrest back to life.

Council Member Purdon - Provided a 'shout out' to the Lee County Sheriff's Community Policing Unit and Café of Life for their combined efforts assisting non-English speaking day laborers to learn and understand laws, ordinances, and appropriate behavior while publicly awaiting a job.

Council Member Carr - Reported that Amazon has opened their third facility in Lee County, and IKEA is looking for a location to open a local facility. She also spoke about the Fallen Deputies Memorial Service held on May 14, stating the heart-rending service paid tribute to Lee County deputies who died in the line of the duty.

Council Member Fullick - Reported on recent meetings attended as Council's representative for the FEMA National Flood Insurance Community Rating System program. Next, he provided a report on the Tourism Development Council, stating that last year TDC tax receipts were lower than projected, however, the numbers for the first quarter of 2024 are more positive. County Commissioners will proclaim May 19-25 as National Travel & Tourism Week. Lastly, he provided a reminder of the upcoming Memorial Day Service, which will take place at 9 am, Mon., May 27 at Riverside Park, featuring as guest speaker US Air Force Lieutenant General Robert J. Elder Jr. (ret.)

Council Member Corrie - Reported on the May meeting of the Bonita Wonder Gardens Board of Directors. The board is currently planning and preparing their budget. At his recommendation, board members agreed to develop a 10-year capital Improvement Plan to match the lease and the City's Capital Improvement Plan/budget. Next, he asked Community Development Director John Dulmer to report on Accessory Dwelling Units as an agenda item at the next City Council meeting.

16. Public Comment

Kyle Moran - Commented on the significant accomplishments that have been instrumental in transforming our City into a thriving and vibrant community. He also expressed support for downtown EV charging stations and extended his gratitude to the Council Members for their dedication and effort.

17. Adjournment: *There being no further business, the meeting adjourned at 11:22 a.m.*

Prepared by:

_____
Mike Sheffield, City Clerk

Approved by City Council:

Date: _____

_____
Rick Steinmeyer, Mayor

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-077
June 5, 2024

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

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

AGENDA: Consent

STRATEGIC PRIORITY:

BACKGROUND:

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

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

STAFF RECOMMENDATION: Approve

ATTACHMENTS:

1. Resolution No. 24-033 issued on May 13, 2024
2. Resolution No. 24-036 issued on May 20, 2024
3. Resolution No. 24-037 issued on May 27, 2024

REVIEWERS:

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

CITY OF BONITA SPRINGS
RESOLUTION NO. 24-033

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

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

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

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

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

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

Section 1. The recitals above are hereby incorporated herein.

Section 2. The current State of Emergency is extended.

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

DULY PASSED AND ENACTED by the Mayor of the City of Bonita Springs, Lee County, Florida, this 13th day of May, 2024.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney Office

Date filed with City Clerk: 5/15/24

CITY OF BONITA SPRINGS
RESOLUTION NO. 24-036

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

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

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

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

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

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

Section 1. The recitals above are hereby incorporated herein.

Section 2. The current State of Emergency is extended.

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

DULY PASSED AND ENACTED by the Mayor of the City of Bonita Springs, Lee County, Florida, this 20th day of May, 2024.

AUTHENTICATION:

Rick Steinmeyer
Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney Office

Date filed with City Clerk: 5/20/24

CITY OF BONITA SPRINGS
RESOLUTION NO. 24-037

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

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

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

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

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

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

Section 1. The recitals above are hereby incorporated herein.

Section 2. The current State of Emergency is extended.

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

DULY PASSED AND ENACTED by the Mayor of the City of Bonita Springs, Lee County, Florida, this 27th day of May, 2024.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney Office

Date filed with City Clerk: 05/28/2024

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-078
June 5, 2024

REQUESTED MOTION: APPROVE TEMPORARY ROAD CLOSURES OF PORTIONS OF OLD 41 AND SPECIAL EVENT PERMIT FOR 4TH OF JULY "STAR-SPANGLED BONITA" AND PARADE ON THURSDAY, JULY 4, 2024 AT RIVERSIDE PARK.

REQUESTOR: Lora Taylor, Director of Communications & Facilities

AGENDA: Consent

STRATEGIC PRIORITY: No

BACKGROUND: The Bonita Springs Professional Firefighters Local 3444 will be hosting its annual Fourth of July Parade on Thursday, July 4, 2024, starting at 9:00 am. The firefighters will be working in partnership with the Lee County Sheriff's Office to coordinate the safe movement of pedestrians and traffic from the setup to the completion of the parade. Portions of Old 41 Road from Rosemary Dr to Kentucky Street will be closed for the parade. The closure will begin at approximately 8:30 am to 12:30 pm for pedestrian safety. The road will reopen after the parade.

The City will hold its celebration of the Annual "Star-Spangled Bonita" event scheduled for Thursday, July 4, 2024, from 6:00 pm to 9:00 pm. This year's celebration will be enhanced for the city's ongoing 25th year celebrations. There will be live musical entertainment from the "Ben Allen Band", food, beverages, and the laser light show/fireworks display. Additionally, this year will include a drone show. The Rotary Club of Bonita Springs, Inc. will partner with the city for the sale of beer and wine. The proceeds from the sales will benefit the club's non-profit activities. Staff is coordinating the events with the Bonita Springs Fire Control and Rescue District and with the Lee County Sheriff's Office. Old 41 from Wilson to Ragsdale will be closed from 5:00 pm through 10:00 pm. The road closure would be to assist in pedestrian traffic and safety during a portion of the evening event in preparation for the fireworks show. Portions of Reynolds will also be closed for pedestrian safety. The road between the Liles Hotel Plaza and Riverside Park will be closed at 8:00 pm to thru traffic for pedestrian safety. City Council has approved funds for the 4th of July event and is available in line item 00.430.574.4804

STAFF RECOMMENDATION: Approve temporary road closures of portions of Old 41 for the 4th of July festivities and special event permit for the 4th of July Party in the Park and Parade to be held on Thursday, July 4, 2024 at Riverside Park with the condition that the amplified sound to not exceed 65 dB from the point of the closest residence during the duration of the event.

ATTACHMENTS:

1. Special event application - Star Spangled Bonita
2. Special event application – Parade

REVIEWERS:

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

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

SPECIAL EVENT PERMIT APPLICATION **PERMIT. SEP-_____**

City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135
Phone: 239/949-6262
Fax: 949-6239

Date Received: 05/07/24

Effective Date/Time: _____

Application Fee: ☐ $50.00
☐ $25.00 (501C3 organizations)
Fee is non-refundable

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

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

Organization: City of Bonita Springs
Nature of Event: Star Spangled Bonita 2024
Location (Attach Site Plan): Riverside Park

Date	Set-Up Time		Actual Event Times		Take Down Time	
07/04/24	1 pm	to 6pm	6pm	to 9 pm	9pm	to 11 pm

For multiple dates, please attach letter.

Has this event been held in the past? Yes If so, when was the last event? 2023
Individual Contact for Activity/Event: Karessa Minor Phone: 239-949-6262
Address: N/A Website: City-of-bonitasprings.org
E-Mail Address: Karessa.minor@cityofbonitasprings.org
Major Sponsor(s): N/A
Promoter(s): N/A Phone or Contact #: 239-949-6262

	Yes	No
1. Crowd: Is anticipated crowd size 1,000 or more?	☑	☐
Actual Anticipated number: 20,000		
2. Parking: Will off-site parking be provided? _____	☐	☑
Will "shuttle" service to parking be provided? By whom? _____	☐	☑
4. Noise: Will there be amplified music or entertainment? If yes, please attach type(s) of Entertainment and time(s) of performances(s). Indicated stage location(s) on siteplan.	☑	☐

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

	Yes	No
15. Sanitary Facilities:		
Will temporary sanitary facilities be provided? If yes, indicate location on site plan.	☑	☐
Will disposable cardboard trash receptacles be provided? If yes, indicate on site plan.	☐	☐
Will additional refuse containers/dumpsters be provided?	☑	☐

If yes, by whom: Eagle Haulers

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

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

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

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

[signature] 05/07/24

Signature of Applicant Date

Comments: _____

_____

City Manager Date

Comments: _____

Application Fee is non-refundable.

STAR SPANGLED BONITA

Laser & Fireworks Display

4th of July Celebration

25TH YEAR ANNIVERSARY

City of Bonita Springs Florida

Small Town Charm, Big Bright Future

EST 1999

THURSDAY, JULY 4TH 2024

FREE

FEATURING THE BEN ALLEN BAND!

LIVE MUSIC, FOOD TRUCKS, LASER LIGHTS & FIREWORKS, AND A DRONE SHOW!!!!

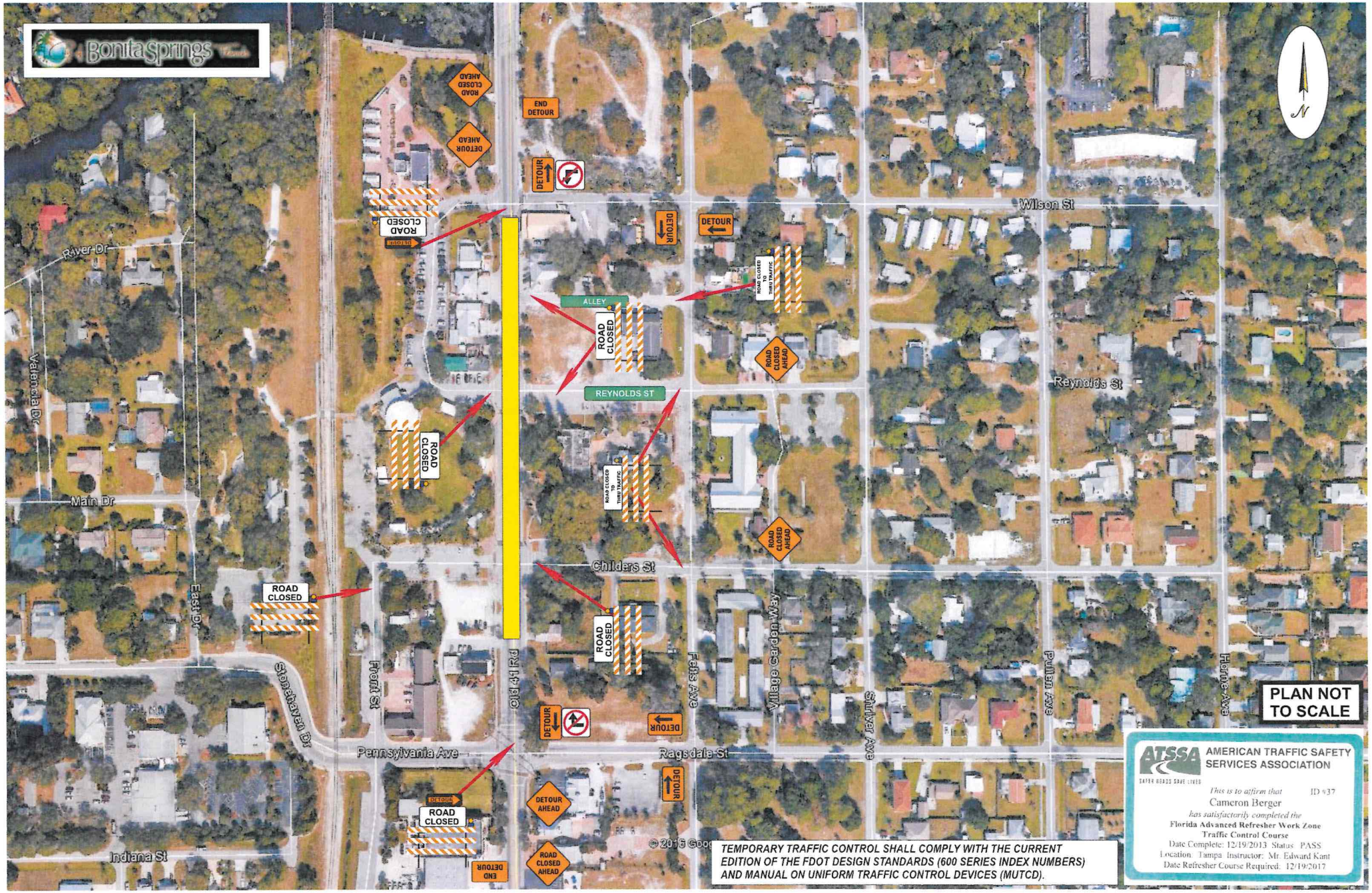
Location: Riverside Park
10450 Reynolds St, Bonita Springs, FL 34135
Times: 6pm to 9pm
For More information please call
239 949 6262

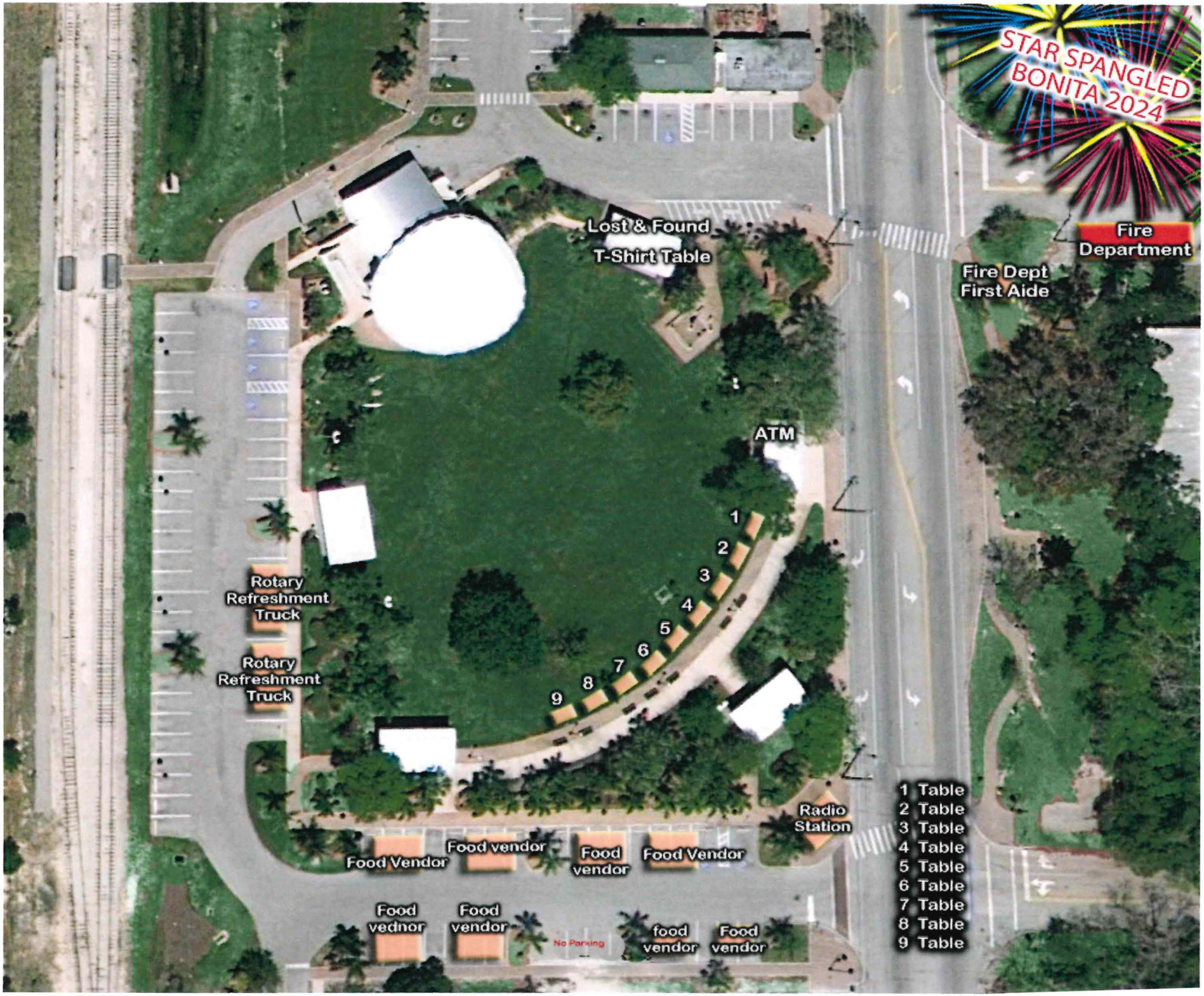


Rotary Club of Bonita Springs

Bonita Springs Fire-Rescue

Sheriff Carmine Marceno — Lee County, Florida


Bonita Springs
N
END DETOUR
DETOUR
ROAD CLOSED AHEAD
ROAD CLOSED
ROAD CLOSED TO THRU TRAFFIC
ALLEY
REYNOLDS ST
ROAD CLOSED AHEAD
Wilson St
River Dr
Valencia Dr
Main Dr
East Dr
Stoneraven Dr
Pennsylvania Ave
Indiana St
Fleet St
Old 41 Rd
Childers St
Felts Ave
Village Garden Way
Sunview Ave
Pullen Ave
Horne Ave
Reynolds St
Ragsdale St
DETOUR AHEAD
ROAD CLOSED AHEAD
END DETOUR
PLAN NOT TO SCALE
TEMPORARY TRAFFIC CONTROL SHALL COMPLY WITH THE CURRENT EDITION OF THE FDOT DESIGN STANDARDS (600 SERIES INDEX NUMBERS) AND MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).
ATSSA
AMERICAN TRAFFIC SAFETY SERVICES ASSOCIATION
SAFER ROADS SAVE LIVES
This is to affirm that ID #37
Cameron Berger
has satisfactorily completed the
Florida Advanced Refresher Work Zone Traffic Control Course
Date Complete: 12/19/2013 Status: PASS
Location: Tampa Instructor: Mr. Edward Kant
Date Refresher Course Required: 12/19/2017


STAR SPANGLED BONITA 2024
Lost & Found
T-Shirt Table
Fire Department
Fire Dept First Aide
ATM
1
2
3
4
5
6
7
8
9
Rotary Refreshment Truck
Rotary Refreshment Truck
Radio Station
Food Vendor
Food vendor
Food vendor
Food Vendor
Food vednor
Food vendor
No Parking
food vendor
Food vendor
1 Table
2 Table
3 Table
4 Table
5 Table
6 Table
7 Table
8 Table
9 Table

9101 Bonita Beach Road
Bonita Springs, FL 34135
Tel: (239) 949-6262
Fax: (239) 949-6239
www.cityofbonitasprings.org

Rick Steinmeyer
Mayor

Jamie Bogacz
Council Member
District One

Jesse Purdon
Council Member
District Two

Laura Carr
Council Member
District Three

Chris Corrie
Council Member
District Four

Nigel P. Fullick
Council Member
District Five

Fred Forbes, AIA
Council Member
District Six

Arleen M. Hunter
City Manager
(239) 949-6267

Derek P. Rooney
City Attorney
(239) 949-6254

City Clerk
(239) 949-6248

Public Works
(239) 949-6246

Neighborhood Services
(239) 949-6257

Parks & Recreation
(239) 992-2556

Community Development
(239) 444-6150

May 7th, 2024

Re: Temporary Sale of Alcohol for the Bonita Springs Rotary Club for the Star Spangled Bonita Event on July 4th, 2024.

To Whom It My Concern:

Please be advised that the Bonita Springs Rotary Club is authorized to sell alcohol at the upcoming Star Spangled Bonita Event on July 4th, 2024 at Riverside Park, Bonita Springs, Florida.

Please feel free to contact me at (239) 949-6262 if I may be of additional assistance in this matter.

Sincerely,

Lora Taylor

Lora Taylor
Communications Director

cc: Arleen Hunter, City Manager

Karessa Minoli

From: Laura Fay <L.Fay@railcold.com>
Sent: Monday, May 13, 2024 4:52 PM
To: Karessa Minoli
Cc: Joseph Macri; Justin Morris; Elizabeth Serowka; Dispatcher
Subject: FW: 4th of July 2024
Attachments: FMIT 0927 Seminole Gulf Railway.5.4.2024.pdf

Importance: High

Hi Karessa,
Thank you for the information. There will be no Seminole Gulf Railway LP activity on or around the rails in Bonita Springs, FL on 7/3/24 and or 7/4/24. Best of luck with your event! 😊

Thank you,
Laura Fay
Florida Freezer L.P.
GFA Rail Services Inc.
Seminole Gulf Railway L.P.
Phone: 239-275-6060, ext. 103
Fax: 239-275-0581

_____CONFIDENTIALITY STATEMENT_____

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. Your cooperation and assistance is greatly appreciated.

From: Karessa Minoli <karessa.minoli@cityofbonitasprings.org>
Sent: Thursday, May 9, 2024 8:12 AM
To: Laura Fay <L.Fay@railcold.com>
Subject: 4th of July 2024

Good morning,

My name is Karessa and I am the Community Relations Specialist with the City of Bonita Springs. I assist with organizing community events.

We are hosting our annual 4th of July Star Spangled Bonita event on Thursday July 4th 2024. Star-Spangled Bonita will take place from approximately 6 pm-dusk. The firework launch site will be placed in Depot Park, near the railroad, as usual. Set-up will begin the day before the event.

As in the past, we are requesting you suspend the use of the railway during the event. Please send confirmation if this is approved.

Attached is the certificate of insurance.

Please let me know if you have any questions.

Thank you and have a wonderful day!

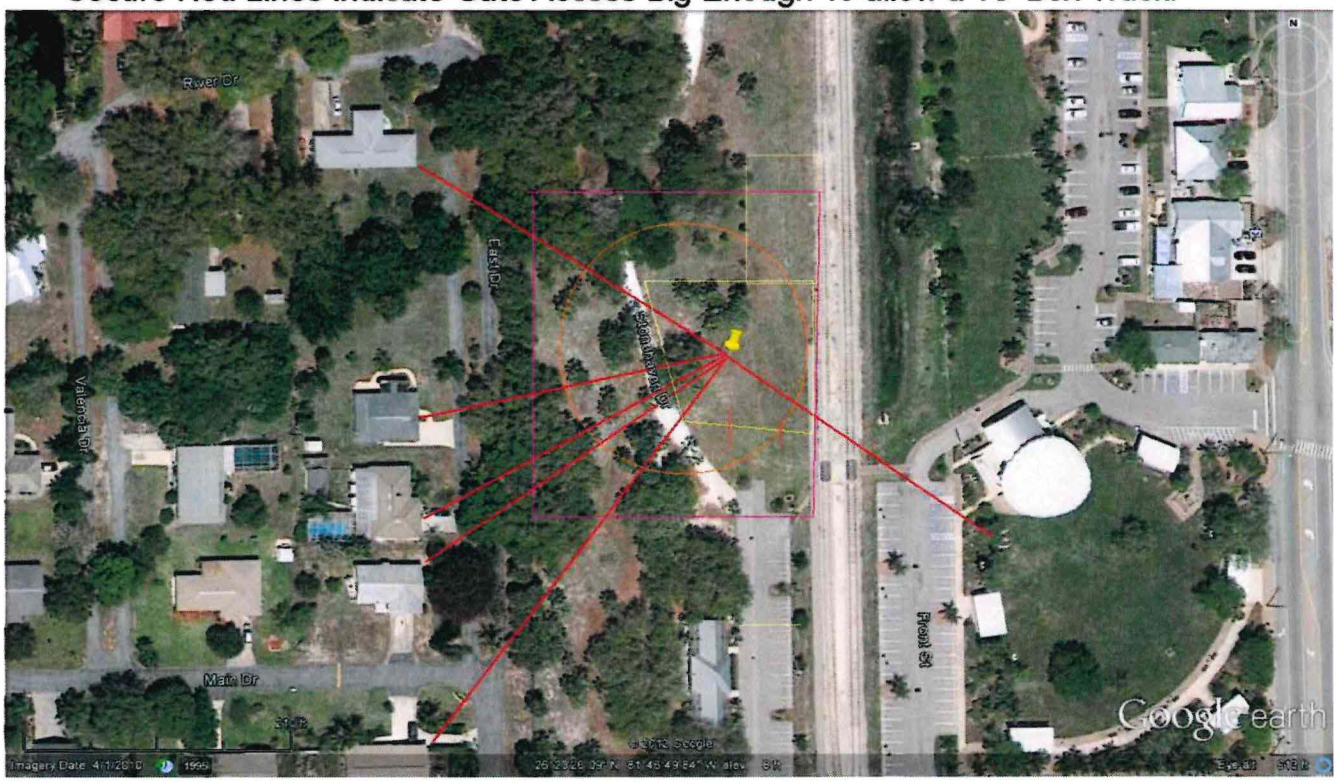
***Karessa Minoli* | Community Relations and Events Manager**

Bonita Springs Florida

9101 Bonita Beach Road, Bonita Springs, FL 34135
phone | (239) 949-6262 • fax | (239) 949-6239
email | Karessa.Minoli@cityofbonitasprings.org
website | www.cityofbonitasprings.org

-Click these icons to connect with us on social media!

Area Marked With Yellow Lines Proposed Fenced Area This Will Keep The Firing Site Secure Red Lines Indicate Gate Access Big Enough To allow a 16' Box Truck.



We will extend out the area as usual with tape for the actual show for fallout area.
Fall out area marked as orange circle, Pink Lines extended caution tape area.

Yellow Lined Rectangle is the Drone Area fencing which is 50' x 150'

GLENN STUART WRIGHT

Employee Possessor Letter of Clearance for:

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives
Federal Explosives Licensing Center
244 Needy Road
Martinsburg, West Virginia 25405

901090: CRR/FLS
5400
File Number: **9NV00229**

05/09/2024

SUBJECT: **EMPLOYEE POSSESSOR LETTER OF CLEARANCE for:**

GLENN STUART WRIGHT

PYROTECHNICIAN
(954)330-1668

1497 KING CHARLES DRIVE
PITTSBURGH, PA 15237

and is ONLY valid under the following Federal explosives license/permit:

9-NV-003-23-1J-00229

PYROTECNICO F/X LLC
PYROTECNICO
6963 SPEEDWAY BLVD SUITE 104
LAS VEGAS, NV 89115

Dear GLENN WRIGHT:

You have been approved to transport, ship, receive or possess explosive materials as an employee possessor under the Federal explosive license or permit indicated above. **This clearance is only valid under the license or permit referenced above.**

Sincerely,

Christopher R. Reeves

Christopher R. Reeves
Chief, Federal Explosives Licensing Center (FELC)

FELC Customer Service. If you believe that information on your "Letter of Clearance" is incorrect, please return a COPY of the letter to the Chief, Federal Explosives Licensing Center (FELC), with a statement showing the nature of the error. The Chief, FELC, shall correct the error, and return an amended letter to you.

Mail: ATF
Chief, FELC
Attn.: LOC Correction
244 Needy Road
Martinsburg, West Virginia 25405

Fax: 1-304-616-4401
Chief, FELC
Attn.: LOC Correction

Call toll-free: 1-877-283-3352

INTERNATIONAL LASER DISPLAY ASSOCIATION

LASER SAFETY OFFICER

For U.S. Laser Light Shows and Displays

Certificate of Completion

awarded to

Glenn Wright

Greg Makhov Course Instructor	SEPT 10 2010 Date	Patrick Murphy ILDA Executive Director

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 2/28/2024

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 BB Insurance Marketing Inc 10167 W Sunrise Blvd, 3rd Floor Plantation FL 33322	**CONTACT NAME:** Certificates Department **PHONE (A/C, No, Ext):** 888-728-0817 **FAX (A/C, No):** 954-452-0450 **E-MAIL ADDRESS:** certificates@bbimi.com
INSURED LASEPRO-02 Starlight Aerial Productions Miami LLC 20209 NE 15th Ct Miami FL 33179	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** AGCS Marine Insurance Co **INSURER B :** Tokio Marine Specialty Ins Co — 23850 **INSURER C :** Bridgefield Employers Ins Co — 10701 **INSURER D :** Infinity Insurance Companies — 39497 **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 435138011 **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	
B	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC OTHER:			PPK2475168	10/28/2023	10/28/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG |	$ 1,000,000 $ 100,000 $ 0 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
D	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			509820064869001	10/28/2023	10/28/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) |	$ 1,000,000 $ $ $ 1,000,000 $
B	[ ] **UMBRELLA LIAB** X OCCUR [ ] **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $			PUB836119	10/28/2023	10/28/2024	EACH OCCURRENCE AGGREGATE ROD/COMP OPS	$ 2,000,000 $ 2,000,000 $ 2,000,000
C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] N / A **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below			0830-55900	10/28/2023	10/28/2024	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
A	INLAND MARINE			MXI93012202-010774	1/1/2024	1/1/2025	Scheduled Equipment Rented Equipment	625,559 25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Laser Light Entertainment - Sales, Service, Rental w/operators.

CERTIFICATE HOLDER

City of Bonita Springs
9101 Bonita Beach Rd
Bonita Springs FL 34135

CANCELLATION

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

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 2/28/2024

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PRODUCER BB Insurance Marketing Inc 10167 W Sunrise Blvd, 3rd Floor Plantation FL 33322	CONTACT NAME: Certificates Department PHONE (A/C, No, Ext): 888-728-0817 FAX (A/C, No): 954-452-0450 E-MAIL ADDRESS: certificates@bbimi.com
INSURED LASEPRO-02 The Spaceport Corp dba Laser Production Network, Inc 20209 NE 15th Ct Miami FL 33179	INSURER A : AGCS Marine Insurance Co INSURER B : Tokio Marine Specialty Ins Co — 23850 INSURER C : Bridgefield Employers Ins Co — 10701 INSURER D : Infinity Insurance Companies — 39497 INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 513635844 **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.

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B	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC OTHER:			PPK2475168	10/28/2023	10/28/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 1,000,000 $ 100,000 $ 0 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
D	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			509820064869001	10/28/2023	10/28/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 1,000,000 $ $ $ 1,000,000 $
B	UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $			PUB836119	10/28/2023	10/28/2024	EACH OCCURRENCE AGGREGATE ROD/COMP OPS	$ 2,000,000 $ 2,000,000 $ 2,000,000
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Laser Light Entertainment - Sales, Service, Rental w/operators.

CERTIFICATE HOLDER

City of Bonita Springs
9101 Bonita Beach Rd
Bonita Springs FL 34135

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AUTHORIZED REPRESENTATIVE

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INSURED LASEPRO-02 Lite Up America LLC 20209 NE 15th Ct Miami FL 33179	INSURER A : AGCS Marine Insurance Co INSURER B : Tokio Marine Specialty Ins Co — 23850 INSURER C : Bridgefield Employers Ins Co — 10701 INSURER D : Infinity Insurance Companies — 39497 INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 2118141104 **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	
B	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC OTHER:			PPK2475168	10/28/2023	10/28/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 1,000,000 $ 100,000 $ 0 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
D	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			509820064869001	10/28/2023	10/28/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 1,000,000 $ $ $ 1,000,000 $
B	UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED RETENTION $			PUB836119	10/28/2023	10/28/2024	EACH OCCURRENCE AGGREGATE ROD/COMP OPS	$ 2,000,000 $ 2,000,000 $ 2,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	0830-55900	10/28/2023	10/28/2024	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
A	INLAND MARINE			MXI93012202-010774	1/1/2024	1/1/2025	Scheduled Equipment Rented Equipment	625,559 25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Laser Light Entertainment - Sales, Service, Rental w/operators.

CERTIFICATE HOLDER

City of Bonita Springs
9101 Bonita Beach Rd
Bonita Springs FL 34135

CANCELLATION

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

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

SPECIAL EVENT PERMIT APPLICATION

PERMIT. SEP- _____

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

Date Received: _____

Effective Date/Time: _____

Application Fee: ☐ $50.00 ☐ $25.00 (501C3 organizations)
Fee is non-refundable

Phone: 239/949-6262

Fax: 949-6239

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

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

Organization: BONITA SPRINGS PROFESSIONAL FIRE FIGHTERS LOCAL 3444
Nature of Event: INDEPENDENCE DAY PARADE
Location (Attach Site Plan): _____

Date	Set-Up Time	Actual Event Times	Take Down Time
7/4/24	7AM to 1PM	9AM to 12PM	12PM to 1PM

For multiple dates, please attach letter.

Has this event been held in the past? YES
If so, when was the last event? 7/4/23
Individual Contact for Activity/Event: FRANK TODD
Phone: 239-220-0593
Address: _____
Website: WWW.BONITASPRINGSPARADE.COM
E-Mail Address: FTODD54@COMCAST.NET
Major Sponsor(s): G+C AUTO + TOWING
Promoter(s): _____
Phone or Contact #: _____

	Yes	No
1. Crowd: Is anticipated crowd size 1,000 or more?	☒	☐
Actual Anticipated number: 3000		
2. Parking: Will off-site parking be provided? _____	☐	☒
Will "shuttle" service to parking be provided? By whom? _____	☐	☒
4. Noise: Will there be amplified music or entertainment? If yes, please attach type(s) of Entertainment and time(s) of performances(s). Indicated stage location(s) on siteplan.	☐	☒

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

	Yes	No
15. Sanitary Facilities:		
Will temporary sanitary facilities be provided? If yes, indicate location on site plan.	☐	☒
Will disposable cardboard trash receptacles be provided? If yes, indicate on site plan.	☐	☒
Will additional refuse containers/dumpsters be provided?	☐	☒

If yes, by whom: _____

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

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

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

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

Frank Todd 5/7/24

Signature of Applicant Date

Comments: _____

_____ Comments: _____

City Manager Date

Application Fee is non-refundable.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/01/2024

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	CONTACT NAME: Patricia Jenkins	
Risk Management Associates, Inc. P. O. Box 2416	PHONE (A/C, No, Ext): (386) 252-6176	FAX (A/C, No): (386) 239-4049
	E-MAIL ADDRESS: Irish.Jenkins@bbrown.com	
Daytona Beach FL 32115	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: National Union Fire Insurance Co of Pittsburgh, Pa.	19445
INSURED Bonita Springs Fire Control & Rescue District 27701 Bonita Grande Drive	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
Bonita Springs FL 34135	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** CL23112723603 **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:			VFNU-TR-0022195-03	10/11/2023	10/11/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			VFNU-TR-0022195-03	10/11/2023	10/11/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $			VFNU-TR-0022195-03	10/11/2023	10/11/2024	EACH OCCURRENCE AGGREGATE Prod - COMP/OP AGG	$ 2,000,000 $ 4,000,000 $ 4,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ If yes, describe under DESCRIPTION OF OPERATIONS below	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)

Certificate of Insurance issued as proof of coverage.

CERTIFICATE HOLDER

City of Bonita Springs
9101 Bonita Beach Rd. SE
Bonita Springs FL 34135

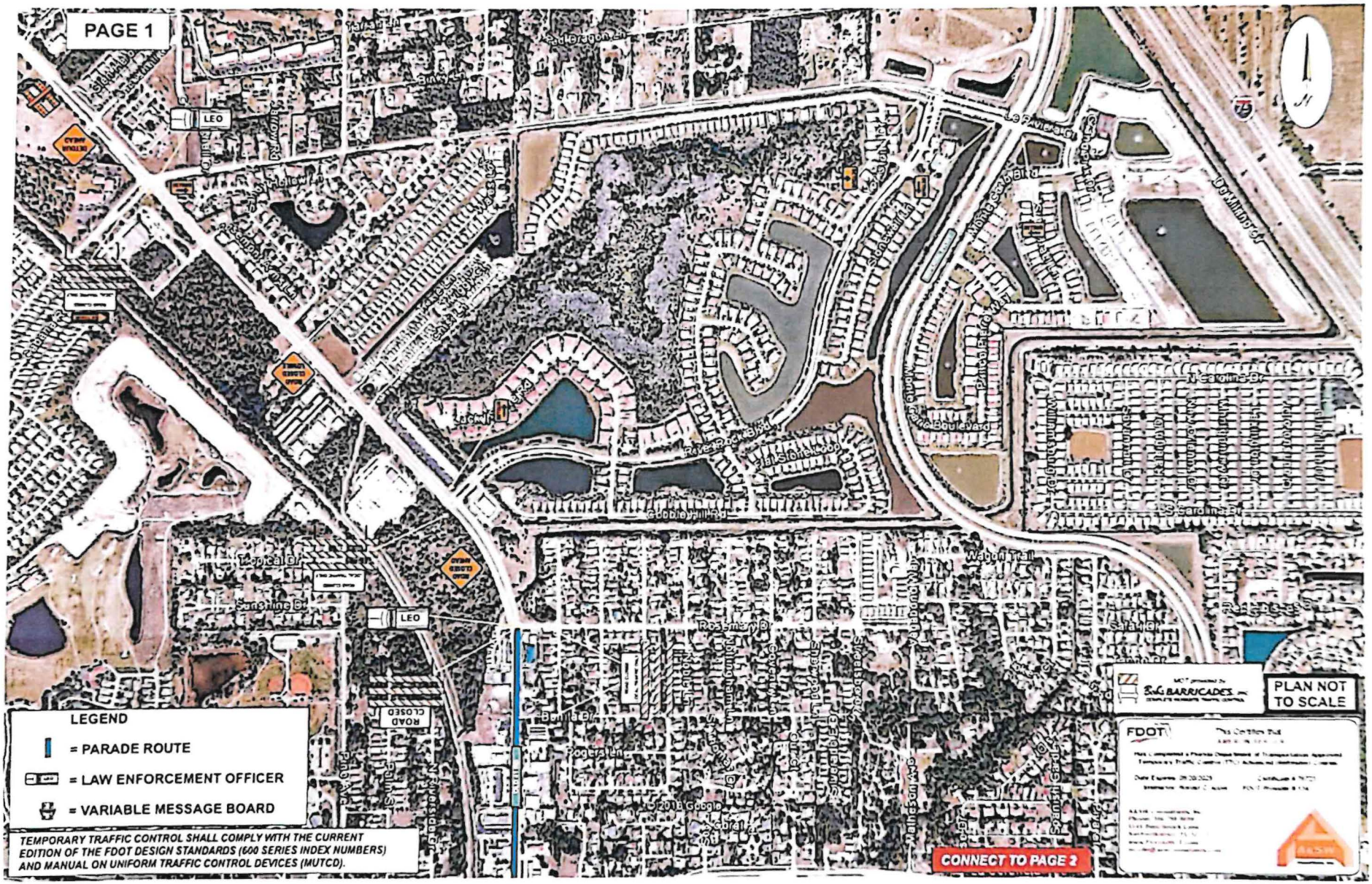
CANCELLATION

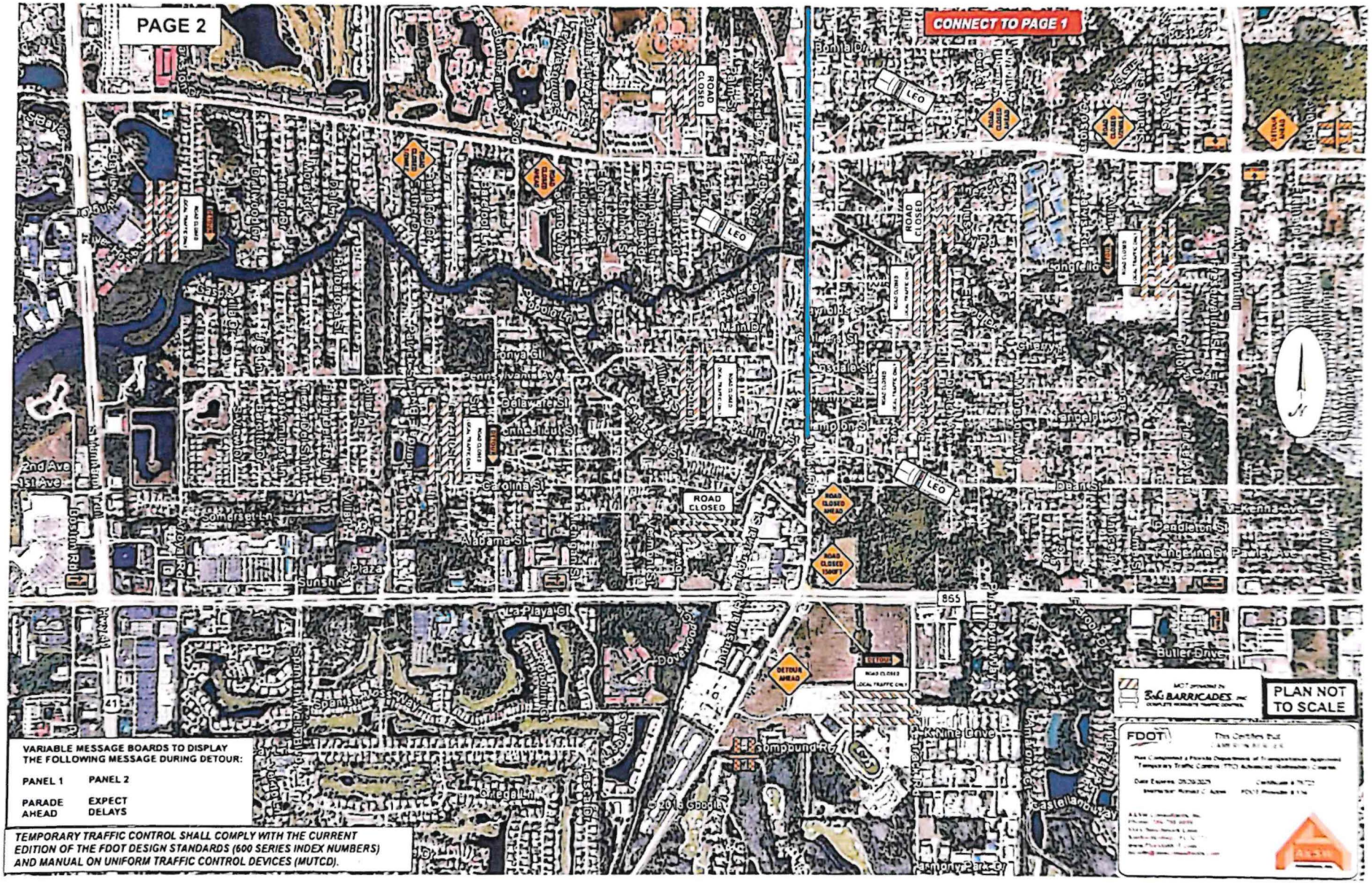
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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PAGE 1
LEO
LEO
Tropical Dr
Sunshine Dr
Bonita Dr
Rosemary Ln
Gobbler Hill Trail
Wagon Trail
Sandpiper Dr
Le Parc Rd
Sea Oats Blvd
Dr Kennedy Dr
Palm Boulevard
Seminole Blvd
Sarasota Dr
Sandpiper Dr
Sarah Ln
ROAD CLOSED
ROAD CLOSED
ROAD CLOSED
LEGEND
= PARADE ROUTE
= LAW ENFORCEMENT OFFICER
= VARIABLE MESSAGE BOARD
TEMPORARY TRAFFIC CONTROL SHALL COMPLY WITH THE CURRENT EDITION OF THE FDOT DESIGN STANDARDS (600 SERIES INDEX NUMBERS) AND MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).
PLAN NOT TO SCALE
FDOT
CONNECT TO PAGE 2



VARIABLE MESSAGE BOARDS TO DISPLAY THE FOLLOWING MESSAGE DURING DETOUR:

PANEL 1	PANEL 2
PARADE AHEAD	EXPECT DELAYS

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



AMERICA THE BEAUTIFUL

THURSDAY, JULY 4TH @ 9AM

Beginning in 1958, the Independence Day Parade has become one of Bonita Springs longest running traditions. Each year your Bonita Springs Professional Firefighters-Local 3444 organize and host the widely enjoyed Independence Day Parade.

For more information on the Bonita Springs Independence Day Parade, to submit a monetary donation, advertise on the parade map, or to participate with floats, walkers, or representatives, please visit our website at

WWW.BONITASPRINGSPARADE.COM

Or contact Parade Coordinator **FRANK TODD at 239-220-0593**. Payment options are available online and via Cash App. Proceeds from parade will benefit the

BONITA SPRINGS FIREFIGHTERS BENEVOLENT FUND.

2024 PARADE HOSTED BY

BONITA SPRINGS FIREFIGHTERS

LOCAL 3444

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-079
June 5, 2024

REQUESTED MOTION: Approve a Resolution ratifying the appointment of a new chairperson of the Local Planning Agency for the remainder of calendar year 2024.

REQUESTOR: Mayor Rick Steinmeyer; City Clerk Mike Sheffield

AGENDA: Consent

STRATEGIC PRIORITY: N/A

BACKGROUND:

In accordance with Rule 4.01(C) of Administrative Code AC-1-6 for Advisory Boards, on January 18, 2024, City Council ratified the Mayor's annual appointments of advisory board/committee chairpersons, which included Jeff Maturo's appointment as the Chairperson of the Local Planning Agency (LPA).

On May 15, 2024, Mr. Maturo communicated to the City Clerk his decision to relinquish his position as Chairperson of the LPA. He cited family circumstances which necessitate his time and attention. Mr. Maturo is not resigning from the Local Planning Agency itself, but solely as its chairperson.

Steve Lohan, who has been the Vice Chair of the LPA for the past year, has indicated his willingness to assume the duties of Chairperson.

If ratified by City Council, Mr. Lohan's appointment as Chairperson will commence upon approval of the Resolution and will expire December 31, 2024. The LPA will select a new Vice Chair from its current membership.

STAFF RECOMMENDATION: Approve Resolution.

ATTACHMENTS:

1. Resolution

REVIEWERS:

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

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 24 -

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA, RATIFYING THE APPOINTMENT OF A NEW CHAIRPERSON OF THE LOCAL PLANNING AGENCY FOR THE REMAINDER OF CALENDAR YEAR 2024 AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Rule 4.01(C) of Administrative Code AC-1-6, states that the Mayor shall annually appoint the chairperson of each advisory board and committee; and,

WHEREAS, on January 18, 2024, City Council ratified the Mayor's appointments which included the appointment of Jeff Maturo as Chair of the Local Planning Agency (LPA); and,

WHEREAS, Mr. Maturo has announced he is stepping down from the Chairperson role; and,

WHEREAS, Steve Lohan, LPA Vice Chair, has expressed an interest in being elevated to the role of Chair.

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

Section 1: LPA Member Jeff Maturo is hereby relieved of his appointment as LPA Chair.

Section 2: LPA Member Steve Lohan is hereby appointed as LPA Chair. Said appointment shall commence upon adoption of this Resolution and expire Dec. 31, 2024.

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

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, this 5th day of June, 2024.

AUTHENTICATION:

_____ Mayor

_____ City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:	Steinmeyer	Corrie
	Bogacz	Fullick
	Purdon	Forbes
	Carr	

Date filed with the City Clerk: _____

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-080
June 5, 2024

REQUESTED MOTION: Approve a Hurricane Ian Community Development Block Grant-Disaster Recovery (CDBG-DR) Mobility Study Planning Grant Subrecipient Agreement.

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA: Consent

STRATEGIC PRIORITY: 2) Transportation, 3) Strengthen City Finances, 4) Environmental Protection, 8) Economic Development

---

BACKGROUND: Lee County announced a Notice of Funding Opportunity (NOFO) on December 5, 2023 for the Recovery and Resiliency Planning Program. Congress appropriated supplemental funding for 2022 disasters of which U.S. Housing and Urban Development (HUD) allocated Lee County $1,107,881,000 in Community Development Block Grant-Disaster Recovery (CDBG-DR) funding to support long-term recovery efforts following Hurricane Ian.

On January 17, 2024 City Council recommended that staff submit a mobility study planning grant. Staff submitted the application on February 23, 2024. Lee County's Evaluation Committee met on April 1, 2024 and recommended funding for all planning studies submitted to them. The Board of County Commissioners accepted the evaluation committee's recommendation at their regular meeting on April 16, 2024.

STAFF RECOMMENDATION: Approve a Hurricane Ian CDBG-DR Mobility Study Planning Grant Subrecipient Agreement.

ATTACHMENTS:

1. CDBG-DR Mobility Study Planning Grant Agreement

REVIEWERS:

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

CDBG-DR SUBRECIPIENT AGREEMENT

The following information is provided pursuant to 2 CFR 200.332(a)(1)

Federal Award Identification Number (FAIN)/ HUD CDBG-DR Grant No.:	B-23-UN-12-0002
Assistance Listing Number (formerly CFDA #):	14.218 Community Development Block Grants/Entitlement Grants
Federal Register Notice & Public Law:	FR-6393-N-01: PL-117-328
Federal Award (HUD Grant Agreement) Date:	11/20/20203
Agreement No.:	DR10143
Responsible Entity (RE):	Lee County
Lead and Responsible Department:	Office of Strategic Resources and Government Affairs
CDBG-DR Funding Source/Program:	US Department of Housing and Urban Development
Subrecipient Name:	City of Bonita Springs
Subrecipient ID (Unique Entity Identifier via SAM.gov):	LLWSKDMXTCJ8
Subrecipient Period of Performance (Start Date):	
Subrecipient Period of Performance (End Date):	
Total Amount Obligated via Agreement:	$500,000.00
Total CDBG-DR Obligation to Subrecipient (all Agreements, including this obligation):	$1,000,000.00
Project/Activity ID(s):	
Federal Award Program/Project/Activity Description:	Bonita Springs Mobility Plan
Does the Federal award include an Indirect Cost Rate for Subrecipient?	**Yes ☐ No ☒**
If Yes, is the Indirect Cost Rate a:	**☐ Negotiated Rate _____%** **☐ De Minimis Rate**

Official County Contact for Award: Glen Salyer, Assistant County Manager; 2115 Second St., Fort Myers, FL 33901; Phone: (239) 533-2315; Email: GSalyer@leegov.com

SUBRECIPIENT AGREEMENT BETWEEN

THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

AND

City of Bonita Springs

This **AGREEMENT** between Lee County, a political subdivision and charter county of the State of Florida, hereinafter referred to as "**COUNTY**," and the City of Bonita Springs, a Florida Municipal Corporation of the State of Florida, hereinafter referred to as **"SUBRECIPIENT"** will become effective upon the date ("Effective Date") signed by the Board of County Commissioners (BOCC).

SECTION I: RECITALS

WHEREAS, pursuant to Public Law (P.L.) 117-328, the "Department of Housing and Urban Development Appropriations Act, 2023" (hereinafter referred to as the "Appropriation Act"), and the "Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG–DR Consolidated Waivers and Alternative Requirements Notice," 88 Federal Register (FR) 32046 (May 18, 2023); (hereinafter referred to as the "Federal Register Guidance"), the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD") has awarded $1,107,881,000 (a $963,375,000 allocation for unmet disaster recovery needs with an additional $144,506,000 mitigation set aside) of Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to the **COUNTY** for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code (U.S.C.) 5301 *et seq.*) and described in the *Lee County Action Plan for CDBG-DR Funds* (hereinafter referred to as the "Action Plan") for the Consolidated Appropriation Act (P.L. 117-328). The **COUNTY** is also hereinafter referred to from time to time as "Grantee."

WHEREAS, the **COUNTY** believes it is in the public interest to serve as a pass-through entity by awarding and/or providing CDBG-DR funding for certain activities to **SUBRECIPIENTS** for the benefit of Lee County residents. CDBG-DR funding made available for use by the **SUBRECIPIENT** under this Agreement constitutes a subaward of the Grantee's Federal award, for which the use of the subaward funds must conform to the **COUNTY'S** intent as stated in the applicable (1) Notice of Funding Availability (NOFA) Application, (, and attachments, and/or exhibits, and all other terms and conditions as specified.

WHEREAS, the **COUNTY** has legal authority to disburse funds as a subaward under the Federal award and to enter into this Agreement with the **SUBRECIPIENT,** who by signing this Agreement, represents and warrants to the **COUNTY** that it will comply with all the requirements of the subaward described herein.

WHEREAS, the Action Plan has been developed to give the maximum feasible priority to activities that will benefit low- and moderate-income families and the aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent (or another percentage permitted by HUD in a waiver) of the grant amount is expended for activities that benefit such persons.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, therefore the **COUNTY** and the **SUBRECIPIENT** agree as follows:

SECTION II: SCOPE OF WORK AND ACTIVITIES

The **COUNTY** provides the **SUBRECIPIENT** the award under this Agreement to perform project activities under the **COUNTY'S** CDBG-DR Recovery and Resiliency Planning Program. Any proposal, application, or exhibit associated with this CDBG-DR funding award are binding and incorporated herein as a

part of this **AGREEMENT**.

The **SUBRECIPIENT** shall submit to the **COUNTY** the required information and documentation to complete *Exhibits A (Scope of Work and Activities – Program/Project Activity Overview) & B (Scope of Work and Activities – Project Activity Scope of Work Description)*. If there is a disagreement between the **COUNTY** and **SUBRECIPIENT**, with respect to the formatting and content requirements of the Exhibit, the **COUNTY'S** has sole and absolute discretion; the **COUNTY'S** decisions shall prevail.

The **SUBRECIPIENT** must provide a statement of work, in accordance with 24 CFR 570.503 detailing the work to be performed, a schedule for completing the work, and a budget. The statement of work as prescribed by the **COUNTY** under *Exhibits A and B* must provide sufficient data and detail to provide a sound basis for the COUNTY to monitor performance.

The **SUBRECIPIENT** agrees to abide by all applicable state and Federal laws, rules and regulations, including but not necessarily limited to, the Federal laws and regulations set forth at 24 CFR 570, 2 CFR 200, the Federal Register Guidance, and the **COUNTY'S** Action Plan. This includes core CDBG-DR tenets and requirements as stated below:

SUBSECTION II.A. – MID REQUIREMENT: The **SUBRECIPIENT** must conduct all activities and expend all CDBG-DR award funds granted by the **COUNTY** in the "most impacted and distressed" (MID) areas resulting from the qualifying major disaster in 2022, which is in response to Hurricane Ian (Federal Emergency Management Agency (FEMA) Disaster No. 4673 – DR). As noted in the Federal Register Guidance (88 FR 32046), the HUD-identified MID area for this disaster allocation is all of Lee County.

SUBSECTION II.B. – ELIGIBLE ACTIVITIES: CDBG–DR funds are provided for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (HCDA), as amended (42 United States Code (U.S.C.) 5301 et seq.), related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation of related risk. The **SUBRECIPIENT** must utilize CDBG-DR funds, as prescribed under 24 CFR 570 Subpart C – Eligible Activities, and for alternative requirements and waivers as prescribed within the Federal Register Guidance. Furthermore, the **SUBRECIPIENT** shall conduct its project to align with the approved eligible activity(ies) found under the most-recent approved Action Plan for the **COUNTY'S** CDBG-DR (6) Recovery and Resiliency Planning Program.

SUBSECTION II.C. – NATIONAL OBJECTIVE: The **SUBRECIPIENT** must meet the criteria for one of the CDBG-DR program's national objectives. For this scope of work, the **SUBRECIPIENT** must adhere to the following national objective type, as defined at 24 CFR 570.208 and alternative requirements under the Federal Register Guidance, and as reflected as an approved national objective type for this CDBG-DR program within the Action Plan:

☐ Activities benefitting low- and moderate-income persons ("LMI");
☐ Activities which aid in the prevention or elimination of slums or blight ("Slum & Blight");
☐ Activities designed to meet community development needs having a particular urgency ("Urgent Needs"); or
☒ Activities expended for planning and administrative costs under 24 CFR 570.205 and 24 CFR 570.206, which are considered to address the national objectives.

SUBSECTION II.D. – CDBG-DR MITIGATION SET-ASIDE AND STORM "TIE-BACK": The **COUNTY** is responsible for informing the **SUBRECIPIENT** of whether CDBG-DR funding is awarded for an activity(ies) to address an unmet recovery need, a mitigation and resilience measure, or both. Depending on the recovery or mitigation designation by the **COUNTY**, the **SUBRECIPIENT** is responsible for documenting proof of the designation. For recovery activities, the **SUBRECIPIENT** must demonstrate that their activities "tie-back" to the specific disaster and address a specific unmet recovery need for

which the CDBG-DR funds were appropriated. For mitigation set-aside activities, the **SUBRECIPIENT** must document how its activity(ies) (1) meet the definition of mitigation activities; (2) address the current and future risks as identified in the **COUNTY'S** mitigation needs assessment in the MID areas under its Action Plan; (3) is a CDBG-eligible activity under title I of the HCDA (or otherwise eligible pursuant to a waiver or alternative requirement); and (4) still meets a national objective. In some cases, the **COUNTY** may require the **SUBRECIPIENT** to provide evidence of the activity meeting both the CDBG-DR "tie-back" and mitigation measures justification. The **COUNTY** will spell out specific requirements for the **SUBRECIPIENT**, its project, and the project's eligible activity under *Exhibit A – Scope of Work and Activities – Program/Project Activity Overview* and *Exhibit B – Scope of Work and Activities – Project Activity Scope of Work Description*.

SECTION III: TERM OF AGREEMENT

This Agreement shall begin on ***{Enter Actual Date}*** ("*the Effective Date*") and end on ***{Enter Actual Date}***, unless suspended or terminated as specified in SECTION XI. SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION.

The **COUNTY** and the **SUBRECIPIENT** agree that this Agreement shall be electronically signed, and that any electronic signatures appearing on this Agreement shall have the same force and effect as a written signature for the purposes of validity, enforceability, and admissibility. The **COUNTY** and **SUBRECIPIENT** shall maintain this Agreement, including any amendments, in its files.

The **COUNTY** shall not grant any extension of the Agreement unless the **SUBRECIPIENT** provides written justification that is satisfactory to the **COUNTY,** in its sole discretion, and the **COUNTY'S** authorized organizational representative approves such extension in accordance with SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS of this Agreement.

SECTION IV: AGREEMENT MODIFICATIONS AND AMENDMENTS

SUBRECIPIENT must submit a written request, via the County's approved method for submitting such request, for an Agreement amendment which details the nature of and justification for the requested change and the desired effective date of the change(s). The **COUNTY** reserves the right to approve or deny all Agreement amendments on the basis that such approval or denial is in the **COUNTY'S** best interest. An approved amendment shall be documented on the Agreement amendment form and signed by both parties.

The Assistant County Manager over the **COUNTY'S** Office of Strategic Resources and Government Affairs (SRGA), the BoCC, or their designee may approve amendments to the Agreement, in accordance with the **COUNTY'S** *Hurricane Ian CDBG-DR Subrecipient Manual* and *Internal Grant Management Manual*. As noted within the Manual, the **COUNTY** reserves the right to review the request from the **SUBRECIPIENT** and determine whether an amendment is required or whether County Manager or BOCC approval is needed.

The **COUNTY** also affirms that it may unilaterally modify or amend any Manuals referenced throughout this Agreement without prior notification or agreement by the **SUBRECIPIENT.** Additionally, the **COUNTY** affirms that while it will seek agreement with the **SUBRECIPIENT** on proposed amendments to any Exhibits which are referenced throughout this Agreement, the **COUNTY** may unilaterally modify or amend any such Exhibits **COUNTY**, in its sole discretion, deems necessary to comply with federal policies or regulations.

As noted in the **COUNTY'S** Action Plan, substantial amendments to the Action Plan are defined as (1) a change in program benefit or eligibility criteria; (2) the addition or deletion of an activity(ies); (3) the allocation or reallocation of funds which exceeds or is expected to exceed 5 percent of the current total approved budget; (4) a material change occurs which impacts information and analysis on which the Action Plan was based on

to fund certain priority activities (e.g., impact on anticipated beneficiaries, project or activity scope, significant demographic changes, or new significant contributing factors on unmet needs in the jurisdiction); and/or upon HUD's written notification specifying a material change that requires the revision. The **SUBRECIPIENT** understands that requests for Agreement amendments of the nature described herein, and which involve new or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activity or beneficiaries must first receive HUD approval before consideration by the **COUNTY** to amend the Agreement.

SECTION V: COMPENSATION AND ALLOWABLE PAYMENTS

SUBSECTION V.A. – AGREEMENT PAYMENT: The **SUBRECIPIENT** agrees to accept as full compensation the total amount not to exceed *$500,000.00*__. The **COUNTY'S** standard method of payment to the **SUBRECIPIENT** is on a reimbursement basis. Payments under this method will be authorized only for work completed and/or services delivered during the term of the Agreement as stated in SECTION III: TERM OF AGREEMENT and prior to the payment request date. The **COUNTY** reserves the right to consider a written request from the **SUBRECIPIENT** for projects that require advanced payments in accordance with 2 CFR 200.305 and 24 CFR 570.502.

The **SUBRECIPIENT** will provide supporting documentation of eligible expenses as stated within this SUBSECTION and the applicable exhibits, forms, and attachments contained with this Agreement. Payment is subject to the provisions of SUBSECTION V.B. DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) and SECTION XI. SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION. Funding is contingent upon the availability of CDBG-DR funds and the obligation of said CDBG-DR funds through the **COUNTY'S** annual fiscal year (FY) budget appropriation process.

The **COUNTY** has agreed to reimburse the **SUBRECIPIENT** for approved budget line items listed for the project and its activities under the **COUNTY'S** CDBG-DR (6) Recovery and Resiliency Planning Program. The **SUBRECIPIENT** shall expend the allocation as follows:

	Most Impacted and Distressed (MID)
Activity Funds (Direct Project Costs)	$500,000.00
Activity Delivery Funds	$XXX,XXX.XX
TOTAL	$500,000.00

Furthermore, "not to exceed" line items and activity budgets under this Agreement shall be identified within the approved budget under the *Project Budget and Expense (Sources and Uses) Worksheet*.

After the **COUNTY** has approved funding and the Office of Strategic Resources and Government Affairs (SRGA) has issued an Agreement related to the funded project, the **SUBRECIPIENT** should sign and return the Agreement within 30 days for execution. In addition, the **SUBRECIPIENT** should begin to draw down funds as agreed upon within the project milestones set out under the *Project Schedule and Milestones* reporting deliverable unless additional time is authorized by the **COUNTY**. Failure to return the signed Agreement or begin spending funds within the agreed upon time frame may result in reduction or forfeiture of funds.

By execution of this Agreement, the **SUBRECIPIENT** attests that necessary written administrative procedures, processes, and fiscal controls are in place for the operation of its CDBG-DR program for which the **SUBRECIPIENT** received funds from the **COUNTY**. These written administrative procedures, processes, and fiscal controls must, at a minimum, comply with applicable state and Federal law, rules, and regulations, Federal Register Guidance, and the terms of this Agreement. The **SUBRECIPIENT**

agrees to remedy any deficiencies in its written administrative procedures, processes, and fiscal controls identified by the **COUNTY** or duly authorized CDBG-DR authorities.

The **SUBRECIPIENT** shall request all funds in the manner prescribed by the **COUNTY**, utilizing the Payment Request Form(s) as outlined under SUBSECTION VI.A. REPORTING AND AGREEMENT DELIVERABLES. Except as set forth herein, or unless otherwise authorized in writing by the **COUNTY**, costs incurred for eligible activities or allowable costs prior to the Effective Date of this Agreement are ineligible for funding with CDBG-DR funds.

If funds are not available to fully execute the project associated with this Agreement because of actions by the United States Congress, the Federal Office of Management and Budget, the **COUNTY** or the provision of SECTION XIII. ASSURANCE, CERTIFICATIONS, AND COMPLIANCE, all obligations on the part of the **COUNTY** to make any further payment of funds will terminate and the **SUBRECIPIENT** shall submit its administrative closeout report within thirty (30) calendar days from the receipt of notice from the **COUNTY**.

SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS): The **SUBRECIPIENT** shall expend CDBG-DR funds only for allowable costs and eligible activities which are incurred during the Agreement period, in accordance with federal cost principles at 2 CFR 200 Subpart E and 24 CFR 570 Subpart C, respectively. The **SUBRECIPIENT** shall ensure that its contractors, subcontractors, and consultants only expend funding under this Agreement for allowable costs resulting from the obligations incurred during the Agreement period as specified under SECTION III. TERM OF AGREEMENT.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds paid in excess of the amount to which the **SUBRECIPIENT** or its contractors, subcontractors, or consultants are entitled under the terms and conditions of this Agreement.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds received for an activity if the activity does not meet an approved National Objective in accordance with 24 CFR 570.208 and the terms of this Agreement.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds not spent in accordance with the conditions of this Agreement or applicable law. For the scenarios detailed above, such reimbursement shall be sent to the **COUNTY**, by the **SUBRECIPIENT**, within thirty (30) calendar days from the **SUBRECIPIENT'S** receipt of notification of such noncompliance.

The **COUNTY** may also defer payment to the **SUBRECIPIENT** for noncompliance with Agreement deliverables, program performance requirements, or sufficient documentation to meet regulatory and statutory requirements, including cross-cutting requirements**.** If, as a result of monitoring or audit, the **COUNTY** determines that submitted costs are not documented, a payment may be deferred. If costs are found to be unallowable and payment has been made, no future payments will be made until the full amount of overpayment is remitted to the **COUNTY** or a repayment agreement is established by the **COUNTY**. If the monitoring or audit occurs after the term of this Agreement, the **SUBRECIPIENT** will be required to remit funds to the **COUNTY** in accordance with the repayment conditions below.

The **SUBRECIPIENT** agrees to return to the **COUNTY** any overpayments due to disallowed cost, pursuant to the terms of this Agreement and/or Federal requirements. Such funds shall be considered **COUNTY** funds and must be refunded to the **COUNTY** within thirty (30) days of receiving notice from the **COUNTY** in writing regarding the overpayment. Should repayment not be made in a timely manner, the **COUNTY** will charge interest of one (1) percent per month compounded on the outstanding balance after forty (40) calendar days after the date of notification or discovery. The **SUBRECIPIENT** will be required to reimburse the **COUNTY** for disallowed costs or fines resulting from acts of noncompliance.

The **COUNTY'S** determination that an expenditure is eligible does not relieve the **SUBRECIPIENT** of its duty to repay the **COUNTY** in full for any expenditures that are later determined by the **COUNTY** or the Federal Government, in each of its sole discretion, to be an ineligible expenditure or a Duplication of Benefits.

If requested by the **COUNTY**, all refunds, return of improper payments, or repayments due to the **COUNTY** under this Agreement are to be made payable to Lee County and mailed directly to the **COUNTY,** pursuant to SECTION XIX. NOTICES and this Agreement.

The **SUBRECIPIENT** has responsibility for identifying and recovering grant funds that were expended in error, disallowed, or unused. The **COUNTY'S** provision of training, technical assistance, quality assurance and quality control reviews are in no way intended to alleviate the **SUBRECIPIENT** of the responsibility to administer activities in accordance with all federal, state, and local requirements, including the requirements outlined within this Agreement. The **SUBRECIPIENT** acknowledges full responsibility to return funds to the **COUNTY** in the event that HUD or other auditing agency determines that activities or costs are disallowed.

The **SUBRECIPIENT** will report all suspected or verified fraud to the **COUNTY,** regardless of whether the suspected or verified fraud is associated with disallowed cost or other perceived harm to the **SUBRECIPIENT** or the **COUNTY**.

SECTION VI: REPORTS AND EXHIBITS

SUBSECTION VI.A – REPORTING AND AGREEMENT DELIVERABLES: The **SUBRECIPIENT** shall provide the **COUNTY** with all reports and information set forth in the **COUNTY'S** approved system, including monthly performance reports and documentation outlined in all applicable exhibits to enable the Grantee to submit the required reporting to HUD within the Disaster Recovery Grant Reporting (DRGR) system.

The **SUBRECIPIENT'S** monthly reports, include administrative activity, financial activity, and program activity, must include sufficiently detailed summaries of the current status, progress, and completed work. The **SUBRECIPIENT** is responsible for all reporting of work of all contractors, subcontractors, and other entities under contract or agreement related to this Agreement.

At a minimum the following information will be required to be submitted in the system of record by the **SUBRECIPIENT**. Upon request from the **COUNTY**, the **SUBRECIPIENT** shall provide additional program or activity updates and information. If all required reports and copies are not sent to the **COUNTY** within the agreed-upon submission schedule or are otherwise not completed in a manner acceptable to the **COUNTY**, payments may be withheld in accordance with SUBSECTION V.B. DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) until the reports are completed. If the **COUNTY** withholds such payments, it shall notify the **SUBRECIPIENT** in writing of its decision, reasons for withholding payment, and the remedy for corrective action the **SUBRECIPIENT** must follow. The **COUNTY** may also take other action as stated within this Agreement or allowable by law.

The **SUBRECIPIENT'S reporting deliverables** include, but are not limited to, the following information**:**

1. **Project Schedule and Milestones:** A table or description of the work task, project start and end dates, other significant milestones (e.g., 50% complete), and timelines for the **SUBRECIPIENT** to submit outputs or deliverables to the **COUNTY**.

2. **Project Budget and Expense (Sources and Uses) Worksheet:** The **SUBRECIPIENT** must provide budget narratives and tables to describe all funding sources and the potential uses of those funding

sources for the purposes of completing the project. This narrative will include, but may not be limited to, (a) a description and justification of the proposed costs, (b) a description of project implementation support with **SUBRECIPIENT** or vendor staff, (c) sources of leveraged funds committed by the **SUBRECIPIENT** to the project, and (d) timelines for the projected expenditure of CDBG-DR funds.

3. **Payment Request Form:** The means by which the **COUNTY** and the **SUBRECIPIENT** document project and activity expenses and requests for payment. The **SUBRECEIPIENT** shall utilize this form when submitting or requesting any costs for payment and the form must be accompanied by legible supporting documentation to indicate the reasonableness, allowability, and appropriate procurement of the expense(s).

   As noted under SECTION III. TERM OF AGREEMENT and SECTION V. COMPENSATION AND ALLOWABLE PAYMENTS, all payments are reimbursements for eligible expenses or services defined as uncompensated expenses rendered during the Agreement term and paid prior to the final payment request due date. Copies of supporting documentation are required as part of the Payment Request for review of grant compliance and before payment will be authorized by the **COUNTY** to the **SUBRECIPIENT**. Reimbursement for eligible expenses will be made after review and authorization of a correct and complete Payment Request Form and required back up documentation. In accordance with the Federal Register Guidance, the **COUNTY** must be payor of last resort, meaning that if services are eligible to be billed to any other entity or funding source, including but not limited to, Medicaid, third party insurance or any other entity or funding source, the **COUNTY** will not pay for that service.

   Appropriate back-up/supporting documentation may include cancelled checks, vendor invoices, authorized purchase orders, attendance/service logs, other funder invoices, expenditure spreadsheets or other original documentation, as well as a copy of the **SUBRECIPIENT'S** check issued with authorized signature. For construction contracts, inspection reports from qualified officials should be submitted with the appropriate monthly payment request.

   The **SUBRECIPIENT** must submit the *Payment Request Form* with an authorized signature. Cancelled checks, paystubs, payroll reports, bank statements, and/or other documentation from vendors that expenses have been paid or services provided may be verified.

   As applicable, processing of payment requests is also subject to the requirements and conditions as set forth within the **COUNTY'S** *Hurricane Ian CDBG-DR Subrecipient Manual.*

4. **Monthly Activity Report:** The **SUBRECIPIENT** must identify information for this report that ties actual, real-time project and expenditure status to the approved activity budget, scope of work, and projected outcomes. Narratives on budget activity, project progress or delays, and performance measures are included within this report.

5. **Demographics and Beneficiary Report:** The **SUBRECIPIENT** must report on data and include documentation, such as maps detailing service areas, number of individual persons benefitting from the project, and other demographic information on households, where applicable, to indicate the public benefit of the project and activity.

6. **Project Amendment Request:** As referenced under SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS, the **SUBRECIPIENT** must notify the County and provide information on any project or activity changes within a project amendment request for the **COUNTY** to determine whether the request rises to the level of an amendment to the Agreement.

7. **Single Audit Certification Form:** The **SUBRECIPIENT**, if a nonprofit or governmental organization, must complete a form to certify whether it has expended $750,000 in federal and/or state funding

within the **SUBRECIPIENT'S** given Fiscal Year.

8. **Davis-Bacon and Related Acts (DBRA) Labor Standards Reports (as applicable**): When an activity triggers DBRA requirements, the **SUBRECIPIENT** must report and submit information on assigned labor compliance staff, labor compliance review processes and outcomes, bid and contract requirements documentation, work classification and minimum prevailing wage rates, written clearance of labor compliance issue resolutions, file maintenance plans, and payroll review plans.

9. **Section 3 Reports (as applicable):** When an activity triggers Section 3 requirements, the **SUBRECIPIENT** is required to submit data and information on Targeted Section 3 worker labor hours, Section 3 worker labor hours, total worker labor hours, and other qualitative efforts which the **SUBRECIPIENT** and their vendors took in an attempt to reach or achieve Section 3 goals.

10. **Closeout Report:** The **SUBRECIPIENT** must report project completion data and provide documentation of closeout processes in relation to this project and activity(ies).

The **SUBRECIPIENT'S Agreement deliverables (as identified within "Exhibits"),** which the **SUBRECIPIENT** must follow**,** include, but are not limited to, the following information:

11. **Exhibit A: Scope of Work and Activities – Program/Project Activity Overview:** Brief description on the identified and agreed-upon CDBG-DR Program eligible activity, National Objective to be achieved for the activity and measures, as applicable, the number of individuals benefitting as a result of the project and its activities, and the appropriate CDBG-DR storm tie-back or resilience need being met, in accordance with SECTION II. SCOPE OF WORK AND ACTIVITIES.

12. **Exhibit B: Scope of Work and Activities – Project Activity Scope of Work Description:** Detailed scope of work defining the plan, design, and approach for the activity.

13. **Exhibit C: Financial/Grant Management System Budget Worksheet:** The high level, official budget for the project as approved under SECTION V.A. AGREEMENT PAYMENT. Any adjustments to this budget will require an amendment in accordance with SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS.

14. **Exhibit D: Indirect Cost Rate Allocation Plan (as applicable):** As identified within the (1) NOFA Application for the (6) Recovery and Resiliency Planning Program, the **SUBRECIPIENT** has the option for the **COUNTY** to approve an indirect cost rate allocation plan. Where applicable, the plan and approval of the indirect cost rate for this Agreement is established under this Exhibit.

15. **Exhibit E: Projected Performance Measures and Outcomes Form:** The **COUNTY** will utilize the **SUBRECIPIENT'S** detailed scope of work to establish and project out specific performance metrics which the **SUBRECIPIENT** is required to meet to as a condition of project completion and closeout. The **COUNTY** will select the performance measure based on the eligible activity and proposed scope of work approved within the *}*(1) NOFA Application, for the (6) Recovery and Resiliency Planning Program.

16. **Exhibit F: Application:** The **SUBRECIPIENT'S** approved application is attached to this Agreement for identification and understanding of **SUBRECIPIENT'S** responses to critical project components.

17. **Exhibit G: Certificate(s) of Insurance:** In accordance with SECTION X.B. INSURANCE REQUIREMENTS, the **SUBRECIPIENT** must supply insurance coverage for the implementation of the project. This Exhibit will contain those required insurance coverages of the **SUBRECIPIENT.**

18. **Exhibit H: Certification of CDBG-DR Compliance Provisions:** This Exhibit outlines the

compliance provisions which the **SUBRECIPIENT** must follow as a requirement of the federal CDBG-DR funding award. The **SUBRECIPIENT** must certify adherence with these conditions.

19. **Exhibit I: CDBG-DR Special Terms and Conditions:** The **COUNTY** may identify specific conditions, including but not limited to, training, technical assistance, capacity building, and policy development, which the **SUBRECIPIENT** must complete as a condition of receiving the CDBG-DR funding award.

20. **Exhibit J: Subrecipient Staff Organization:** In additional to annual certifications of continued operations, the **SUBRECIPIENT** is required to provide evidence of staff who will be responsible for conducting certain actions during project implementation. This Exhibit contains the contact information of those individual staff members.

21. **Exhibit K: CDBG-DR Program Subrogation Agreement:** As noted under SUBSECTION XIII.E. DUPLICATION OF BENEFITS and the Federal Register Guidance, the **SUBRECIPIENT**, as a recipient of federal assistance, must sign a Subrogation Agreement before the **COUNTY** can disburse CDBG-DR assistance to the **SUBRECIPIENT**.

An electronic signature or a scanned copy of the report with signature is acceptable for all reports or exhibits included above for which signatures are required. The **COUNTY** will instruct the **SUBRECIPIENT** on the approved System of Record under which the **SUBRECIPIENT** is expected to provide this data and information.

The **SUBRECIPIENT** is required to immediately report to the **COUNTY** any incident of suspected criminal misapplication of CDBG-DR funds associated with this Agreement.

The **COUNTY** notates in the *Subrecipient Agreement Document Checklist,* the required forms and reports the **SUBRECIPIENT** must submit. These reports and forms include, but are not limited to, activity performance reports, payment request forms, program information forms, budget analysis reports, closeout reports, and periodic certifications as described above.

The **SUBRECIPIENT** should submit all reports and forms electronically in a computer-readable format using the approved System of Record submission method specified by the **COUNTY**. When required, reports or exhibits must be certified by signature. An electronic signature is acceptable for all reports, forms, and attachments within the *Subrecipient Agreement Document Checklist.*

The **SUBRECIPIENT** is required to immediately report to the **COUNTY** any incident of suspected criminal misapplication of CDBG-DR funds associated with this Agreement.

SUBSECTION VI.B. – EXTERNAL REPORTING AND ORGANIZATIONAL DOCUMENT REQUIREMENTS: The **COUNTY** or its agents may also require the **SUBRECIPIENT** to submit additional non-project related reports, documentation, and information which are beneficial to determine the **SUBRECIPIENT'S** capacity, compliance, and performance related to this this Federal award compliance. The **COUNTY** may request external reports, including but not limited to, prior and current fiscal year audits, other agency monitoring reports or reviews under other funding sources, organizational documents, and prior grant closeout reports. The **SUBRECIPIENT** agrees to provide such reports, documentation, and information requested by the County or its agents.

SECTION VII: AUDITS, MONITORING, AND RECORDS

SUBSECTION VII.A. – AUDITS AND INSPECTIONS: In in accordance with 2 CFR 200.332, 2 CFR 200.337, and 24 CFR 570.508, the **SUBRECIPIENT** will allow the **COUNTY**, Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of

their authorized representatives right of access to any documents, papers, or other records which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the **SUBRECIPIENT'S** non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

The Clerk of Courts Internal Audit Division, Lee County employees, HUD, or any of their duly authorized representatives have the right of timely and reasonable access to any books, documents, papers, or other records, including electronic storage media, of the **SUBRECIPIENT** or Certified Public Accountant (CPA) that are pertinent to the Agreement, in order to make audits, examinations, excerpts, transcripts and copies of such documents in accordance with 2 CFR 200.332, 2 CFR 200.337, and 24 CFR 570.508.

If noncompliance with this Agreement or material weaknesses in the organization are noted, the **COUNTY** or other authorized representatives have the right to unlimited access to records during an audit or inspection. This includes timely and reasonable access to the **SUBRECIPIENT'S** personnel for the purpose of interview and discussion related to such documents.

SUBSECTION VII.B. – INDEPENDENT AUDIT REQUIREMENTS: Under the Single Audit Act and in accordance with the provisions of 2 CFR 200.501, the **SUBRECIPIENT** must conduct a single or program-specific audit if it expends $750,000 or more in Federal awards from all sources during its fiscal year.

The **SUBRECIPIENT** shall also comply with the Federal Audit Clearinghouse (FAC) rules and directives, including but not limited to the pertinent report submission provisions of 2 CFR 200.512, when such provisions are applicable to this Agreement.

For **SUBRECIPIENTS** who are Nonprofit Corporations and do not trigger the Single Audit Act requirements or provisions under 2 CFR 200.501, the **SUBRECIPIENT** must submit an independent certified, audited financial statement of the most recent or immediate prior fiscal year, including the management letter and written response. The **COUNTY** may consider exceptions on an individual basis, to include other supporting audit documents, such as a current CPA's peer review letter or monthly financial statements within the last 60 days, to meet this requirement.

In accordance with 2 CFR 200.514, a complete, independent financial audit of the **SUBRECIPIENT'S** financial accounting statements, in accordance with Generally Accepted Accounting Principles (GAAP) and/or current Generally Accepted Government Auditing Standards (GAGAS), as applicable, is required and must include the following:

1. Auditor's opinion;
2. Requisite reports on internal control and compliance, if required;
3. Management letter addressing internal controls (Note: If there were no items to be addressed, the letter must still be completed and state that no comments were noted);
4. Management's response to such letter;
5. The programs that are funded by this Agreement either in the statement of functional expenses, revenues and expenditures, footnotes, schedule of Federal awards and state financial assistance or as supplemental data in the financial statements. The statement should be consistent with programs detailed in the corresponding proposal(s), exhibit(s), and attachment(s).

The **SUBRECIPIENT** must submit the audit reports electronically to the **COUNTY** within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or within nine months after the end of the **SUBRECIPIENT'S** audit period. If applicable, any associated corrective action plan must be submitted. Failure to submit the report within the required time frame can result in the withholding of payment, or termination of the Agreement by the **COUNTY**.

The audit must be conducted by an independent, licensed certified public accountant expressing an unmodified opinion on their current peer review and must be in accordance with the General Accounting Office (GAO) Yellow Book, Generally Accepted Government Auditing Standards, 2 CFR 200 Subpart F – Audit Requirements, as applicable, the Florida Single Audit Act (F.S. 215.97) as applicable, and the Auditor General Rule 10.550 (Government) or 10.650 (Not For Profit) as applicable.

SUBSECTION VII.C. – SUBRECIPIENT RISK ASSESSMENTS AND MONITORING: In accordance with 2 CFR 200.332, the **COUNTY**, as HUD's Grantee and a pass-through entity, must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for the purposes of determining the appropriate subrecipient monitoring. To enable those periodic assessments, the **SUBRECIPIENT** must provide information and documentation as required to the **COUNTY**. The **COUNTY'S** risk assessments results will be used to support the **COUNTY'S** oversight strategies and the level and frequency of monitoring, technical assistance, training to the **SUBRECIPIENT**.

The **SUBRECIPIENT** agrees to permit the **COUNTY** and persons duly authorized by the **COUNTY**, HUD, and other Federal, state, or local agencies, as applicable, or any authorized representatives under these agencies, to have access to and inspect all records, papers, documents, facility's goods and services, and project activity sites of the **SUBRECIPIENT** including interviews of any clients and employees of the **SUBRECIPIENT** to assess satisfactory performance and compliance of the full terms and conditions of this Agreement, in accordance with 2 CFR 200 (specifically 200.332), 24 CFR 570, and the Federal Register Guidance and to the extent permitted by the law, after giving the **SUBRECIPIENT** reasonable notice of such inspection.

The **SUBRECIPIENT** must submit to monitoring of its project activity by the **COUNTY** and persons duly authorized, as necessary, to ensure the CDBG-DR subaward is used for authorized purposes in compliance with Federal statutes, regulations and the terms and conditions of this Agreement.

Monitoring will include: (1) reviewing financial and performance reports required by the Grantee; (2) following up and ensuring that the **SUBRECIPIENT** takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the **SUBRECIPIENT** from the Grantee detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to the **SUBRECIPIENT** from the Grantee as required by 2 CFR 200.521. Any limited monitoring review scope of the terms and conditions within this Agreement does not relieve the **SUBRECIPIENT** of its obligation to manage the grant in accordance with all applicable rules and sound management practices.

Following such monitoring and in accordance with 2 CFR 200.521, the **COUNTY** will deliver to the **SUBRECIPIENT** a written report regarding management decisions which notate how activities are being conducted and whether corrective action(s) by the **SUBRECIPIENT** need to be taken to address deficiencies. The **SUBRECIPIENT** will rectify all noted deficiencies documented by the **COUNTY** within the specified period of time indicated in the monitoring report or provide the **COUNTY** with a reasonable and acceptable justification for not correcting the noted deficiencies as defined by the **COUNTY**. The **SUBRECIPIENT'S** failure to correct or provide the COUNTY with accepted justification for the deficiencies within the time specified by the **COUNTY** may result in withholding of payments or being deemed in breach or default of this Agreement and may result in the termination of this Agreement.

In response to **SUBRECIPIENT** deficiencies or other instances of capacity concerns prior to this Agreement, the **COUNTY** may also impose additional conditions on the use of the CDBG-DR funds, as noted under *Exhibit I – CDBG-DR Special Terms and Conditions*. This Exhibit ensures future compliance through trainings, technical assistance, and capacity building in an effort to correct or avoid early noncompliance.

SUBSECTION VII.D. – RECORDKEEPING REQUIREMENTS: The **SUBRECIPIENT** must comply with the recordkeeping requirements of 24 CFR 570.506, as amended by the Federal Register Guidance's Consolidated Notice waivers and alternative requirements, which describes the types of records which must be kept by the **SUBRECIPIENT** and the **COUNTY** for the Federal CDBG-DR award.

The **SUBRECIPIENT** must comply with the longer of the records retention requirements contained within the Uniform Administrative Requirements (UAR) at 2 CFR 200.334 and State of Florida GS1-SL, except that the **SUBECIPIENT** must:

1. Retain records for individual CDBG-DR activities for 5 years after the Agreement has ended, as prescribed in State of Florida GS1-SL.
2. Maintain records for individual activities subject to the reversion of assets provisions at 24 CFR 570.503 or change of use provisions at 24 CFR 570.505 for as long as those provisions continue to apply to the activity(ies).
3. Maintain records for individual activities in which there are outstanding loan balances, other receivables, or contingent liabilities until such receivables or liabilities have been satisfied and for 5 years following that satisfaction.

In accordance with 24 CFR 570.506, the **SUBRECIPIENT** shall also maintain books, records and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by the **COUNTY** under this Agreement. The **SUBRECIPIENT** must also retain all financial, client demographics, and programmatic records, supporting documentation, statistical records, and other records, which are necessary to document purchases, expenses, revenue, income, and assets of the **SUBRECIPIENT** by funding source, program, and functional expenses category during the term of this Agreement.

If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the retention period, the records shall be retained by the **SUBRECIPIENT** until all litigation, claims, or audit findings involving the records have been resolved and final action taken in accordance with 2 CFR 200.334. Additional types of records are further described under *Exhibit H – Certification of CDBG-DR Compliance Provisions*.

The records retention period, as described within this Subsection, may be longer depending on other funding sources for activities. It is the **SUBRECIPIENT'S** further obligation to comply with all Federal and State of Florida retention schedules if other schedules shall apply.

The **SUBRECIPIENT**, including all its employees or agents, contractors, subcontractors, and consultants to be paid from CDBG-DR funds provided under this Agreement, shall allow access to its records at reasonable times for audits, inspections and monitoring as described in this Section and Subsections.

The **SUBRECIPIENT** specifically acknowledges its obligations under 2 CFR 200.338 (further detailed within SUBSECTION XIII.K. PERSONALLY IDENTIFIABLE INFORMATION), and to comply with F.S., 119.0701, as amended from time to time, with regard to public records, and shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the **COUNTY** in order to perform the services required under this Agreement;
2. Upon request from the **COUNTY'S** custodian of public records, provide the **COUNTY** with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 Florida Statutes or as otherwise provided by law;
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
4. Meet all requirements for retaining public records and transfer, at no cost to the **COUNTY**, all public

records in possession of **SUBRECIPIENT** upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the **COUNTY** in a format that is compatible with the information technology system of the **COUNTY**.

IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, http://www.leegov.com/publicrecords.

SECTION VIII: CONTRACTOR STATUS

SUBSECTION VIII.A. – INDEPENDENT CONTRACTOR: It is the Parties' intention that the **SUBRECIPIENT** will be an independent contractor and not the **COUNTY'S** employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Florida revenue and taxation law, Florida Worker's Compensation law and Florida Unemployment Insurance Law. The **SUBRECIPIENT** will retain sole and absolute discretion in the judgment of the manner and means of carrying out the **SUBRECIPIENT'S** activities and responsibilities hereunder. The **SUBRECIPIENT** agrees that it is a separate and independent enterprise from the public employer, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the **SUBRECIPIENT** and the **COUNTY**, and the **COUNTY** will not be liable for any obligation incurred by the **SUBRECIPIENT**, including, but not limited to, unpaid minimum wages and/or overtime premiums.

SUBSECTION VIII.B. – SUBCONTRACTS: Primary roles and responsibilities of the **SUBRECIPIENT** cannot be subcontracted. It is mutually agreed that any program component that is subcontracted by the **SUBRECIPIENT** must have a written contract. The **SUBRECIPIENT** must provide written notice to the **COUNTY** of all subcontractors, as well as provide copies of all contracts entered into with subcontractors, upon the **COUNTY'S** request. Procurement and/or bidding of non-primary roles and responsibilities must be awarded on a fair and non-collusive basis and must be in compliance with all applicable Lee County, State of Florida, and Federal procurement standards at 2 CFR 200.318-327. The **SUBRECIPIENT** shall not enter into a transaction with a person or affiliate placed on the Florida Department of Management Services' Convicted Vendor List. For projects and services receiving federal funds, the **SUBRECIPIENT** shall also not enter into a transaction with debarred, suspended or ineligible contractors and participants included on the Federal Excluded Parties List, in accordance with 2 CFR 200.214. The **SUBRECIPIENT** must ensure each subcontractor conforms to the terms and conditions of this Agreement, *Exhibit H – Certification of CDBG-DR Compliance Provisions*, and *Exhibit F – Application*, as applicable, and must be subject to indemnification as stated in SUBSECTION X.A. INDEMNIFICATION AND LIABILITY below.

SUBSECTION VIII.C. – CONTRACTS AND FEDERAL PROCUREMENT STANDARDS: If the **SUBRECIPIENT** contracts any of the work required under this Agreement, a copy of the proposed contract template and any proposed amendments, extensions, revisions, or other changes thereto, must be forwarded to the **COUNTY** Program Manager for prior written approval. For each contract, the **SUBRECIPIENT** shall report to the **COUNTY** as to whether that contractor or any subcontractors hired by the contractor, is a minority business and women's business enterprise, as defined in section 288.703, F.S. and in accordance with 24 CR 570.506, 24 CFR 570.507, and 2 CFR 200.321. The **SUBRECIPIENT** shall comply with the procurement standards at 2 CFR 200.318 - 200.327 and 2 CFR 200.330 when

procuring property and services under this Agreement. The **SUBRECIPIENT** shall include the following terms and conditions in any contract pertaining to the work required under this Agreement:

1. The period of performance or date of completion;
2. The performance requirements;
3. That the contractor is bound by the terms of this Agreement;
4. That the contractor is bound by all applicable state and Federal laws, rules, and regulations;
5. That the contractor shall hold the **COUNTY** and the **SUBRECIPIENT** harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;
6. The obligation of the **SUBRECIPIENT** to document in the **SUBRECIPIENT'S** reports the contractor's progress in performing its work under this Agreement;
7. The requirements of Appendix II to 2 CFR 200 - Contract Provision for Non-Federal Entity Contract Under Federal Awards - (refer to *Exhibit H – Certification of CDBG-DR Compliance Provisions*)

The **SUBRECIPIENT** must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.609 and 2 CFR 200.214), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, payment, performance bonds, if applicable, and liquidated damages.

The **SUBRECIPIENT** shall maintain oversight of all activities performed under this Agreement and shall ensure that its contractors perform according to the terms and conditions of the procured contracts or agreements and the terms and conditions of this Agreement.

SECTION IX: CONFLICTS OF INTEREST

The **SUBRECIPIENT** agrees that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of activities required under this Agreement. The **SUBRECIPIENT** further agrees that no person having any such interest shall be employed or engaged for said performance. The **SUBRECIPIENT** agrees that no employee, officer, agent of the **SUBRECIPIENT** or its subrecipients shall participate in the selection, award, or administration of a contract or construction bid if a conflict-of-interest, either real or implied, would be involved. The **SUBRECIPIENT** or its subrecipient employees, officers and agents should refrain from accepting gratuities, favors or anything of monetary value from contractors or potential contractors based on the understanding that the receipt of such an item of value would influence any action or judgment of the **SUBRECIPIENT**.

The **SUBRECIPIENT** is subject to the requirements at 24 CFR 570.611 and 2 CFR 200.318, as applicable, which includes developing or maintaining written standards of conduct and a conflict-of-interest policy that complies with the process for promptly identifying and addressing such conflicts.

Any potential conflict of interest shall be reported using the **COUNTY'S** disclosure form.

SECTION X: RISK MANAGEMENT

SUBSECTION X.A. – INDEMNIFICATION AND LIABILITY: To the fullest extent permitted by applicable law, **SUBRECIPIENT** shall protect, defend, indemnify, save and hold the **COUNTY**, the Board of County Commissioners, its agents, officials, and employees harmless from and against any and all claims, demands, fines, loss or destruction of property, liabilities, damages, for claims based on the negligence, misconduct, or omissions of the **SUBRECIPIENT** resulting from the **SUBRECIPIENT'S** work as further described in this Agreement and its attachments, which may arise in favor of any person or persons resulting from the **SUBRECIPIENT'S** performance or nonperformance of its obligations under this Agreement except any damages arising out of personal injury or property claims from third parties caused solely by the negligence, omission(s) or willful misconduct of the **COUNTY**, its officials, commissioners,

employees or agents, subject to the limitations as set out in Florida general law, Section 768.28, Florida Statutes, as amended from time to time. Further, the **SUBRECIPIENT** hereby agrees to indemnify the **COUNTY** for all reasonable expenses and attorney's fees incurred by or imposed upon the **COUNTY** in connection therewith for any loss, damage, injury, liability, or other casualty. The **SUBRECIPIENT** additionally agrees that the **COUNTY** may employ an attorney of the **COUNTY'S** own selection to appear and defend any such action, on behalf of the **COUNTY**, at the expense of the **SUBRECIPIENT**. The **SUBRECIPIENT** further agrees to pay all reasonable expenses and attorney's fees incurred by the **COUNTY** in establishing the right to indemnity.

The **SUBRECIPIENT** further agrees that it is responsible for any and all claims arising from the hiring of individuals relating to activities provided under the Agreement. All individuals hired are employees of the **SUBRECIPIENT** and not of the **COUNTY.**

The **SUBRECIPIENT** further agrees to assume sole responsibility, training and oversight of the parties it deals with or employs to carry out the terms of this Agreement to the extent set forth in Section 768.28, F.S. The **SUBRECIPIENT** shall hold the **COUNTY** harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. Nothing herein shall be construed as consent by the **SUBRECIPIENT** to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

If the **SUBRECIPIENT** is a state agency or subdivision, as defined in Section 768.28, F.S., then the **SUBRECIPIENT** agrees to be fully responsible for its negligent or tortious acts of omissions, which result in claims or suits against the **COUNTY**. The **SUBRECIPIENT** agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, F.S. Nothing herein shall be construed as consent by the state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

Nothing herein is intended to serve as a waiver of sovereign immunity by the **COUNTY** or the **SUBRECIPIENT**.

The provisions of this SUBSECTION X.A. INDEMIFICATION AND LIABILITY shall survive the termination of this Agreement.

SUBSECTION X.B. – INSURANCE REQUIREMENTS

INSURANCE – NONPROFIT SUBRECIPIENTS
The **SUBRECIPIENT** agrees to secure and maintain the insurance coverage outlined below during the term of this Agreement. The **SUBRECIPIENT** agrees that this insurance requirement shall not relieve or limit **SUBRECIPIENT'S** liability and that the **COUNTY** does not in any way represent that the insurance required is sufficient or adequate to protect the **SUBRECIPIENT'S** interests or liabilities but are merely minimums. It is the responsibility of the **SUBRECIPIENT** to ensure that all subcontractors comply with the insurance requirements.

Certificate(s) of Insurance ***naming Lee Board of County Commissioners as Certificate Holder and additional insured*** will be attached to this Agreement as an Exhibit (*Exhibit G – Certificate(s) of Insurance*). Name and address for Certificate Holder should be: Lee Board of County Commissioners, P.O. Box 398, Fort Myers, FL 33902. Certificate(s) must be provided for the following coverages at the time of Agreement execution and upon policy renewal. Renewal certificates are due to the **COUNTY** on or before the expiration date.

1. **Workers' Compensation:** Statutory benefits as defined by Section 440, F.S., encompassing all operations contemplated by this Agreement to apply to all owners, officers, and employees. Employers' liability will have minimum limits of:

$100,000 per accident
$500,000 disease limit
$100,000 disease limit per employee

2. **Commercial General Liability:** Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:
$500,000 bodily injury per person (BI)
$1,000,000 bodily injury per occurrence (BI)
$500,000 property damage (PD) or
$1,000,000 combined single limit (CSL) of BI and PD

   The General Liability Policy Certificate shall name **"Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials"** as **"Additional Insured".** The **SUBRECIPIENT** agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage being excess.

3. **Business Auto Liability:** The following Automobile Liability will be required and coverage shall apply to all owned, hired, and non-owned vehicles used with minimum limits of:
$100,000 bodily injury per person (BI)
$300,000 bodily injury per occurrence (BI)
$100,000 property damage (PD) or
$300,000 combined single limit (CSL) of BI and PD

4. **Directors & Officers Liability:** Entity coverage to cover claims against the organization directly for wrongful acts with limits not less than $100,000.

5. **Fidelity Bonding:** Covering all employees who handle the agency's funds. The bond amount must be equivalent to the highest daily cash balance or a minimum amount of $50,000.

INSURANCE – GOVERNMENT/MUNICIPALITY SUBRECIPIENTS
Documentation of the above coverage requirements are not applicable to local governments or municipalities that are self-insured.

SUBSECTION X.C. – NOTICE OF CANCELLATION OR MODIFICATION: The **COUNTY** will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Lee County Risk Manager, P. O. Box 398, Ft. Myers, FL 33902.

SECTION XI: SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION

In accordance with the Federal Register Guidance, 2 CFR 200.208, 2 CFR 200.339, Appendix II to 2 CFR 200, 24 CFR 570.503, and other rights which may be available under law, the following Subsections identify suspension and termination of the Agreement, with and without cause, the potential events of default by the **SUBRECIPIENT**, and potential remedies by the **COUNTY** for noncompliance by the **SUBRECIPIENT** of any and all requirements of this Agreement, including any exhibits, attachments, and terms and conditions herein:

SUBSECTION XI.A. – SUSPENSION: The **COUNTY** reserves the right to suspend funding for failure to comply with the requirements of this Agreement. If the **SUBRECIPIENT** fails to submit required documents by the due date, the **COUNTY** can suspend the Agreement and withhold payments until all requirements are satisfied.

In the event the **SUBRECIPIENT** ceases operation for any reason or files for protection from creditors under bankruptcy law, any remaining unpaid portion of this Agreement, less funds for expenditures already incurred, shall be retained by the **COUNTY** and the **COUNTY** shall have no further funding obligation to the **SUBRECIPIENT** with regard to those unpaid funds.

SUBSECTION XI.B. – EVENTS OF DEFAULT: If any of the following events occur ("Events of Default"), the **COUNTY** may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies set forth in SUBSECTION XI.C. REMEDIES or pursue any remedy at law or in equity, without limitation:

1. Any warranty or representation made by the **SUBRECIPIENT**, in this Agreement with the **COUNTY**, is or becomes false or misleading in any respect, or if the **SUBRECIPIENT** fails to keep or perform any of the obligations, terms, or covenants in this Agreement with the **COUNTY**, and/or has not cured them in a timely fashion and/or is unable or unwilling to meets its obligations under this Agreement and/or as required by statute, rule, or regulation;
2. Any material adverse change occurred in the financial condition of the **SUBRECIPIENT** at any time during the term of this Agreement and the **SUBRECIPIENT** fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by the **COUNTY**;
3. The **SUBRECIPIENT** fails to submit any required reports or submits any required report with incorrect, incomplete or insufficient information or fails to submit additional information as requested by the **COUNTY**;
4. The **SUBRECIPIENT** fails to perform or timely complete any of its obligations under this Agreement, including participation in the **COUNTY'S** measures for technical assistance and training;
5. Both the **SUBRECIPIENT** and the **COUNTY** agree that in the event the **COUNTY** elects to make payments or partial payments after any Events of Default, it does so without waving the right to exercise remedies allowable herein or at law and without becoming liable to make any further payment; or,
6. Neither the **SUBRECIPIENT** nor the **COUNTY** (Parties) shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the **SUBRECIPIENT,** the **COUNTY**, or either Parties' employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar causes wholly beyond both Parties' control or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the **SUBRECIPIENT** shall take all reasonable measures to mitigate any and all resulting delays or disruptions in the **SUBRECIPIENT'S** performance obligation under this Agreement. If the delay is excusable under this Subsection, the delay will not result in any additional charges or cost under the Agreement to either Parties. In the case of any delay the **SUBRECIPIENT** believes is excusable under this Subsection, the **SUBRECIPIENT** shall notify the **COUNTY** in writing of the delay or potential delay and describe the cause of the delay either (1) with ten (10) calendar days after the cause that creates or will create the delay first arose, if the **SUBRECIPIENT** could reasonably foresee that a delay could occur as a result or (2) within five (5) calendar days after the date the **SUBRECIPIENT** first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. The foregoing shall constitute the **SUBRECIPIENT'S** sole remedy or excuse with respect to delay. Providing notice in accordance with this Subsection is a condition precedent to such remedy. The **COUNTY**, at its sole discretion, will determine if the delay is excusable under this Subsection and will notify the **SUBRECIPIENT** of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against the **COUNTY**. The **SUBRECIPIENT** shall not be entitled to an increase in the Agreement price or payment of any kind from the **COUNTY** for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, the **SUBRECIPIENT** shall perform at no increased cost, unless the **COUNTY** determines, in its sole discretion, that the delay

will significantly impair the value of the Agreement to the **COUNTY**, in which case, the **COUNTY** may do any or all of the following: (1) accept allocated activity(ies) performance or deliveries from the **SUBRECIPIENT**, provided that the **SUBRECIPIENT** grants preferential treatment to the **COUNTY** with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by the **SUBRECIPIENT** for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity or (3) terminate the Agreement in whole or in part.

SUBSECTION XI.C. – REMEDIES: If an Event of Default occurs, the **COUNTY** may, in its sole discretion and without limiting any other right or remedy available, provide thirty (30) calendar days written notice to the **SUBRECIPIENT,** and if the **SUBRECIPIENT** fails to cure within those thirty (30) calendar days, the **COUNTY** may choose to exercise one or more of the following remedies, either concurrently or consecutively:

1. Terminate this Agreement upon written notice by the **COUNTY,** sent in conformity with SECTION XIX. NOTICES;
2. Begin any appropriate legal or equitable action to enforce performance of this Agreement;
3. Withhold or suspend payment of all or any part of a request for payment;
4. Demand the **SUBRECIPIENT** return to the **COUNTY** any funds used for ineligible activities or unallowable costs under this Agreement or any applicable law, rule or regulation governing the use of the funds; and
5. Exercise any corrective or remedial actions, including but not limited to:
    a. Request additional information from the **SUBRECIPIENT** to determine the reasons for or the extent of noncompliance or lack of performance;
    b. Issue a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or
    c. Advise the **SUBRECIPIENT** to suspend, discontinue, or refrain from incurring costs for any activities in question.
6. Exercise any other rights or remedies which may be otherwise available under law.

Pursuit of any of the above remedies does not preclude the **COUNTY** from pursuing any other remedies in this Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Agreement or failure by the **COUNTY** to require strict performance does not affect, extend, or waive any other right or remedy available or affect the later exercise of the same right or remedy by the **COUNTY** for any other default by the **SUBRECIPIENT**.

SUBSECTION XI.D. – TERMINATION BY COUNTY: Excluding those scenarios and exceptions as noted within SUBSECTION XI.A. SUSPENSION, SUBSECTION XI.B. EVENTS OF DEFAULT, and SUBSECTION XI.C. REMEDIES, the **COUNTY** may, at any time and for other reasons not mentioned above ("for convenience"), cancel this Agreement by giving twenty–four (24) hours written notice to the **SUBRECIPIENT** by Certified Mail, Process Server or Hand Delivery following a determination by the County Manager or designee, at its sole discretion, that such cancellation is in the best interest of the people of the **COUNTY**. From the date of cancellation, neither party shall have any further obligation unless specified in the termination notice.

If the financing for this project is contingent upon funding sources other than Lee County as identified in the application for this Agreement, and such funds become unavailable, the obligations of each party hereunder may be terminated upon no less than twenty-four (24) hours written notice.

SUBSECTION XI.E. – TERMINATION BY SUBRECIPIENT: Excluding those scenarios and exceptions as noted within SUBSECTION XI.A. SUSPENSION, SUBSECTION XI.B. EVENTS OF DEFAULT, and SUBSECTION XI.C. REMEDIES, the **SUBRECIPIENT** may, at any time and for other reasons not mentioned above ("for convenience"), cancel this Agreement by giving seventy-two (72) hours prior

written notice to the **COUNTY** by Certified Mail or Process Server of such and specifying the effective date.

The **COUNTY'S** obligation to make any payments under any provision of this Agreement shall cease on the effective date of termination.

In the event that this Agreement is terminated, the **SUBRECIPIENT** shall not incur new obligations under the terminated portion of the Agreement after the date the **SUBRECIPIENT** has received the notification of termination. The **SUBRECIPIENT** shall cancel as many outstanding obligations as possible. The **COUNTY** shall disallow all costs incurred after the **SUBRECIPIENT'S** receipt of the termination notice. The **COUNTY** may, to the extent authorized by law, withhold payments to the **SUBRECIPIENT** for the purpose of set-off until the exact amount of damages due to the **COUNTY** from the **SUBRECIPIENT** is determined.

In accordance with 24 CFR 570.503, upon expiration or termination of this Agreement, the **SUBRECIPIENT** shall transfer to the **COUNTY** any CDBG-DR funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-DR funds.

SECTION XII: USE AND REVERSION OF ASSETS, REAL PROPERTY

The **SUBRECIPIENT** must ensure that any equipment or fixed assets purchased in whole or in part with CDBG-DR funds be adequately safeguarded and assure such assets are used solely for authorized purposes. The purchase, use, management and disposition of equipment and other capital assets must comply with 2 CFR 200.313, 2 CFR 200.439, the applicable Federal Register Guidance, and 24 CFR 570. See SECTION XI: SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION regarding the revision of any CDBG-DR funds or assets upon termination or expiration of this agreement. Per 24 CFR 570.502(a)(8), in all cases when equipment purchased with CDBG funds is sold, the net proceeds are considered program income, and shall be returned to the **COUNTY** within 30 days of receipt of the proceeds.

Any real property under the **SUBRECIPIENT'S** control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to the **SUBRECIPIENT** in the form of a loan) in excess of $25,000 must (1) be used to meet a national objective until five years after expiration or termination of this Agreement (24 CFR 570.505), unless otherwise agreed upon by the Parties, or except as otherwise set forth herein or (2) if not used to meet a national objective, the **SUBRECIPIENT** shall pay to the **COUNTY** an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for the acquisition or improvement of the property for five years after expiration or termination of this Agreement.

The rights and remedies under this Section are in addition to any other rights or remedies provided by law or under this Agreement.

SECTION XIII: ASSURANCE, CERTIFICATIONS, AND COMPLIANCE

The **SUBRECIPIENT** agrees that compliance with these assurances and certifications constitutes a condition of continued receipt of or benefit from CDBG-DR funds provided through this Agreement, and that it is binding upon the **SUBRECIPIENT**, its successors, transferees, and assignees for the period during which services are provided and activities are performed. Additional requirements of the assurances, certifications, and compliance measures below can be further detailed or outlined in the Agreement's exhibits, forms, and attachments.

SUBSECTION XIII.A. – IMMIGRATION LAWS AND CITIZENSHIP STATUS: The **COUNTY** will not intentionally award Agreements to any **SUBRECIPIENT** who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 a(e)

Section 274A(e) of the Immigration and Nationality Act (INA).

The **COUNTY** shall consider the employment by the **SUBRECIPIENT** of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of the Agreement by the **COUNTY**.

Additionally, the **SUBRECIPIENT** must follow requirements to verify citizenship of CDBG-DR fund recipients in certain circumstances. In accordance with 49 CFR 24.408, the **SUBRECIPIENT** cannot provide relocation assistance to a person who has not provided certification of U.S. citizenship or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the **SUBRECIPIENT** that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States. The **COUNTY** may require the **SUBRECIPIENT** to follow other verification requirements as prescribed within the Federal Register Guidance, regulations, or within the Action Plan.

Furthermore, the **SUBRECIPIENT** shall ensure that CDBG-DR funds, which are passed through Lee County, are restricted to people legally able to reside in the United States.

SUBSECTION XIII.B. - E-VERIFY REQUIREMENTS: The **SUBRECIPIENT** must verify employment eligibility of all new employees hired during the Agreement term through the U.S. Department of Homeland Security's E-Verify system.

Section 448.095, F.S., requires the following:

1. Every public employer, contractor, and subcontractor shall register with and use the E- Verify system to verify the work authorization of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
2. A private employer shall, after making an offer of employment which has been accepted by a person, verify such person's employment eligibility. A private employer is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a person is a contract employee retained by a private employer, the private employer must verify the employee's employment eligibility upon the renewal or extension of his or her contract.

E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to the employer to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: *https://www.e-verify.gov/*.

If the **SUBRECIPIENT,** or its contractors, consultants, or subrecipients, does not use E-Verify, they shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the Effective Date of this Agreement.

SUBSECTION XIII.C. – NATIONAL OBJECTIVE: All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives. The **SUBRECIPIENT** certifies that the activities carried out under this Agreement shall meet the stated national objective as outlined under SUBSECTION II.C. NATIONAL OBJECTIVE. Furthermore, the **SUBRECIPIENT** certifies and acknowledges that it understands documentation and records requirements for the stated national objective type(s), as defined at 24 CFR 570.208, 24 CFR 570.506, and any and all alternative requirements under the Federal Register Guidance in relation to relevant national objective type(s) as stated in the above Subsection.

SUBSECTION XIII.D. – USE OF FUNDS AND ORDER OF ASSISTANCE: CDBG–DR Appropriations Acts generally include a statutory order of assistance for Federal agencies which require Grantees to verify whether funds made available by FEMA or the U.S. Army Corps of Engineers (USACE) are available for an activity, or the costs are reimbursable by FEMA or the USACE, *before* awarding CDBG-DR assistance for the cost of carrying out the same activity.

The **SUBRECIPIENT** shall not use CDBG–DR funds for activities reimbursable by or for which funds are made available by FEMA or the U.S. Army Corps of Engineers (USACE). The **SUBRECIPENT** must verify and inform the **COUNTY** if FEMA and USACE funds are available prior to award or expenditure of CDBG-DR funds to an eligible activity within the Scope of Work contained under *Exhibit B – Scope of Work and Activities – Project Activity Scope of Work Description*. *Exhibit H – Certification of CDBG-DR Compliance Provisions* further outlines Duplication of Benefits certifications which the **SUBRECIPIENT** must adhere to. Failure to do so can result in a return of funds as further outlined within this Agreement under SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) and SUBSECTION XIII.E. DUPLICATION OF BENEFITS.

SUBSECTION XIII.E. – DUPLICATION OF BENEFITS: The **SUBRECIPIENT** certifies that it shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5155 et seq.) and described within Appropriations Acts and Federal Register Guidance. The **SUBRECIPIENT** must comply with HUD's requirements for Duplication of Benefits (DOB), as described in the Federal Register Guidance (Section IV.A.1. – Grant Administration; Duplication of Benefits (DOB)) and HUD guidance (including HUD training materials), including specific Order of Assistance requirements as noted under SUBSECTION XIII.D. USE OF FUNDS AND ORDER OF ASSISTANCE. The **SUBRECIPIENT** shall carry out the activities under this Agreement in compliance with the **COUNTY's** procedures to prevent DOB. The **SUBRECIPIENT** shall also sign a Subrogation Agreement (see *Exhibit K – CDBG-DR Program Subrogation Agreement*).

In accordance with the Federal Register Guidance at 88 FR 32053 – Section IV.A.1.(d)(v) Applicable Rules, Statutes, Waivers, and Alternative Requirements: Reassess Unmet Need When Necessary, the **SUBRECIPIENT** certifies that they will notify the **COUNTY** immediately of any funding source changes and/or additions from other sources that are different from that shown in the **SUBRECIPIENT'S** proposal. This notification must include a statement explaining how this change in funding affects the provisions of the project and activity requirements as well as the use of and continued need for CDBG-DR funds through the **COUNTY**.

The **SUBRECIPIENT** shall either (1) maintain all funds provided under this Agreement in a separate bank account or (2) ensure that the **SUBRECIPIENT'S** accounting system shall have sufficient internal controls to separately track expenditure of all funds under this Agreement, in accordance with 2 CFR 200.302. In cases where the project and its activities are funded by more than one funding source (other funds besides CDBG-DR funds) where potential duplicative assistance could exist, the **SUBRECIPIENT** shall not commingle CDBG-DR funds provided under this Agreement with any other funds, projects or programs, when those funds are determined to be for the same purpose and same use, in accordance with the Federal Register Guidance. 88 FR 32050, Section IV.A.1.(a) – Overview of Grant Process, The Stafford Act – and Section 312 of the Stafford Act makes recipients of Federal disaster assistance liable for repayment of the amount of Federal disaster assistance that duplicates benefits available for the same purpose from another source (42 U.S.C. 5155(c)). The **COUNTY** may, in its sole discretion, disallow costs made with commingled funds that were designated as being available for the same purpose and use as the CDBG-DR funds and require reimbursement for such costs as described herein (SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS)).

SUBSECTION XIII.F. – CIVIL RIGHTS REQUIREMENTS: The **SUBRECIPIENT** further assures that all

contractors, subcontractors, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs, projects, and activities are not discriminating against those participants or employees in violation of statutes, regulations, guidelines and standards. By acceptance of this CDBG-DR funding, the **SUBRECIPIENT** assures and certifies the following:

1. That they will comply with all applicable Federal, state and local anti-discrimination laws pertaining to nondiscrimination in programs receiving Federal financial assistance, including but not limited to:
   a. Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations – including that recipients/grantees of Federal financial assistance are required to take reasonable steps to ensure meaningful access to persons who are Limited English Proficiency (LEP), as per Executive Order 13166 and the Federal Register Guidance, to items such as, but not limited to, project outreach, project, or activity materials including communique in the form of digital (website) media and paper materials.
   b. Section 109 - Title I of the Housing & Community Development Act of 1974
   c. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
   d. Age Discrimination Act of 1975 (42 U.S.C. 610 et. seq.)
   e. Fair Housing Act
2. That they will comply with the Americans with Disabilities Act of 1990 ("ADA") (P.L. 101-336, as codified at U.S.C. 42.126 (sections 12101-12213) and as amended, and 28 CFR 35); the Florida Civil Rights Act, as amended, Chapter 76, F.S.; Title VII of the Civil Rights Act of 1964, as amended; and laws which gives civil rights protections to individuals with disabilities, guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. A Single-Point-of-Contact shall be required if the agency employs 15 or more employees. The Single-Point-of-Contact will ensure effective communication with deaf or hard-of-hearing customers or companions in accordance with Section 504 and the ADA and coordinate activities and reports with the **SUBRECIPIENT'S** Single-Point-of-Contact.
3. That if clients are to be transported under this Agreement, **SUBRECIPIENT** will comply with the provisions of Chapter 427, Florida Statutes, which requires the coordination of transportation for the disadvantaged.
4. That if personnel in programs under this Agreement work directly with children/youths and vulnerable or disabled adults, the **SUBRECIPIENT** will comply with applicable provisions under Florida Statutes 943.0542; 943.04351; 393.0655; 402, regarding employment screening.
5. That activities under this Agreement shall provide for access to equal participation of religious or faith-based organizations, where applicable, in accordance with 24 CFR 570.200 and Executive Order 13279.

Additional requirement information can be accessed at the following websites:

- Office of Fair Housing and Equal Opportunity (FHEO) Fair Housing Rights and Obligations
- FHEO main website
- Guidelines for promoting Fair Housing for individuals with Limited English Proficiency (LEP)

These requirements are designed to prevent discrimination in the delivery of benefits and services because of race, color, religion (creed), sex, national origin, age, familial status or disability. Affirmative marketing plans and use of universal design features for construction and rehabilitative projects should be incorporated when possible.

All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logotype, statement, or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Different styles/types/sizes of

logos and information regarding brochures can be found on the Fair Housing and Equal Opportunities HUD website.

SUBSECTION XIII.G. – DETECTION AND PREVENTION OF FRAUD, WASTE, AND ABUSE: In accordance with the Federal Register Guidance, the **SUBRECIPIENT** certifies that they will administer their programs under procedures, supervision, safeguards, and such other methods as may be necessary to prevent fraud, waste, and abuse, and that it will target its services and activities to those who need them the most. Additionally, the **SUBRECIPIENT** certifies that their written standards of conduct and their conflict-of-interest policy will supplement their anti-fraud, waste, and abuse (AFWA) initiatives, and that the **SUBRECIPIENT** may be required to take part in fraud, waste, and abuse (FWA) training and will work with the **COUNTY** to develop a FWA complaint and reporting process, including reporting such complaints to the **COUNTY**.

SUBSECTION XIII.H. – INELIGIBLE ACTIVITIES: The **SUBRECIPIENT** assures that it will not conduct or expend CDBG-DR funds on any activities which are deemed ineligible by the Federal Register Guidance (88 FR 32077, Section III.G.), federal regulations (most notably at 24 CFR 570.207), the Action Plan, and all other applicable laws.

SUBSECTION XIII.I. – PROGRAM INCOME: The **SUBRECIPIENT** shall report to the **COUNTY** all program income (as defined at 24 CFR 570.500 or in the Federal Register Guidance governing the CDBG-DR funds) generated by activities carried out with CDBG-DR funds made available under this Agreement as part of the **SUBRECIPIENT'S** periodic reporting outlined under SECTION VI. REPORTS AND EXHIBITS and SECTION VII. AUDITS, MONITORING, AND RECORDS.

The **SUBRECIPIENT** must return to the **COUNTY**, prior to closeout, any program income generated by the project and its activities. The **COUNTY** certifies that it shall use program income in accordance with the applicable requirements of 2 CFR 200.307 and alternative requirements and waivers as prescribed under the Federal Register Guidance at 88 FR 32074, Appendix B: CDBG-DR Consolidated Notice - Section III.E. Program Income (in place of requirements at 24 CFR 570.500 and 24 CFR 570.504), and the terms of this Agreement. The **SUBRECIPIENT** shall return program income to the **COUNTY** if a program income balance exists, or program income is generated after closeout. In all cases, any program income received that is not used to continue the disaster recovery activity will not be subject to the waivers and alternative requirements of the Federal Register Guidance or the **COUNTY'S** CDBG Entitlement program, if program income is transferred to that program.

SUBSECTION XIII.J. – CITIZEN PARTICIPATON AND PUBLIC WEBSITE REQUIREMENTS: The **COUNTY**, as a Grantee, certified to HUD that it has a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in waivers and alternative requirements under the Federal Register Guidance). Additionally, the **COUNTY**, as a Grantee, certified to HUD that it will maintain a comprehensive CDBG-DR public website that permits individuals and entities awaiting assistance and the general public to see how all grant funds ae used and administered. The Action Plan also details how the **COUNTY** will adhere to both requirements.

The **SUBRECIPIENT** certifies that it will adhere to requirements by the **COUNTY** to provide documentation and information which informs both the citizen participation and public website requirements. Further details on information needed to meet these requirements are spelled out in the exhibits, attachments, and forms as part of this Agreement.

SUBSECTION XIII.K. – PERSONALLY IDENTIFIABLE INFORMATION (PII): As previously referenced under SUBSECTION VII.D. RECORDKEEPING REQUIREMENTS and in accordance with 2 CFR 200.1 and 2 CFR 200.338, Personally Identifiable Information (PII) means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. The definition of PII is not anchored

to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Protected PII means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, and educational transcripts. This does not include PII that is required by law to be disclosed.

PII must always be safeguarded, even in instances of public records requests. No Federal awarding agency may place restrictions on the non-Federal entity that limits public access to the records of the non-Federal entity pertinent to a Federal award, *except for protected PII or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency*.

The **SUBRECIPIENT** certifies that they understand the PII definitions as noted above, and in accordance with their internal controls under 2 CFR 200.303, the **SUBRECIPIENT** shall take reasonable measures to safeguard protected PII and other information HUD or the **COUNTY** designates as sensitive or the **SUBRECIPIENT** considers sensitive consistent with applicable Federal, state, and local laws regarding privacy and responsibility over confidentiality.

Additionally, the **COUNTY**, pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a "covered entity," as the law defines that term. Any "personal health information" (PHI) as defined by the law that the **COUNTY** receives pursuant to this Agreement in connection with this project and its activities, as applicable, is subject to the disclosure and security requirements of HIPAA. Transfer of information to the **COUNTY** sufficiently "de-identified" to no longer be considered PHI is encouraged as being in the best interest of client PHI confidentiality to the extent that public services are unaffected. Methods to accomplish the highest levels of public service coupled with PHI confidentiality will be an ongoing task of the affected staffs of the **COUNTY** and the **SUBRECIPIENT**.

SUBSECTION XIII.L. – NECESSARY AND REASONABLE REQUIREMENTS: The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for the Federal Awards in 2 CFR 200 Subpart E (Federal Cost Principles) apply to all CDBG-DR Grantees and their Subrecipients. The **SUBRECIPIENT** certifies that all costs incurred under this Agreement are necessary and reasonable for the performance of its project and/or activities. The Cost Principles are made applicable to local governments through 24 CFR 570.502. The **SUBRECIPIENT** must consider factors described at 2 CFR 200.404(a-e) when determining which types and amounts of cost items incurred under this Agreement are necessary and reasonable.

SUBSECTION XIII.M. – COPYRIGHT, PATENT AND TRADEMARK: In accordance with 2 CFR 200.1 and 2 CFR 200.135, trademarks, copyrights, patents and patent applications and property, are identified as intangible property, or property having no physical existence. The **SUBRECIPIENT** may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this CDBG-DR award. HUD, through the **COUNTY** as its pass-through entity, reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. The **SUBRECIPIENT** is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at 37 CFR 401 ("Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements").

Any and all patent rights accruing under, or in connection with, the performance of this Agreement are hereby reserved to the **COUNTY**. Any and all copyrights accruing under, or in connection with, the performance of this Agreement are hereby transferred by the **SUBRECIPIENT** to the **COUNTY**.

1. If the **SUBRECIPIENT** has a pre-existing patent or copyright, the **SUBRECIPIENT** shall retain all rights and entitlement to that pre-existing patent or copyright unless this Agreement expressly provides otherwise.
2. If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement or in any way connected with it, the **SUBRECIPIENT** shall refer the discovery or invention to the **COUNTY** for a determination whether the **COUNTY** will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the **COUNTY**. If any books, manuals, films, or other copyrightable material are produced, the **SUBRECIPIENT** shall notify the **COUNTY**. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the **SUBRECIPIENT** to **COUNTY**. Within thirty (30) calendar days of execution of this Agreement, the **SUBRECIPIENT** shall disclose all intellectual properties relating to the performance of this Agreement which give rise to a patent or copyright. The **SUBRECIPIENT** shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and the **COUNTY** shall have the right to all patents and copyrights which accrue during performance of this Agreement.

SUBSECTION XIII.N. – FEDERAL TERMS AND CONDITIONS: For Federal CDBG-DR funded programs, the **SUBRECIPIENT** has or will develop and maintain the capacity to carry out disaster recovery activities in a timely manner and will ensure compliance with applicable Uniform Administrative Requirements as described in 2 CFR 200, Community Development Block Grants (CDBG) regulations at 24 CFR 570, the Federal Register Guidance, the Action Plan, and all other established, applicable HUD regulations, acts, and statutes, as now in effect and as may be amended from time to time. The **COUNTY** outlines full CDBG-DR Compliance Provisions for the **SUBRECIPIENT** under *Exhibit H – Certification of CDBG-DR Compliance Provisions* and details program management standards within the respective program's manual.

SUBSECTION XIII.O. – STATE AND LOCAL GOVERNMENT REQUIREMENTS: The **SUBRECIPIENT** agrees to the following statements as it relates to state and/or local government requirements:

1. The **SUBRECIPIENT** will comply with all applicable laws, ordinances, and regulations of the United States, the State of Florida, the **COUNTY**, and the municipalities as said laws, ordinances, and regulations exist and are amended from time to time. In entering into this Agreement, the **COUNTY** does not waive the requirements of any **COUNTY** or local ordinance or the requirements of obtaining any permits or licenses that are normally required to conduct business or activity contemplated by the **SUBRECIPIENT**.

2. The **SUBRECIPIENT** will comply with Chapter 39.201, Florida Statutes, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).

3. The **SUBRECIPIENT** will comply with Chapter 415.1034, Florida Statutes, that any person who knows or has reasonable cause to suspect that a vulnerable and or disabled adult has been abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).

4. The **SUBRECIPIENT** will comply with and implement this Agreement in a manner satisfactory to Lee County and HUD and consistent with all applicable laws, regulations, and policies and procedures that may be required as a condition of Lee County providing the grant funds, including but not limited to, all applicable program administration and compliance requirements set forth by this Agreement, and in accordance with the CDBG-DR NOFA Application, CDBG-DR Action Plan, and any other

documentation previously provided by the **SUBRECIPIENT**, attached as *Exhibit F – Application*, and made a part hereof.

5. Lee County's provision of grant funds under this Agreement is specifically conditioned on the **SUBRECIPIENT's** compliance with this provision and all terms and conditions of this Agreement, the most recently published version of Lee County's *Hurricane Ian CDBG-DR Subrecipient Manual* and *Internal Grant Management Manual*, and the CDBG-DR (6) Recovery and Resiliency Planning Program Policies and Procedures Manual, which can be accessed on https://cdbgdr.leegov.com, and any amendments thereto, related Federal Register Guidance (including Guidance, which is provided under future Federal Register Notices), and the requirements of the authorities cited above, as the same may be amended from time to time.

6. The **SUBRECIPIENT** will acknowledge support for activities funded wholly or in part by CDBG-DR funds provided by HUD and the **COUNTY**. In publicizing, advertising, or describing the program, state "Funding provided by Lee Board of County Commissioners and HUD."

7. The **SUBRECIPIENT** will notify the **COUNTY** of any changes to the **SUBRECIPIENT** organization to include Board Membership (roster), Articles of Incorporation and Bylaws within ten (10) working days of the effective date.

8. If needed, **SUBRECIPIENT** may be called upon to assist the **COUNTY** during a natural disaster or emergency. This may include, but is not limited to, the use of the **SUBRECIPIENT'S** facility to assist with Emergency Food Stamp preregistration if the facility is operations and use of staff to assist with case management and post-disaster shelter assessments. **SUBRECIPIENT** will be responsible to notify United Way 211 via phone, email, or through submission of online survey form, immediately after a disaster declaration if the location is accessible and operational and of any **SUBRECIPIENT** staff who are available to assist with recovery efforts.

SECTION XIV: OTHER PROVISIONS AND CONDITIONS

If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from and shall not invalidate any other provision of this Agreement.

Any power of approval or disapproval granted to the **COUNTY** under the terms of this Agreement shall survive the term of this Agreement.

All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

In the event travel is pre-approved by the **COUNTY**, any bills for travel expenses shall be submitted and reimbursed in accordance with section 112.061, F.S., the rules promulgated thereunder and 2 CFR 200.474.

If the **SUBRECIPIENT** is allowed to temporarily invest any advances of CDBG-DR funds under this Agreement, any interest income shall either be returned to the **COUNTY.**

The **SUBRECIPIENT** acknowledges being subject to Florida's Government in the Sunshine Law (section 286.011, F.S.) with respect to the meetings of the **SUBRECIPIENT'S** governing board or the meetings of any subcommittee making recommendations to the governing board. The **SUBRECIPIENT** agrees that all such aforementioned meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records made available to the public in accordance with Chapter 119, F.S.

The **SUBRECIPIENT** shall comply with section 519 of P.L. 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990; and section 906 of P.L. 101-625, the Cranston-Gonzalez National Affordable Housing Act, 1990, by having, or adopting within ninety (90) days of execution of this Agreement, and enforcing, the following:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

Upon expiration or termination of this Agreement, the **SUBRECIPIENT** shall transfer to the **COUNTY** any CDBG-DR funds remaining at the time of expiration or termination, and any accounts receivable attributable to the use of CDBG-DR funds.

SECTION XV: CITIZEN COMPLAINTS

The **SUBRECIPIENT** is responsible for tracking and reporting citizen complaints to the **COUNTY** under the following types of complaints and/or inquiries: (1) Program or Project Appeals, where applicable; (2) HUD complaints; (3) Fair Housing complaints; and (4) Fraud, Waste, and Abuse (FWA) complaints. The **SUBRECIPIENT** must adopt the **COUNTY's** written citizen complaint policy or provide their own policy that provides citizens with the address, phone number, and times for submitting complaints and grievances. The policy must also provide that timely written answers to written complaints and grievances will be provided within 15 working days, where practicable, or the **SUBRECIPIENT** must document why additional time for the response is required.

SECTION XVI: LEGAL AUTHORIZATION

The **SUBRECIPIENT** certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The **SUBRECIPIENT** certifies that the undersigned person has the authority to legally execute and bind the **SUBRECIPIENT** to the terms of this Agreement. The **COUNTY** may, at its discretion, request documentation evidencing the undersigned has authority to bind the **SUBRECIPIENT** to this Agreement as of the Effective Date; any such documentation is incorporated herein by reference.

Prior to the execution of this Agreement, the **SUBRECIPIENT** warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation, or any other legal or financial condition that would in any way prohibit, restrain, or diminish the **SUBRECIPIENT'S** ability to satisfy its obligations. The **SUBRECIPIENT** shall immediately notify the **COUNTY** in writing if its ability to perform is compromised in any manner during the term of this Agreement.

SECTION XVII: AGREEMENT DISPUTE RESOLUTION PROCEDURE

Any dispute between the Parties with respect to provisions contained in a Lee County Office of Strategic Resources and Government Affairs Agreement or issues that arise pertinent to an Agreement shall be resolved as follows:

The Parties may, by mutual agreement, attempt to resolve their dispute in the following manner within a thirty (30) day period. If both parties are in agreement, the thirty (30) daytime period can be extended for an additional ten (10) days.

1. Duly authorized representatives shall meet as often as mutually agreeable to discuss in good faith the dispute and to negotiate a mutually agreeable resolution. Authorized representatives for SRGA include the Agreement Coordinator and Program Manager.
2. During the course of the dispute process, requests made by one Party to the other for non-privileged information, reasonably related to the dispute, shall be responded to in good faith.
3. If the dispute is unable to be resolved between the authorized representatives within the specified time period, it will be forwarded to the Department Director for resolution. A decision by the Director will be issued within ten (10) days.
4. If the dispute remains unresolved after the Department Director's decision, the parties may proceed to litigation. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens. This Agreement and the rights and obligations of the Parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles. Unless otherwise agreed in writing, the **SUBRECIPIENT** will be required to continue all obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual period of mediation or judicial proceedings.
5. Either Party may at any time commence formal court proceedings, which shall be immediately communicated, and will end the informal Dispute Resolution process as described in Paragraph 1-3 above.

SECTION XVIII: AGREEMENT CLOSEOUT

The **SUBRECIPIENT** must complete a closeout checklist and final closeout reports to ensure complete and final documentation of all finance and program activities. The closeout checklist and reports must be submitted to the **COUNTY** within 90 days after the end date of this agreement.

The closeout checklist must include documentation and certification that:

1. All CDBG-DR funds have been expended within the exception of any closeout liabilities or contingent liabilities (24 CFR 570.509(a)(1));
2. All work financed with CDBG-DR funds has been completed, is eligible, and meets a national objective, including activities financed through escrow accounts, loan guarantees, or similar mechanisms; performance and expenditure reports have been submitted and account for program income and administrative expenditures (24 CFR 570.509(a)(2-5)); and
3. All other responsibilities under this Agreement have been met or the **COUNTY** has determined that there is no further benefit in keeping the Agreement open to secure performance (24 CFR 570.509(a)(6)).

The final closeout reports must include the following:

1. Final Project Performance Measures and Outcomes Form (*Exhibit E)*;
2. Final *Monthly Activity Report* (with final progress narrative);
3. Updated *Project Budget and Expense (Sources and Uses) Worksheet* (including program income);
4. Final *Payment Request Form*; and
5. Inventory of property acquired or improved with CDBG funds. The inventory should identify real property acquired with over $25,000 of CDBG funds including its current use, to facilitate compliance with requirements for the continuing eligible use of property at 24 CFR 570.505.

Based on the **SUBRECIPIENT'S** final reports and other relevant information, the **COUNTY** may execute a closeout agreement that specifies closeout costs or contingent liabilities that are subject to payment with

CDBG-DR funds after the closeout agreement is signed; continuing responsibilities after closeout; or other provisions appropriate to special circumstances.

As specified in 2 CFR 200.345, the closeout of a CDBG-DR award to a **SUBRECIPIENT** does not affect:

1. The **COUNTY**'s right to disallow costs and/or recover funds on the basis of a later audit or other review.
2. The **SUBRECIPIENT**'s obligation to return funds due to the **COUNTY** from subsequent refunds, corrections, or other transactions.
3. The **COUNTY** and **SUBRECIPIENTS'S** obligation to comply with records retention as specified in 2 CFR 200, Subpart D—Post Federal Award Requirements, Records Retention and Access, including 2 CFR 200.334-338, as modified by 24 CFR 570.502(a)(7)(ii).
4. The **SUBRECIPIENT**'s responsibilities for property management and disposition:
    - For real property in 24 CFR 570.503(b)(7).
    - For other property, as applicable in 2 CFR 200, Subpart D, Post Federal Award Requirements, Property Standards, including:
        - 2 CFR 200.310 (Insurance coverage).
        - 2 CFR 200.312 (Federally owned and exempt property).
        - 2 CFR 200.313 and 24 CFR 570.502(a)(6) (Equipment).
        - 2 CFR 200.314 (Supplies).
        - 2 CFR 200.315 (Intangible property).
        - 2 CFR 200.316 (Property trust relationship).
        - Audit requirements in 2 CFR 200, Subpart F.

SECTION XIX: NOTICES

Official notices concerning this Agreement will be directed to the following authorized representatives below, either in writing, by hand delivery, first class, or certified mail with return receipt requested at the addresses below, or in electronic format, by electronic mail:

SUBRECIPENT
Name: Elly Soto McKuen
Title: Senior Project Manager
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: (239) 949-6262
Email: elly.mckuen@cityofbonitasprings.org

COUNTY
Name: Glen Salyer
Title: Assistant County Manager
Agency: Office of Strategic Resources and Government Affairs
Address: 2115 Second Street, Fort Myers, FL 33901
Telephone: (239) 533-2315
Email: GSalyer@leegov.com

The signatures of the two persons shown below are designated and authorized to sign all applicable reports:

Elly Soto McKuen	
Name (printed/typed)	Name (printed/typed)
Signature	Signature
Senior Project Manager	
Title	Title

In the event that the **SUBRECIPIENT** designates different representatives after execution of this Agreement, notice of the name and address of the new representative will be rendered in writing or electronically by authorized officer of the **SUBRECIPIENT** to the **COUNTY**.

SECTION XX: ALL TERMS AND CONDITIONS INCLUDED

This Agreement and its attachments, and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of this Agreement is legally determined unlawful or unenforceable, the remainder of the Agreement shall remain in full force and effect and such terms or provisions shall be stricken.

IN WITNESS THEREOF, the **SUBRECIPIENT** and the **COUNTY** have caused this Agreement and all Agreement Exhibits, Attachments, Reports, and Forms as indicated on the *Subrecipient Agreement Document Checklist* to be executed by their undersigned officials as duly authorized.

SUBRECIPIENT: City of Bonita Springs

AUTHENTICATION:

_____ _____

Mayor City Clerk

APPROVED AS TO FORM: _____

City Attorney

Vote:

Bogacz	Steinmeyer
Purdon	Fullick
Carr	Forbes
Corrie	

Date filed with City Clerk: _____

ATTEST:
CLERK OF CIRCUIT COURT

BY:_____

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY:_____
Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

_____
County Attorney's Office

EXHIBIT A

SCOPE OF WORK AND ACTIVITIES

PROGRAM/PROJECT ACTIVITY OVERVIEW

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the NOFA 1. In coordination and agreement with the Subrecipient, the County will utilize the information below to inform and update the County's approved System of Record for program and project eligibility with core HUD CDBG-DR requirements. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record.

Program/Project Activity Overview

Project Name: Bonita Springs Mobility Plan

CDBG-DR Program eligible activity: Planning

The National Objective to be achieved for each activity as a result of this Project: Activities expended for planning and administrative costs under 24 CFR 570.205 and 24 CFR 570.206, which are considered to address the national objectives.

The method of measuring the National Objective, if LMI: LMI Area Benefit – LMA (per 24 CFR 570.208(a)(1))

The number of individuals benefiting as a result of this Project:

· Total beneficiaries: 1000.00

· Total low/mod beneficiaries: 800.00

CDBG-DR storm tie-back and/or Mitigation resilience measure:
Transportation is a critical piece of the City's mobility puzzle. The City was incorporated in late 1999. The city limits incorporates approximately 47 square miles of land. There are numerous north south corridors to move motorized and non-motorized traffic through the City. The major north/south corridors are Interstate 75, U.S. 41 (aka Tamiami Trail), Old 41 Road and Imperial Parkway. There are also a number of smaller residential collector roads that connect to the major corridors. However, there are only two (2) major east-west corridors that handles through traffic in the City, i.e., Bonita Beach Road and Terry Street. During hurricane and/or emergency events both east-west corridors are used primarily as evacuation corridors to Interstate 75. One of the critical issues to be evaluated in the study is to define the potential addition of east-west corridors the City can develop to move traffic more quickly and safer in the event of a major disaster. Each year during the City's budget cycle City Council develops Strategic Priorities (community goals). Transportation is the #2 priority following Stormwater Management. Both priorities go hand-in-hand in the development of a roadway improvements.

EXHIBIT B

SCOPE OF WORK AND ACTIVITIES

PROJECT ACTIVITY SCOPE OF WORK DESCRIPTION

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the NOFA 1. In coordination and agreement with the Subrecipient, the County will utilize the information below to inform and update the County's approved System of Record for key performance measures and project budget cost eligibility. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record and/or under a formal amendment in accordance with the Agreement.

Project Activity Scope of Work Description ("Work")

The Bonita Springs Mobility Plan will create a blueprint for transforming city identified roadways into multi-modal corridors that encourage vehicles, pedestrian and bicyclist transportation in a more livable and sustainable manner. The plan will address accessibility for all modes of users (motorized and non-motorized). At a minimum the plan will compile, collect and analyze existing conditions data and multi-modal level/quality of services for all modes of travel in the mobility study area related to motorized vehicles (traffic data), pedestrian and bicycle facilities, transit (ridership, routes and stops)and roadways (widths, lanes and intersections) to identify opportunities and constraints with respect to pedestrian, bicycle and motorized vehicles. The mobility conditions will be identified on a GIS based map for the study area. Plan evaluations will include, but not be limited to the City's adopted Complete Street Program, traffic calming measures, location of on-street parking (as applicable), landscape treatments and pedestrian and transit passenger amenities and focusing on connectivity. As with any community-wide study, included in the plan will be a community outreach and participation plan included to develop a framework for citywide communication and a participation strategy that builds stakeholder consensus and is inclusive of the community at large. Community outreach will include but is not limited to outreach workshops/open houses, in-person presentations, project meetings, and City Council meetings. The study's focus will be citywide, but particular focus will be directed in the City's Low Moderate Income Areas (LMA). Residents in LMA do not always have access to a motorized vehicle for daily errands and getting to/from employment. The LMA residents rely specifically on pedestrian and bicycle pathways (Multi-Use Pathways) for their safety and security while residents in their vehicles rely on roadways. The projected outcome/deliverable of the mobility plan will be an illustrative mobility improvement plan that includes a prioritized list of recommended actions and strategies. The plan will also identify the necessary mobility improvement projects with cost estimates.

Design and Approach: The City will advertise for a transportation consultant to complete the mobility plan through the City's procurement portal. The Request for Proposals/Qualifications will clearly define the project scope for the plan. The City's procurement manager will work with the plan's project manager to develop the Request for Proposals or Qualifications. The proposal will be advertised on the City's Procurement webpage for a minimum of 30 to 60 days depending on the complexity of the proposal. The City encourages

consultants/contractors/vendors to register and bid on future opportunities. The vendors receive targeted notices that the City intends to publicize proposal request. Depending on their interests, the vendor will have the opportunity to download the RFP/RFQ and submit a proposal. The City also advertises the RFP/RFQ in the local newspaper to solicit additional interested parties that have not registered on the City's procurement webpage. Once the proposal deadline has expired, the procurement manager will review each submittal for completeness. Should any requested information be missing the manager has the ability to request the missing information. The proposals are then submitted to the Selection Committee for review and evaluation. Each committee member is provided a hard copy of the proposals for evaluation. Following the review by each member, an initial meeting is held to evaluate the proposals. The committee has the ability to review and rank the proposals as submitted or recommend that public presentations be scheduled. The selection committee's recommendation is forwarded to City Council for approval. The procurement manager and the plan's project manager will develop the contract for execution by the Mayor. The plan's project manager will then issue a Notice to Proceed with the top ranked firm and the project scope will begin. There will be an initial kick-off meeting with staff and the consultant and at a minimum monthly progress meetings between the city and the consultant. All issues/problems/decisions will be resolved as they come up in order to keep the progress of the plan on schedule and on budget.

EXHIBIT C

FINANCIAL AND GRANT MANAGEMENT SYSTEM BUDGET WORKSHEET

The information provided under this Exhibit is retrieved from the Subrecipient Agreement. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up and encumber budget obligations within the County's financial accounting system for the awarded CDBG-DR funds. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record, financial accounting records, and/or under a formal amendment in accordance with the Agreement.

Financial and Grant Management System Budget Worksheet

As noted within the Agreement, the Subrecipient's allocation of CDBG-DR funding for this project is broken down in the following manner:

	Most Impacted and Distressed (MID
Activity Funds (Direct Project Costs)	$500,000.00
Activity Delivery Funds	$0
Total	$500,000.00

EXHIBIT D

INDIRECT COST RATE ALLOCATION PLAN

The information provided under this Exhibit is retrieved from the Subrecipient Agreement and the Subrecipient's approved application in response to the NOFA 1. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up and encumber budget obligations for an indirect cost rate within the County's financial accounting system. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record, financial accounting records, and/or under a formal amendment in accordance with the Agreement.

Indirect Cost Rate Allocation Plan

When applicable, documentation that supports the indirect cost rate and Activity Delivery Cost must be included under this Exhibit. The County is responsible for reviewing and approving the Subrecipient's indirect cost allocation plan or proposal included below. Calculated Modified Total Direct Costs (MTDCs) subject to a: Not applicable – an indirect cost rate will not be utilized or requested from the subrecipient under this Agreement.

See the plan or proposal above for further details and requirements of when the Subrecipient is set to receive indirect costs. The County also identifies financial data and information in Exhibit C for the Subrecipient's use in the submission of Payment Request Forms, Single Audits, and other reports which require the County's accounting of CDBG-DR funding through its financial system.

EXHIBIT E

PROJECTED PERFORMANCE MEASURES AND OUTCOMES FORM

The information provided under this Exhibit is retrieved from the Subrecipient Agreement and the Subrecipient's approved application in response to the *CDBG-DR Recovery and Resiliency Planning Notice of Funding Applications*. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up detailed performance management goals for the Subrecipient to meet through implementing and completing the project.

The Subrecipient will report via the monthly activity report on how the project has progressed on reaching the target numbers of the projected performance measure(s). Subrecipients will work with the County to ensure any updates to this Exhibit are subsequently reviewed and approved within the System of Record in accordance with the Agreement.

Projected Performance Measures and Outcomes

When applicable, documentation which supports the performance measure(s) is taken from the Subrecipient's stated project scope of work ("projected outcomes"). The following table provides those measures which the Subrecipient must report performance on related to meeting performance goals:

The reporting schedule is dependent on the County contract. Typically, the City will assume monthly and quarterly reporting during the life of the project. A final or closeout report will also be submitted with the last payment request.

Eligible Activity Type	Possible Performance Measures/Accomplishments (select at least one measure for the eligible activity being met)	Projected Total
Planning	# of Water Management/Flood Maps Updated	
	# of Community Engagement Meetings/Events Conducted	1 community meeting
	# of Public Education Meetings Conducted	
	# of Hazard Mitigation Plans Prepared	
	# of Resilience Plans Created	
	# of Plans or Planning Products	
	# of Water Management/Flood Plans Completed	
	# of Floodplain Design Standards Updated	
	% of Survey Respondents with an Increased Understanding of Flood Risks and Water Management Issues	
	# of Mitigation Plans Completed	
	# of Plans Adopted	1 Plan adopted
	# of Non-Business Organizations Benefiting	
	# of Entities at Resilience Meetings	
	# of Climate Action Plans Completed	
	# of Acres with Improved Multiple Hazard Risk Mapping	
	# of Disaster Recovery Plans Completed	
	# of Persons at Resilience Meetings	
	# of Planning Studies and Initiatives Completed	
	Other	

Exhibit F

Lee County
Southwest Florida

Recovery and Resiliency Planning Program

Organization Information

Organization Name:	City of Bonita Springs
Address:	9101 Bonita Beach Road Bonita Springs, FL 34135
Organization Type:	Unit of general local government
Telephone:	(239) 949-6262
Federal Employer ID #:	59-3649914
Organization Website:	www.cityofbonitasprings.org
Unique Entity Identifier:	LLWSKDMXTCJ8

Authorized Organization Representative

Name:	Rick Steinmeyer
Title:	Mayor

Contact Person

Name:	Elly McKuen
Title:	Senior Project Manager
Email:	elly.mckuen@cityofbonitasprings.org
Telephone:	(239) 949-6262

Plan Information

☒ Plan Name:	Bonita Springs Mobility Plan
☒ Plan Type:	New Plan

Plan Type

☐ Comprehensive	☐ Historic Preservation
☐ Community Development	☐ Housing
☐ Continuity of Operations	☐ Land-Use
☐ Economic Revilatization	☐ Open Space and Recreation
☐ Energy Use and Conservation	☑ Transportation
☐ Floodplain, Wetlands Management, or other Natural Hazards	☐ Utilities
☐ Other:	☐ Human Services

Target Service Location

- ☐ City of Cape Coral
- ☐ City of Fort Myers
- ☑ City of Bonita Springs
- ☐ City of Sanibel
- ☐ Other:
- ☐ Town of Fort Myers Beach
- ☐ Village of Estero
- ☐ Unincorporated Lee County
- ☐ All of Lee County

Additional Service Areas

- ☐ Service Areas Outside Lee County: No

The scope and projected outcome(s) of the plan

The Bonita Springs Mobility Plan will create a blueprint for transforming city identified roadways into multi-modal corridors that encourage vehicles, pedestrian and bicyclist transportation in a more livable and sustainable manner. The plan will address accessibility for all modes of users (motorized and non-motorized). At a minimum the plan will compile, collect and analyze existing conditions data and multi-modal level/quality of services for all modes of travel in the mobility study area related to motorized vehicles (traffic data), pedestrian and bicycle facilities, transit (ridership, routes and stops)and roadways (widths, lanes and intersections) to identify opportunities and constraints with respect to pedestrian, bicycle and motorized vehicles. The mobility conditions will be identified on a GIS based map for the study area. Plan evaluations will include, but not be limited to the City's adopted Complete Street Program, traffic calming measures, location of on-street parking (as applicable), landscape treatments and pedestrian and transit passenger amenities and focusing on connectivity. As with any community-wide study, included in the plan will be a community outreach and participation plan included to develop a framework for citywide communication and a participation strategy that builds stakeholder consensus and is inclusive of the community at large. Community outreach will include but is not limited to outreach workshops/open houses, in-person presentations, project meetings, and City Council meetings. The study's focus will be citywide, but particular focus will be directed in the City's Low Moderate Income Areas (LMA). Residents in LMA do not always have access to a motorized vehicle for daily errands and getting to/from employment. The LMA residents rely specifically on pedestrian and bicycle pathways (Multi-Use Pathways) for their safety and security while residents in their vehicles rely on roadways. The projected outcome/deliverable of the mobility plan will be an illustrative mobility improvement plan that includes a prioritized list of recommended actions and strategies. The plan will also identify the necessary mobility improvement projects with cost estimates.

Implementation Plan - The approach to completing the plan

The City will advertise for a transportation consultant to complete the mobility plan through the City's procurement portal. The Request for Proposals/Qualifications will clearly define the project scope for the plan. The City's procurement manager will work with the plan's project manager to develop the Request for Proposals or Qualifications. The proposal will be advertised on the City's Procurement webpage for a minimum of 30 to 60 days depending on the complexity of the proposal. The City encourages consultants/contractors/vendors to register and bid on future opportunities. The vendors receive targeted notices that the City intends to publicize proposal request. Depending on their interests, the vendor will have the opportunity to download the RFP/RFQ and submit a proposal. The City also advertises the RFP/RFQ in the local newspaper to solicit additional interested parties that have not registered on the City's procurement webpage. Once the proposal deadline has expired, the procurement manager will review each submittal for completeness. Should any requested information be missing the manager has the ability to request the missing information. The proposals are then submitted to the Selection Committee for review and evaluation. Each committee member is provided a hard copy of the proposals for evaluation. Following the review by each member, an initial meeting is held to evaluate the proposals. The committee has the ability to review and rank the proposals as submitted or recommend that public presentations be scheduled.

The selection committee's recommendation is forwarded to City Council for approval. Theprocurement manager and the plan's project manager will develop the contract forexecution by the Mayor. The plan's project manager will then issue a Notice to Proceedwith the top ranked firm and the project scope will begin. There will be an initial kick-offmeeting with staff and the consultant and at a minimum monthly progress meetingsbetween the city and the consultant. All issues/problems/decisions will be resolved asthey come up in order to keep the progress of the plan on schedule and on budget.

The unmet or mitigation need that is being addressed by the plan and how the plan aligns with community goals

There is a large portion of the City's population that either does not have access to a vehicle for daily errands and getting to/from employment or choose to rely specifically on walking, biking or transit for their daily transportation. Transportation is a critical piece of the City's mobility puzzle. The City was incorporated in late 1999. The city limits incorporates approximately 47 square miles of land. There are numerous north south corridors to move motorized and non-motorized traffic through the City. The major north/south corridors are Interstate 75, U.S. 41 (aka Tamiami Trail), Old 41 Road and Imperial Parkway. There are also a number of smaller residential collector roads that connect to the major corridors. However, there are only two (2) major east-west corridors that handles through traffic in the City, i.e., Bonita Beach Road and Terry Street. During hurricane and/or emergency events both east-west corridors are used primarily as evacuation corridors to Interstate 75. One of the critical issues to be evaluated in the study is to define the potential addition of east-west corridors the City can develop to move traffic more quickly and safer in the event of a major disaster. Each year during the City's budget cycle City Council develops Strategic Priorities (community goals). Transportation is the #2 priority following Stormwater Management. Both priorities go hand-in-hand in the development of a roadway improvements.

Explain your agency's experience completing plans of a similar size and scope, including federal, state, and/or local government grant experience and capacity of the organization to administer the plan and oversee all compliance requirements

Experience completing plans similar size and scope - Since incorporation in 1999 City staff has commissioned a number of community wide plans. They range in scope, to name a few, from community development master plans, transportation corridor plans, citywide bicycle and pedestrian master plans, comprehensive land development plans, master park plans, downtown planning/parking studies, etc. to more specific smaller site plans. A recent example of a small scale site plan is the Downtown Community Center Development Project. Federal, state, local government grant experience and capacity - The day-to-day grant management operation, coordination and responsibility falls to Elly Soto McKuen, Senior Project Manager in the Public Works Department. Ms. McKuen reports to the Assistant City Manager/Public Works Director, Matt Feeney. The Public Works staff works hand-in-hand with the City's Finance Department. The Finance Department provides a separation of finance and contract monitoring duties from the

Public Works Department. The organization chart (Attachment __) provides a full array of staff and vendors for the mobility study. There is a number of City staff that will support the project manager. The organization chart highlights each staff member's responsibilities. Highlighted below are the three (3) critical positions for the project oversight: • As the Senior Project Manager/Grant Manager, Ms. McKuen has over 30 years of experience with U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) entitlement programs. She has hands-on experience with infrastructure projects (water, sewer, stormwater, sidewalk installation, park improvements, etc.), housing rehabilitation, redevelopment projects and acquisition. She has also implemented Emergency Shelter Solution programs for the homeless populations as well as the HOME programs. She also has been on the grant implementation side of HUD programs by creating a pass-through grant application program for subrecipients, monitored subrecipients for programmatic compliance and written many policies and procedures for the various programs she managed. She currently manages approximately $40.0 million in grants for the City. • The Director of Financial & Administrative Services, Lisa Roberson, has been a Certified Public Accountant (CPA) for almost 24 years, with 18 years of municipal experience at the Director level providing financial management including preparing annual budgets and audited financial statements. Prior to coming to the City, Ms. Roberson had seven (7) years of experience with CPA firms working the last 4 years providing auditing services to various local governmental entities in Florida. Additionally, the Director performed Single Audits while in practice as a CPA. • The Compliance Administrator, Brenda Reetz, has been working in governmental accounting for both state & local levels for the past 26 years. Ms. Reetz has been the Compliance Administrator at Bonita Springs for the last 9 years. During her 15 years with Bonita Springs, for both annual audit and single audit, she has been responsible for grant reconciliation and preparation of all grant audit workpapers. Prior to working for the City, Brenda worked for over 11 years with the Michigan Senate in the Finance Department. • The remaining staff are considered experts in their fields and come to the program with vast amounts of "real world" program and technical knowledge to enhance the process.

Describe how the proposed plan integrates mitigation measures and strategies to reduce natural hazard risks, including climate-related risks. Mitigation measures include but are not limited to reducing risks to people and property; public service interruption for members who are most vulnerable to natural and climate-related risks; and/or community lifelines.

Hazards are events, either caused by natural forces or by human activity, that carry the potential for significant disruptions to natural and human systems. Ultimately, hazards threaten the safety and stability of communities (Lee County Hazard Identification and Risk Assessment (LCHIRA), v.2, 2022, Pg.35). Over the last ten (10) years changes in the demographics, economy, along with the built and natural environments of [Bonita Springs] have naturally results in changes to risk and vulnerability from hazards (LCHIRA, Pg. 36). The Bonita Springs Mobility Plan will look for ways to evaluate alternative means of moving traffic through the City during emergency situations (both manmade and by natural forces). The development of the mobility plan will work to identify new connector roadways and pathways especially in east-west corridors that will provide improved access times for emergency services (fire, law enforcement and emergency management services) that currently may not be able to respond in a timely manner if services are needed during or following a storm event.

Identify the risks or hazards being reduced and the impacts that those hazards have on people and property

The identification of potential additional rights-of-way to move vehicles out of the area will reduce vehicle congestion during mandatory evacuations before storm events. It will also provide more access points during the re-entry process after the storm. Currently Bonita Beach Road is the only major corridor that provides access to Hickory Island in Bonita Springs.

Describe the value of the proposed plan to the community. Describe the anticipated short-term impacts during normal circumstances, as well as how the plan will enhance resilience in the long term and during extreme events. Description should include qualitative or quantitative data

Transportation is the act of moving goods or people. Mobility is the ability to freely move or be moved. At a high level the City's mobility plan will focus on moving people/goods in an easier and more efficient way. The plan will look at vehicular traffic circulation current and future in the short term. The next step is the incorporation of bicycle and pedestrian transportation into the study. The last component is transit since not everyone has access to a motorized vehicle or the ability/strength to use a bicycle or the ability to walk long distances. The mobility study's focus will also look at the enhanced ability to find various ways to serve the residents of Bonita Springs to evacuate in a more quick and efficient way more effectively before strong storm events. The study will be the backbone of all future studies and updates. Each update will build on previous studies, will gauge the accomplishments from projects constructed and will provide a roadmap for future

development.

Timelines of critical tasks to be accomplished for each proposed activity, including a description of the steps you will take to complete the funded activities and describe any dependencies or actions that need to happen before you can start on the activities

The critical tasks has been identified below: . Notice of award . Contract development and execution . City provides all requested deliverables prior to County issuing a Notice of Funding . Notice of Funding issued . City develops RFP/RFQ for transportation consultant . City posts and advertises RFP/RFQ for consultant . City receives and evaluations proposals . Selection committee recommendation to City Council for approval . City develops consultant contract . Consultant contract executed . Notice to Proceed issued . Mobility study begins . All aspects of proposal developed . Community input and stakeholder meetings . Draft final report . Final report . Submit all closeout items to Lee County for final review . Grant closeout coordination with Lee County . Final payment request

Monthly spending plans and proposed draw down schedules

Following the contract award of the transportation consultant and the study beginning the City anticipates monthly payment requests from the consultant. The City, in turn, will submit monthly payment requests to Lee County for reimbursement.

Reporting schedule for outcomes achieved

The reporting schedule is dependent on the County contract. Typically, the City will assume monthly and quarterly reporting during the life of the project. A final or closeout report will also be submitted with the last payment request.

Describe the process carried out to determine cost estimations prior to applying

The City has reviewed numerous local (Southwest Florida) plan development costs similar in scope to the mobility plan. Staff has also polled various procurement officials to determine their opinion for mobility plans or similar plans previously awarded.

Describe additional steps you will take, if approved, to manage costs, change orders, and ensure the plan is completed on time and within budget

During contract development the City is very clear with the consultant to identify ALL costs associated with the plan. The City also makes it clear that change orders must be kept at a minimum and should only be requested for extra ordinary and unforeseen issues that may arise during the development of the plan. Milestones are typically identified in the contract and monthly progress meetings with the consultant ensures that timelines are being met. Invoices are reviewed by the project manager against the work performed during that contract period to ensure funds and tasks are expended and performed in a timely manner.

Describe the actions that will be taken to implement the plan after completing the plan. Describe how the plan will be maintained and updated

The Bonita Springs Mobility Plan will be used as a guide during the development of each Capital Improvement Program (CIP) during each budget cycle. The transportation segment of the CIP will use the plan to prioritize the development of transportation projects in the applicable years. The mobility plan will also be used as an implementation tool when grant funds are available. Additionally, it will be reviewed every four (4) to five (5) years for needed updates. New projects will be identified and completed projects will be deleted so a fresh mobility plan can be used to guide the City for transportation priorities.

Describe how the plan is innovative, based on national best practices, and designed in accordance with an existing evidence-based program

Traditional mobility plans look for ways to improve moving motorized vehicles from one place to the next in the quickest time possible at the shortest route. The City's mobility plan will evaluate and integrate the popularity of alternative transportation modes, i.e., bicycle and pedestrian facilities, transit networks (stops, stations, routes) , etc. along with the vehicle movement focus.

A description of how you will coordinate with other planning, community development, and/or recovery or resilience plans and initiatives that are underway

Mobility plans cannot be developed in a vacuum. Transportation is an essential component of land development. The City's mobility plan will be consulted during any future citywide Comprehensive Land Development Plan update are reviewed and/or any new residential/commercial/industrial private development plan that comes into the community.

Are there any existing plans?

No

A description of the area of high need that will be addressed by the plan

Moving vehicles, both motorized and non-motorized, is critical to the health of the community. Traffic snags and backups can quickly degrade the community's quality of life. Over the last 10 years the footprint of Southwest Florida has changed dramatically which in turn results in changes to the community's risk and vulnerability. It is essential that the City has a plan that identifies the most current transportation needs and identifies projects that can be implemented to increase the health of the community.

A description of the intended impact the plan will have on the community and area of high need

FEMA's strongest general evacuation guidance when a disaster is approaching is that the best action to protect yourself and your family from flooding and high winds caused by hurricanes is to evacuate when ordered to do so, before those conditions hit your area. The best was to evacuate safely is to know and follow the directions from local officials for community evacuation and follow posted evacuation routes. The mobility plan and the identification of addition evacuation routes away from Bonita Springs and the beaches is critical to moving residents out of harm's way. When an evacuation notice is posted the majority of the residents in Bonita Springs are advised to connect with Interstate 75. Lanes in both directions are used to move residents out of the area. The mobility plan will look at alternative sites and possible new locations for east-west roadways to move traffic out of the community in a more efficient and quicker pace.

A description of the intended beneficiaries of the plan, including any HUD-defined vulnerable populations and communities who are the intended beneficiaries of the plan

In the broad sense the City's mobility plan will support all residents within the city limits of Bonita Springs and all surrounding areas. There are no strict boundaries identified during a disaster and evacuation. Local residents will simply utilize the shortest route to safety when evacuating. However, the City has a large population located in Low-Moderate Income Areas (LMA). The majority of the LMA's are located east of U.S. 41 and east of Interstate 75. Residents located in LMA are less likely to have access to a vehicle during evacuation and rely on transit to relocate to a safe secure location. While discussing the identification of alternative roadways when referencing the mobility plan, the City intends to review all avenues available, i.e., pathways, roadways, transit, etc.

Authorized Organization Representative

	Census Tract	Block Group

1	504	1, 2, 3, 4, 5
2	505	1, 2, 3
3	503.12	2

The types of entities benefitting from the plan

☑ Residents
☑ Businesses
☐ Local Government
☐ Other:

☒ If “Residents” is selected, list the projected number of beneficiaries and number of LMI beneficiaries who will benefit from the plan, if it were implemented

Total Number of Beneficiaries: 1000
Total LMI Beneficiaries: 800

The target populations from the table below who would benefit from the plan if it were implemented

☑ Populations presumed by HUD to be LMI persons:

- Abused children
- Elderly persons (62 and older)
- Battered spouses
- Homeless persons
- Severely disabled adults (as defined by the Census)
- Illiterate adults
- Persons living with AIDS
- Migrant farm workers

☑ Protected classes (groups protected from discrimination under federal civil rights law based on the following):

- Race
- Color
- National origin
- Sex (including sexual orientation and gender identity)
- Religion
- Familial status
- Disability
- Age

☑ Vulnerable populations, as defined by HUD in the Consolidated Notice:

- Groups or communities whose circumstances present barriers to obtaining or understanding information or accessing resources, based on such factors as the following:
  - Geography
  - Markets
  - Prevalent housing stock and tenure
  - History
  - Prejudice

☑ Underserved communities, as defined by HUD in the Consolidated Notice:

- Populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life

A description of the method used to identify the intended beneficiaries of the plan if it were implemented

The City will use the U.S. Census information to identify the number of residents living in the LMA and will track by census tracts and blocks. Additionally, the City will use an identified proportional share of citywide residents to identify potentially impacted residents.

A description of the community outreach and engagement that has happened to date, including a description of the stakeholders and approaches to outreach and engagement

A public hearing was held at the February 7, 2024 City Council meeting. Staff presented the item, described the need for public comments and solicitated comments. The mobility plan was described and invited the public to come forward to address the need for the study. No public comment was received in support of or denied against.

A description of additional community outreach, engagement, and partnerships that will occur as part of the development of this plan, including the approach to engaging new stakeholders, if applicable

The City intends to have a strong community outreach component to the plan. The participation plan will include the development of a framework for citywide communication and a participation strategy that builds stakeholder consensus and is inclusive of the community at large. Community outreach will include but is not limited to outreach workshops/open houses, in person presentations, project meetings and City Council meetings.

A description and justification of the proposed costs

The City has reviewed numerous local (Southwest Florida) plan development costs similar in scope to the mobility plan. Staff has also polled various procurement officials to determine their opinion for mobility plans or similar plans previously awarded.

A description of whether the plan will be implemented with applicant staff, vendor support and/or other

City staff will be responsible for the day-to-day operation of the process. A transportation vendor will be hired to develop the mobility plan. Once the plan is submitted to the City Council for final adoption, city staff will be charged with the implementation of the plan.

A description of the timeframe, dependencies, and methods for obligating grant funds, and how the applicant plans to ensure funds are spent timely. A description of how the applicant will address and control for dependencies, if applicable

The City will follow the steps outlined in question #8 and anticipates the study would take approximately a year or so to complete. The number 1 dependency to move the project forward is grant funding. Once funding has been provided and a contract is in place with Lee County the City will begin soliciting for a transportation consultant to complete the plan. The grant funds will be obligated to the top ranked consultant in the form of a contract between the consultant and the City. Following the contract award of the transportation consultant and the study beginning the City anticipates monthly payment requests from the consultant. The City, in turn, will submit monthly payment requests to Lee County for reimbursement. Milestones are typically identified in the contract and monthly progress meetings with the consultant ensures that timelines are being met. To control dependencies, invoices are reviewed by the project manager against the work performed during that contract period to ensure funds and tasks are expended and performed in a timely manner.

Budget Form & Duplication of Benefits

Description	Total Requested
Development of Plan (Comprehensive, Land Use, Resiliency and Mitigation)	$500,000.00
Mapping and Data Upgrades	$0.00
Education or Outreach Programs	$0.00
Building Codes	$0.00
Zoning Ordinances	$0.00
Other Eligible Costs	$0.00
Funding Requested from CDBG-DR	$500,000.00

Sources of Leveraged Funds

Source of Funds	Amount	% of Total	Status of Funds
FEMA Building Resilient Infrastructure and Communities (BRIC)	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
FEMA Hazard Mitigation Grant Program (HMGP)	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
FEMA Public Assistance (PA)	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
Local (Municipal) Funds	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
Other CDBG-DR Funds (from Florida COM)	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
Other State Funds	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
Resilient Florida	$0.00	0.00	N/A
Use of Funds:			

Source of Funds	Amount	% of Total	Status of Funds
Purpose of Funds:	N/A		
US Army Corps of Engineers (USACE)	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
US Department of Transportation	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
Total	$0.00		

Funding Summary

Item	Total Amount
Other Funding Sources	$0.00
Total Funds Available for Plan	$500,000.00
Remaining Unmet Need	$0.00

Application Certification

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct and that the application and all support documentation has been duly authorized by the governing body of the applicant. I further certify that I am authorized to submit this application and have followed all policies and procedures of my agency regarding grant application submissions.

Authorized Organization Representative Name:	Rick Steinmeyer
Authorized Submitter Representative Name:	Rick Steinmeyer
Authorized Submitter Representative Title:	Mayor
Certification Date:	02/21/2024
Authorized Submitter Representative Signature:	Rick Steinmeyer
Authorized Submitter Representative IP Address:	198.72.45.46

Exhibit G

FLORIDA MUNICIPAL INSURANCE TRUST
PROPERTY, ALLIED LINES AND CRIME
DECLARATIONS

I. DESIGNATED MEMBER
City of Bonita Springs

Agreement No.: FMIT #0927

II. GOVERNMENT DESCRIPTION
Municipality

III. COVERAGE PERIOD
From October 1, 2023 to October 1, 2024 12:01 A.M. Standard Time at the address of the Designated Member.

		Premium Basis	Deductible/ Type	Limit	Net Premium
IV. Property and Allied Coverages					$463,909
Real Property*			$1,000	$26,688,235	Included
Personal Property			$1,000	$822,038	Included
Named Storm Coverage and Percentage Deductible			**Refer to Named Storm Coverage and Percentage Deductible Endorsement**		
	Coinsurance:	Agreed Amount			
	Valuation Basis:	Replacement Cost			
	Blanket**:	Yes			
	Inflation Guard:	No			
Non-scheduled PITO Sub-Limit*				$280,000	Included
Time Element					
Business Income		Per Extension	$0		Included
Extra Expense		Per Extension	$0		Included
Inland Marine	Valuation Basis:	Per Schedule	Per Schedule	$329,920	Included
	Blanket:	Yes			Included
Valuable Papers		Per Extension	$0		Included
Accounts Receivable		Per Extension	$0		Included
Bond					
Faithful Performance Blanket Bond			$500	$50,000	Included
Employee Theft - Per Loss Coverage			$500	$50,000	Included

Miscellaneous Property Coverages

FMIT #0927

October 1, 2023 - October 1, 2024

Business Income

All locations are covered under Building and Personal Property Coverage Form Coverage Extension 5 t.

Extra Expense

All locations are covered under Building and Personal Property Coverage Form Coverage Extension 5 s.

Limits on Loss Payment: 40%-80%-100%

Valuable Papers & Records

All locations are covered under Building and Personal Property Coverage Form Coverage Extension 5 u.

Accounts Receivable

All locations are covered under Building and Personal Property Coverage Form Coverage Extension 5 r.

Crime / Bond

Bond Type	Bond Limit	Deductible Amount
Employee Theft - Per Loss	$50,000	$500
Faithful Performance Blanket Bond	$50,000	$500

FLORIDA MUNICIPAL INSURANCE TRUST
GENERAL/PROFESSIONAL LIABILITY COVERAGE AGREEMENT
DECLARATIONS

I. DESIGNATED MEMBER
City of Bonita Springs

Agreement No.: FMIT #0927

II. GOVERNMENT DESCRIPTION
Municipality

III. COVERAGE PERIOD
From October 1, 2023 to October 1, 2024 12:01 A.M. Standard Time at the address of the Designated Member.

	Premium Basis	Deductible/ Type	Limit	Net Premium
IV. General/Professional Liability		$0	$5,000,000	$101,330
Payroll:	4,339,600			
1. General Liability				
a. Broad Form Property Damage		$0	Per Form	Included
b. Extra Contractual Legal Expense		N/A	Per Form	Included
c. Fire Legal Liability		$0	Per Form	Included
d. Medical Attendants'/Medical Directors' Malpractice Liability		$0	$5,000,000	Included
2. Errors and Omissions Liability		$0	$5,000,000	Included
a. Employment Practices Liability		$0	$5,000,000	Included
b. Employee Benefits Program Administration Liability		$0	$5,000,000	Included

V. This agreement includes these endorsements and schedules: See Schedule A

VI. ESTIMATED ANNUAL PREMIUM

Florida Municipal Insurance Trust (FMIT)

Normal Premium	**Incentive Credit**	**Net Premium**
$119,209	$(17,879)	$101,330

Florida League of Cities Sponsored Insurance Programs Since 1977

THIS DECLARATIONS AND THE SUPPLEMENTAL DECLARATIONS, TOGETHER WITH THE COMMON CONDITIONS, COVERAGE FORM(S) AND ENDORSEMENTS COMPLETE THE ABOVE NUMBERED AGREEMENT.

CERTIFICATE OF COVERAGE

Certificate Holder

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
PO BOX 398
FORT MYERS FLORIDA 33902

Administrator Issue Date 04/30/24

Florida League of Cities, Inc.
Department of Insurance and Financial Services
P.O. Box 530065
Orlando, Florida 32853-0065

COVERAGES
THIS IS TO CERTIFY THAT THE AGREEMENT BELOW HAS BEEN ISSUED TO THE DESIGNATED MEMBER FOR THE COVERAGE PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE AGREEMENT DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH AGREEMENT

COVERAGE PROVIDED BY: **FLORIDA MUNICIPAL INSURANCE TRUST**

AGREEMENT NUMBER: FMIT 0927	**COVERAGE PERIOD:** FROM 10/1/23	**COVERAGE PERIOD:** TO 10/1/24 12:01 AM STANDARD TIME

TYPE OF COVERAGE - LIABILITY

General Liability

- [X] Comprehensive General Liability, Bodily Injury, Property Damage, Personal Injury and Advertising Injury
- [X] Errors and Omissions Liability
- [X] Employment Practices Liability
- [X] Employee Benefits Program Administration Liability
- [X] Medical Attendants'/Medical Directors' Malpractice Liability
- [X] Broad Form Property Damage
- [ ] Law Enforcement Liability
- [X] Underground, Explosion & Collapse Hazard

Limits of Liability

* Combined Single Limit

Deductible N/A

Automobile Liability

- [X] All owned Autos (Private Passenger)
- [X] All owned Autos (Other than Private Passenger)
- [X] Hired Autos
- [X] Non-Owned Autos

Limits of Liability

* Combined Single Limit

Deductible N/A

TYPE OF COVERAGE - PROPERTY

- [X] **Buildings**
  - [X] Basic Form
  - [X] Special Form
- [X] **Personal Property**
  - [ ] Basic Form
  - [X] Special Form
- [ ] Agreed Amount
- [X] Deductible $1,000
- [X] Coinsurance 100%
- [X] Blanket
- [X] Specific
- [X] Replacement Cost
- [ ] Actual Cash Value
- [X] **Miscellaneous**
  - [X] Inland Marine
  - [X] Electronic Data Processing
  - [X] Bond

Limits of Liability on File with Administrator

TYPE OF COVERAGE - WORKERS' COMPENSATION

- [X] Statutory Workers' Compensation
- [X] Employers Liability
  - $1,000,000 Each Accident
  - $1,000,000 By Disease
  - $1,000,000 Aggregate By Disease
- [ ] Deductible N/A
- [ ] SIR Deductible N/A

Automobile/Equipment - Deductible

- [X] Physical Damage
- Per Schedule - Comprehensive - Auto
- Per Schedule - Collision - Auto
- Per Schedule - Miscellaneous Equipment

Other

* The limit of liability is $200,000 Bodily Injury and/or Property Damage per person or $300,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to $5,000,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability/settlement for which no claims bill has been filed or liability imposed pursuant to Federal Law or actions outside the State of Florida.

Description of Operations/Locations/Vehicles/Special Items

RE: Verification of Coverage for – The Mobility Plan & Park Master Plan

The certificate holder is hereby added as an additional insured, except for Workers' Compensation and Employers Liability, as respects the member's liability for the above-described event.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE AGREEMENT ABOVE.

Designated Member

City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs FL 34135-4215

Cancellations

SHOULD ANY PART OF THE ABOVE DESCRIBED AGREEMENT BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED ABOVE, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE PROGRAM, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

EXHIBIT H (SIGNATURE REQUIRED)

CERTIFICATIONS
CDBG-DR COMPLIANCE PROVISIONS
Planning and Public Services

This Exhibit to the Community Development Block Grant Disaster Recovery ("CDBG-DR") Program Subrecipient Agreement contains supplementary compliance conditions for use with procured contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

This Exhibit shall be included as part of the terms of the agreement for all procured contracts and subrecipient agreements funded fully or in part by the CDBG-DR Program by Lee County and the selected contractor or subrecipient.

By signing this Exhibit, the applicant certifies they understand that all the below compliance provisions will apply to all projects that are awarded CDBG-DR funds.

1. NATIONAL OBJECTIVES

In accordance with 24 CFR 570.208, Section 104(b)(3) of the Housing and Community Development Act of 1974, all CDBG-DR funded activities must meet a National Objective. Under Section 101(c) of the authorizing Act (42 U.S.C. 5301), all CDBG-DR Activities must satisfy one of the named National Objectives.

1. Benefit to Low-to-Moderate Income Persons (LMI)
2. Urgent Need (UN)
3. Elimination of Slum and Blight (SB)

Planning Exemption
Planning activities are presumed to meet a National Objective. HUD's Federal Register Notice (88 FR 32046) governing the CDBG-DR funds describes planning efforts as addressing the National Objectives without the limitation of any circumstances. In the CDBG Entitlement Program, these more general planning activities are presumed to meet a national objective under the requirements at 24 CFR 570.208(d)(4). HUD notes that almost all effective recoveries in the past have relied on some form of area-wide or comprehensive planning activity to guide overall redevelopment, independent of the ultimate source of implementation funds.

Upon completion of approved activity(ies) funded under this Agreement and prior to the funding expiration date of this Agreement, whichever comes first, the Subrecipient

must document that the approved activity(ies) met the approved National Objective, as necessary.

For Subrecipients with a National Objective requirement, the County shall review the actual National Objective achievements of the activity. If the Subrecipient does not or cannot satisfactorily document the National Objective achievement of an approved activity(ies), the activity(ies) may be deemed ineligible, and repayment of funds may be required of the Subrecipient.

2. DUPLICATION OF BENEFITS

A Duplication of Benefits (DOB) occurs when a person, household, business, or other entity receives disaster assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. The amount of the duplication is the amount of assistance provided in excess of the total need for the same purpose. It is the County's responsibility to ensure that CDBG-DR programs provide assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source.

The Subrecipient or Contractor must report all funds obtained for the same activity from any source from the date of the disaster until the activity is completed.

The Subrecipient or Contractor agrees to repay to the County, immediately upon demand, any assistance later received for the same purpose as the CDBG-DR funds and that exceeds the total need for the particular recovery purpose.

3. EQUAL EMPLOYMENT OPPORTUNITY

The obligations undertaken by the Subrecipient or Contractor include, but are not limited to, the obligation to comply with all Federal laws and regulations described in Subpart K of 24 CFR Part 570 and specifically with each of the following, among other things, as the same may be amended from time to time:

a. Title VI of the Civil Rights Act of 1964: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving Federal financial assistance.

b. Title VII of the Civil Rights Act of 1968 (The Fair Housing Act): This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.

c. Restoration Act of 1987: This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives Federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability

or age in a program or activity which does not directly benefit from such assistance.

d. Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]: This Section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.

e. The Fair Housing Amendment Act of 1988: This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.

f. The Age Discrimination Act of 1975: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic.

g. Section 504 of the Rehabilitation Act of 1973: It is unlawful to discriminate based on disability in Federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance.

h. The Americans with Disabilities Act of 1990 (ADA): This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

i. Executive Order 11063: This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with Federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal government.

j. Executive Order 12259: This executive order provides that the administration of all Federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities

throughout the United States.

k. The Equal Employment Opportunity Act: This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, state, and local governments under the Civil Rights Act of 1964.

l. The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978: This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal, and referral. It is designed to assist employers, labor organizations, employment agencies, licensing, and certification boards in complying with the requirements of Federal laws prohibiting discriminatory employment.

m. The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002): This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.

n. Executive Order 11246: This executive order applies to all Federally-assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race

4. CERTIFICATION OF NONSEGREGATED FACILITIES
(applicable to contracts and subcontracts over $10,000)

The Subrecipient or Contractor and its subcontractor(s) certifies that the entity does not maintain or permit employees to perform their services at any location where segregated facilities are maintained. The Subrecipient or Contractor certifies further that it shall not maintain or provide for employees any segregated facilities at any of its establishments and will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Subrecipient or Contractor and its subcontractor(s) agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Subrecipient or Contractor further agrees that (except where it has obtained for

specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the equal opportunity clause; that it will retain such certifications in project files; and will provide notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

5. ENVIRONMENTAL PROTECTION AND ACTS

a. National Environmental Protection Act (NEPA): All Federally funded activities are subject to the National Environmental Policy Act of 1969 (NEPA) and its regulations under 40 CFR 1500 – 1508. Additionally, 24 CFR 58.22 prohibits committing or spending HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environment review once a project has Federal funding, in full or in part. This prohibition on "choice-limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions, prior to completion of the environmental review. Awarded activities must have completed an environmental review to demonstrate compliance with NEPA, as well as 24 CFR 58.

b. Clean Air and Water Acts: *(applicable to contracts and subcontracts exceeding $100,000)* The Subrecipient or Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

c. Flood Disaster Protection: The Subrecipient or Contractor shall comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001). The Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, that flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

d. Energy Efficiency: The Subrecipient or Contractor shall comply with mandatory standards and policies relating to energy efficiency under the Energy Policy and Conservation Act (Public Law 94-163).

e. Procurement of Recovered Materials: Per 2 CFR 200.323, a non-Federal entity that is a state agency or an agency of a political subdivision of a state, and its contractors, must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in

guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

6. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

The Subrecipient or Contractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include:

a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists:

b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources:

c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and

e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

7. POLITICAL ACTIVITY

The Subrecipient or Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

8. LOBBYING PROHIBITION AND BYRD ANTI-LOBBYING AMENDMENT

The Subrecipient is prohibited from using contracted funds for the following purposes: (1) political activities; (2) lobbying; (3) political patronage; (4) nepotism activities; and (5) inherently religious activities such as worship, religious instruction, or proselytization. The Subrecipient will also comply with Chapter 216.347, Florida Statutes, which prohibits the expenditure of Agreement funds for the purpose of lobbying the legislature, state or county agencies.

Additionally and in accordance with 24 CFR 87, the Subrecipient certifies that it will not use CDBG-DR funds received from the County to directly or indirectly influence legislation or any other official action by the Florida legislature, any state agency, or other local government and county (BOCC) business, including through the use of Federal appropriated funds being paid to any person for influencing or attempting to influence an office or employee of any agency, a member of Congress, an office or employee of Congress or an employee of a member of Congress in connection with this Federal contract, grant, loan or cooperative agreement. If the County and/or the Subrecipient suspects such action of occurring, the County reserves the right to request that the Subrecipient disclose and certify such activities in accordance with reporting requirements noted within the Agreement.

The Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) requires that Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier, up to the non-Federal award.

The Contractor certifies, to the best of his or her knowledge and belief that:

1) No Federally appropriated funds have been paid or will be paid by, or on behalf of, the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

9. CONFLICT OF INTEREST

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality during his/her tenure

or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Subrecipient or Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

No member of, or delegate to, Congress, or any Resident Commissioner, shall be admitted to any share or part of any contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to any contract if made with a corporation for its general benefit.

10. DOMESTIC PREFERENCES FOR PROCUREMENTS.

Per 2 CFR 200.322, as appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section: (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole, or in part, of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; or aggregates such as concrete; glass, including optical fiber; and lumber.

11. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

Per 2 CFR 200.216, Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in Public Law 117–328, section 208, subsection (a), covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country, is prohibited.

12. AGREEMENTS BETWEEN SUBRECIPIENTS AND CONTRACTORS

a. The Subrecipient shall not enter into any agreement, written or oral, with any contractor or other party without the prior determination that the contractor or other party is eligible to receive federal funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible contractors.

The terms "other party" is defined as public or private nonprofit agencies or organizations and certain (limited) private for-profit entities who receive grant funds from a Subrecipient to undertake Approved Activities.

b. An agreement between the Subrecipient and any contractor or other party shall require:

1) Compliance with all State and Federal requirements described in this Agreement including, without limitation, those that pertain to labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity and Drug Free Workplace, and prevailing wages.

2) Maintenance of at least the minimum State required Workers' Compensation Insurance for those employees who will perform the Approved Activities.

3) Maintenance, as required by law, of unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or damaged by the contractor, or any subcontractor, in performing the Approved Activities.

4) Compliance with the applicable Equal Opportunity Requirements described in Section 3 of this Exhibit.

c. Contractors shall:

1) Perform Activities in accordance with Federal, state, and local regulations, as applicable.

13. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If a Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the Subrecipient or Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance, the Subrecipient or Contractor must comply with requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulation issued by the awarding agency.

14. PATENTS

a. The Subrecipient or Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.

b. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Subrecipient or Contractor.

c. If the Subrecipient or Contractor uses any design device or materials covered by letters, patents or copyrights, he shall provide for such use by suitable agreement with the owner of such patented or copy-righted design device or material. It is mutually agreed and understood, that without exception the contract prices shall include all royalties or costs arising from the use of such design, device, or materials, in any way involved in the work. The Subrecipient or Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copy-righted design, device, materials, or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

15. COPYRIGHT

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Subrecipient or Contractor for copyright purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

16. DRUG-FREE WORKPLACE ACT OF 1988

a. Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.

b. Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon

employees for drug abuse violations.

c. Notify employees that as a condition of employment on a Federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within 5 calendar days, if he or she is convicted of a criminal drug violation in the workplace.

d. Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.

e. Impose a penalty on or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.

f. Make an ongoing, good faith effort to maintain a drugfree workplace by meeting the requirements of the act.

17. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS, AND ACCIDENT PREVENTION

a. Use of Explosives: When the use of explosives is necessary for the prosecution of the work, the contractor shall observe all local, state, and Federal laws in purchasing and handling explosives. The contractor shall take all necessary precautions to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced, and the material shall be covered with suitable timber, steel, or rope mats.

b. The contractor shall notify all owners of public utility property of intention to use explosives at least 8 hours before blasting is done close to such property. Any supervision or direction of use of explosives by the engineer does not in any way reduce the responsibility of the contractor or his Surety for damages that may be caused by such use.

c. Danger Signals and Safety Devices: The contractor shall make all necessary precautions to guard against damages to property and injury to persons. The contractor shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades, and other devices necessary to protect the public.

d. Protection of Lives and Health: The contractor shall exercise proper precautions at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific

safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971, Title 29 - LABOR, shall be observed and the contractor shall take, or cause to be taken,, such additional safety and health measures as the Developer may determine to be reasonably necessary.

18. PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of:

a. Obtaining the County's approval of the Application for such assistance; or,

b. Any other approval or concurrence of the County required under this Agreement, Title I of the Housing and Community Development Act of 1974, or State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

19. CONFIDENTIAL FINDINGS

All of the reports, information, data, etc., prepared or assembled by the Subrecipient or Contractor under any Agreement are confidential, and the Subrecipient or Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

20. ACCESS TO RECORDS - MAINTENANCE OF RECORDS

Lee County, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Subrecipient or Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with any contract will be maintained in a central location by the unit of local government and will be maintained for a period of five (5) years from the official date of the County's final closeout of the grant.

21. INSPECTION

The authorized representative and agents of Lee County and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

22. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in any contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

BY: _____ June 5, 2024

Signature Date

Rick Steinmeyer

Name (print)

EXHIBIT I

CDBG-DR SPECIAL TERMS AND CONDITIONS

This Exhibit to the Community Development Block Grant Disaster Recovery ("CDBG-DR") Program Subrecipient Agreement contains special conditions for use with procured contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

This Exhibit shall be included as part of the terms of the agreement for all procured contracts and subrecipient agreements funded fully or in part by the CDBG-DR Program by Lee County and the selected contractor or subrecipient.

1. INITIAL RISK ASSESSMENT

The Subrecipient has provided, or will provide, the County with information about the Subrecipient's experience, processes, policies, and procedures related to the management of Federal funding by the Subrecipient. These submissions, in addition to discussions with the Subrecipient, have been used by the county to assess the risk of noncompliance and capacity to compliantly execute the required activities for which the Agreement is made.

Should there be substantive changes to the organization, key personnel, methods, capacity, policies, or processes of the Subrecipient that impact the implementation of this Agreement, the Subrecipient shall notify the County of said changes within 30 days of those changes.

The Subrecipient agrees to provide documents and information to the County, within 30 days of such a request made by the County, to facilitate its due diligence review as required by Federal Register Notice 88 FR 32046. Subrecipient further agrees to comply with the requirements, requests, and results of the County's due diligence and maintain the capacity to carry out disaster recovery activities in a timely and compliant manner at all times during the term hereof.

2. RISK ASSESSMENT

During the term of this Agreement, the Subrecipient agrees to provide documents and information, within 30 days of such a request made by the County, to facilitate the County's Subrecipient risk assessment process. The Subrecipient further agrees to comply with the requirements, requests, and results of the County's risk assessment, including participation in Subrecipient monitoring events.

3. SPECIAL CONDITIONS

Pursuant to *Exhibit A*, Scope of Work, and the Risk Assessment Sections, as referenced above, Subrecipient agrees to adhere to the following Special Conditions:

a. None

EXHIBIT J

SUBRECIPIENT STAFF ORGANIZATION

Bonita Springs Mobility Plan

The Subrecipient must complete the following information, as applicable, as an extension of the requirements outlined within SECTION XVIII. NOTICES of the Agreement. The Subrecipient is not required to hire or create the following positions or titles but should assign the following roles to staff members who will serve as a primary point of contact for relevant responsibilities associated with that role.

Some projects or activities will not require a contact for all roles identified below. In addition, individual staff members may perform multiple roles. The Subrecipient will complete the contact information for those roles which are applicable for successful completion of this project/activity and denote where a specific member is performing multiple roles. If certain roles are not applicable for implementation of this project/activity, please denote “Not Applicable” under the Contact Information for each role.

The Subrecipient is responsible for providing an updated version of this Exhibit as contact information changes or updates are made to personnel which impact the roles and responsibilities. Descriptions of each role are outlined below.

Section 1: Subrecipient Contract Administrator

1. Description

The Subrecipient Contract Administrator (must be a Subrecipient employee) is identified in SECTION XVIII. NOTICES of the Agreement. Unless otherwise directed by the County, any notice, report, or other communication required by the Agreement shall be directed via the County’s approved system or written to the Subrecipient’s Contract Administrator at the contact information identified in SECTION XVIII. NOTICES of the Agreement.

2. Contact Information

Name: Elly Soto McKuen
Title: Senior Project Manager
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: elly.mckuen@cityofbonitasprings.org
Email: (239) 949-6262

Section 2: Project Manager

1. Description

The Subrecipient staff member who will serve as the primary contact and decision-maker for the project's implementation. This staff member is responsible for ensuring the project reaches established milestones and deadlines for completion, oversees all elements of project completion (e.g., procurement actions, reconciliations, contract management, administration), and is considered the administrator to ensure general and overall compliance of the project/activity with the CDBG-DR grant.

2. Contact Information

Name: Elly Soto McKuen
Title: Senior Project Manager
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: elly.mckuen@cityofbonitasprings.org
Email: (239) 949-6262

Section 3: Davis Bacon and Labor Standards Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Section 3 and Davis-Bacon and Related Acts (DBRA) labor standards. This staff member is responsible for actions such as providing guidance to (including conducting monitoring and oversight of) contractors and vendors on Section 3 and labor compliance requirements. This includes, but is not limited to, overseeing Section 3 goals reporting by contractors and vendors, conducting employee interviews, reviewing certified labor payrolls, and completing Section 3 and labor compliance reports for submission of performance data to the County. The Coordinator would likely be responsible for ensuring proper recordkeeping of such files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Elly Soto McKuen
Title: Senior Project Manager
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: elly.mckuen@cityofbonitasprings.org
Email: (239) 949-6262

Section 4: Section 504 Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Section 504, the Americans with Disabilities Act of 1990 ("ADA") and ensuring meaningful access to persons who are Limited English Proficiency (LEP). This staff member is responsible for actions which include, but are not limited to, conducting a Section 504 evaluation or self-assessment of Subrecipient facilities, detailing and tracking complaints or grievances on potential Section 504 or Civil Rights violations, and developing and maintaining Language Access Plans (LAPs) for LEP individuals, as applicable. The Coordinator would likely be responsible for ensuring proper recordkeeping of files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Brenda Reetz
Title: Contract Administrator
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: Brenda.reetz@cityofbonitasprings.org
Email: (239) 949-6262

Section 5: Fair Housing Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Fair Housing requirements as outlined within the Agreement and Exhibits. This staff member is responsible for actions which affirmatively promote fair housing, which may include, but are not limited to, conducting, overseeing, and documenting fair housing activities, conducting affordable housing reports, and detailing and tracking complaints or grievances on potential Fair Housing violations, as applicable. The Coordinator would likely be responsible for ensuring proper recordkeeping of such files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Jessica Lynch
Title: Fair Housing Coordinator
Agency: Lee County Human and Veteran Services
Address: 2440 Thompson Street, Fort Myers, FL 33901
Telephone: Jynch2@leegov.com
Email: (239) 533-7900

Section 6: Financial Manager

1. Description

The Subrecipient staff member who will serve as the primary contact and subject matter expert for all financial management duties associated with the project. This staff member is most likely responsible for overseeing accounting actions such as accounts receivable, accounts payable, project budget setup, or encumbering the CDBG-DR dollars within the Subrecipient's financial management system and/or fiscal year (FY) obligations of CDBG-DR dollars to the project/activity governed by this Agreement. Tasks of the Financial Manager may include, but are not limited to, approving project invoices, overseeing monthly account reconciliations, creating or approving annual budgets for expending CDBG-DR dollars under this project/activity, and being responsible for walking through accounting procedures for County staff. The Financial Manager would likely be responsible for ensuring proper recordkeeping of such financial and accounting records for access by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. Given the segregation of duties for financial and accounting staff, the Financial Manager may also supervise or oversee multiple accounting clerks, financial analysts, or other financial staff who perform duties described above.

2. Contact Information

Name: Lisa Roberson
Title: Director of Finance and Administrative Services
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: lisa.roberson@cityofbonitasprings.org
Email: (239) 949-6262

Section 7: Certification of Time Allocation

Are there any staff who are working on both CDBG-DR and non CDBG-DR programs? Yes

If so how many, and list names:

Yes. 1. Elly Soto McKuen 2. Matt Feeney 3. Lisa Roberson 4. Brenda Reetz 5. Evan Grant

EXHIBIT K

CDBG-DR PROGRAM SUBROGATION AGREEMENT

This Subrogation and Assignment Agreement ("Agreement") is made and entered into by and between ***City of Bonita Springs*** (hereinafter referred to as "Subrecipient") and Lee County (hereinafter referred to as “County”).

In consideration of the Subrecipient's receipt of funds or the commitment by the County to evaluate the Subrecipient's application for the receipt of funds (collectively, the "Subrecipient Award") under the Community Development Block Grant – Disaster Recovery Program (the "CDBG-DR Program") administered by the County, the Subrecipient hereby assigns to the County all of the Subrecipient's future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit, or insurance policies of any type or coverage, or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("FEMA”) or the Small Business Administration ("SBA") (singularly, a "Disaster Program" and collectively, the "Disaster Programs"), that was the basis of the calculation of the Subrecipient Award paid or to be paid to the Subrecipient under the CDBG-DR Program and that are determined at the sole discretion of the County to be a duplication of benefit ("DOB”), as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA, or the SBA, or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "Proceeds," and any Proceeds that are a DOB shall be referred to herein as "DOB Proceeds."

The Subrecipient agrees to notify the County within five (5) business days of any additional or new payments, loans, grants, or awards by HUD, FEMA, SBA, the State of Florida, or any other entity not specifically disclosed in this Agreement. Further, the Subrecipient understands and acknowledges the County’s right and responsibility to enforce this requirement by recapturing all or a portion of the CDBG-DR Subrecipient Award if the Proceeds received are determined to be DOB Proceeds within this CDBG-DR Program activity. The Subrecipient will be required to pay back the received CDBG-DR Subrecipient Award, which was found to be DOB Proceeds, within 30 days of receipt of the identified duplicative payment. The amount of DOB determined to be paid to the County shall not exceed the Subrecipient Award amount received by the Subrecipient from the CDBG-DR Program.

The Subrecipient agrees to assist and cooperate with the County to pursue any of the claims the Subrecipient has against insurers for reimbursement of DOB Proceeds under any such policies. The Subrecipient's assistance and cooperation shall include, but not be limited to, allowing suit to be brought under the Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing records and other evidence, testifying at trial, and any other form of assistance and cooperation reasonably requested by the County. The Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Program.
If requested by the County, the Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to the County, to

the extent of the Subrecipient Award paid to the Subrecipient under the CDBG-DR Program, the policies, any amounts received under the CDBG-DR Program that are DOB Proceeds, and/or any right thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the County to consummate and make effective for the purposes of this Agreement.

The Subrecipient explicitly allows the County to request of any company with which the Subrecipient held insurance policies, FEMA, SBA, or any other entity from which the Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by the County to monitor and enforce its interest in the rights assigned to it under this Agreement and give the Subrecipient's consent to such company(ies) to release all information to the County.

If the Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, the Subrecipient agrees to promptly pay such amounts to the County, if Subrecipient received a Subrecipient Award under the CDBG-DR Program in an amount greater than the amount the Subrecipient would have received if such DOB Proceeds had been considered in the calculation of the Subrecipient's award.

In the event that the Subrecipient receives or is scheduled to receive any subsequent Proceeds, the Subrecipient shall notify the County in the manner above of such subsequent Proceeds. The County will determine the amount, if any, of the subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of the determined Subsequent DOB Proceeds shall not be requested from the Subrecipient to provide to the County. Subsequent DOB Proceeds shall be remitted to the County as follows:

1. If the Subrecipient has received full payment of the Subrecipient Award, any Subsequent DOB Proceeds shall be remitted to the County.
2. If the Subrecipient has received no payment of the Subrecipient Award, any determined Subsequent DOB Proceeds shall be used by the County to reduce payments and the agreed-upon amount of the Subrecipient Award to the Subrecipient, and all Subsequent DOB Proceeds shall be retained by the Subrecipient for use on the CDBG-DR Program activity.
3. If the Subrecipient has received a portion of the Subrecipient Award, any Subsequent DOB Proceeds shall be used, retained, and/or disbursed in the following order: **(A)** Subsequent DOB Proceeds shall first be used to reduce the remaining payments or agreed-upon amount of the Subrecipient Award, and Subsequent DOB Proceeds in such amount shall be retained by the Subrecipient for use on the CDBG-DR Program activity; and **(B)** any remaining Subsequent DOB Proceeds shall be remitted to the County.
4. If the County makes the determination that the Subrecipient does not qualify to participate in the CDBG-DR Program or the Subrecipient determines not to participate in the CDBG-DR Program, the Subsequent DOB Proceeds shall be returned to the Subrecipient, less any portion of the Subrecipient Award amount paid to the Subrecipient and which needs to be remitted to the County, and this Agreement shall terminate.

Once the County has recovered an amount equal to the Subrecipient Award paid to the Subrecipient, the County will reassign to the Subrecipient any right assigned to the County pursuant to this Agreement.

The Subrecipient represents that all statements and representations made by the Subrecipient regarding Proceeds received by the Subrecipient shall be true and correct as of the date of the signing of this Agreement.

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

The person executing this Agreement on behalf of the Subrecipient hereby represents that he/she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by the Subrecipient.

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

City of Bonita Springs	**LEE COUNTY**
By: Rick Steinmeyer	By: _____
Signature: _____	Signature: _____
Title: Mayor	Title: _____
Date: June 5, 2024	Date: _____

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-081
June 5, 2024

REQUESTED MOTION: Approve a Hurricane Ian Community Development Block Grant-Disaster Recovery (CDBG-DR) Recreation Master Planning Grant Subrecipient Agreement.

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA: Consent

STRATEGIC PRIORITY: 2) Transportation, 3) Strengthen City Finances, 4) Environmental Protection, 8) Economic Development

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BACKGROUND: Lee County announced a Notice of Funding Opportunity (NOFO) on December 5, 2023 for the Recovery and Resiliency Planning Program. Congress appropriated supplemental funding for 2022 disasters of which U.S. Housing and Urban Development (HUD) allocated Lee County $1,107,881,000 in Community Development Block Grant-Disaster Recovery (CDBG-DR) funding to support long-term recovery efforts following Hurricane Ian.

On January 17, 2024 City Council recommended that staff submit a recreation master planning grant. Staff submitted the application on February 23, 2024. Lee County's Evaluation Committee met on April 1, 2024 and recommended funding for all planning studies submitted to them. The Board of County Commissioners accepted the evaluation committee's recommendation at their regular meeting on April 16, 2024.

STAFF RECOMMENDATION: Approve a Hurricane Ian CDBG-DR Recreation Master Planning Grant Subrecipient Agreement.

ATTACHMENTS:

1. CDBG-DR Recreation Master Planning Grant Agreement

REVIEWERS:

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

CDBG-DR SUBRECIPIENT AGREEMENT

The following information is provided pursuant to 2 CFR 200.332(a)(1)

Federal Award Identification Number (FAIN)/ HUD CDBG-DR Grant No.:	B-23-UN-12-0002
Assistance Listing Number (formerly CFDA #):	14.218 Community Development Block Grants/Entitlement Grants
Federal Register Notice & Public Law:	FR-6393-N-01: PL-117-328
Federal Award (HUD Grant Agreement) Date:	11/20/20203
Agreement No.:	DR10143
Responsible Entity (RE):	Lee County
Lead and Responsible Department:	Office of Strategic Resources and Government Affairs
CDBG-DR Funding Source/Program:	US Department of Housing and Urban Development
Subrecipient Name:	City of Bonita Springs
Subrecipient ID (Unique Entity Identifier via SAM.gov):	LLWSKDMXTCJ8
Subrecipient Period of Performance (Start Date):	
Subrecipient Period of Performance (End Date):	
Total Amount Obligated via Agreement:	$500,000.00
Total CDBG-DR Obligation to Subrecipient (all Agreements, including this obligation):	$1,000,000.00
Project/Activity ID(s):	
Federal Award Program/Project/Activity Description:	Bonita Springs Citywide Parks and Recreation Master Plan
Does the Federal award include an Indirect Cost Rate for Subrecipient?	**Yes ☐ No ☒**
If Yes, is the Indirect Cost Rate a:	**☐ Negotiated Rate _____%** **☐ De Minimis Rate**

Official County Contact for Award: Glen Salyer, Assistant County Manager; 2115 Second St., Fort Myers, FL 33901; Phone: (239) 533-2315; Email: GSalyer@leegov.com

SUBRECIPIENT AGREEMENT BETWEEN

THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

AND

City of Bonita Springs

This **AGREEMENT** between Lee County, a political subdivision and charter county of the State of Florida, hereinafter referred to as "**COUNTY**," and **the City of Bonita Springs,** a Florida Municipal Corporation of the State of Florida, hereinafter referred to as **"SUBRECIPIENT"** will become effective upon the date ("Effective Date") signed by the Board of County Commissioners (BOCC).

SECTION I: RECITALS

WHEREAS, pursuant to Public Law (P.L.) 117-328, the "Department of Housing and Urban Development Appropriations Act, 2023" (hereinafter referred to as the "Appropriation Act"), and the "Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG–DR Consolidated Waivers and Alternative Requirements Notice," 88 Federal Register (FR) 32046 (May 18, 2023); (hereinafter referred to as the "Federal Register Guidance"), the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD") has awarded $1,107,881,000 (a $963,375,000 allocation for unmet disaster recovery needs with an additional $144,506,000 mitigation set aside) of Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to the **COUNTY** for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code (U.S.C.) 5301 *et seq.*) and described in the *Lee County Action Plan for CDBG-DR Funds* (hereinafter referred to as the "Action Plan") for the Consolidated Appropriation Act (P.L. 117-328). The **COUNTY** is also hereinafter referred to from time to time as "Grantee."

WHEREAS, the **COUNTY** believes it is in the public interest to serve as a pass-through entity by awarding and/or providing CDBG-DR funding for certain activities to **SUBRECIPIENTS** for the benefit of Lee County residents. CDBG-DR funding made available for use by the **SUBRECIPIENT** under this Agreement constitutes a subaward of the Grantee's Federal award, for which the use of the subaward funds must conform to the **COUNTY'S** intent as stated in the applicable (1) Notice of Funding Availability (NOFA) Application, (, and attachments, and/or exhibits, and all other terms and conditions as specified.

WHEREAS, the **COUNTY** has legal authority to disburse funds as a subaward under the Federal award and to enter into this Agreement with the **SUBRECIPIENT,** who by signing this Agreement, represents and warrants to the **COUNTY** that it will comply with all the requirements of the subaward described herein.

WHEREAS, the Action Plan has been developed to give the maximum feasible priority to activities that will benefit low- and moderate-income families and the aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent (or another percentage permitted by HUD in a waiver) of the grant amount is expended for activities that benefit such persons.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, therefore the **COUNTY** and the **SUBRECIPIENT** agree as follows:

SECTION II: SCOPE OF WORK AND ACTIVITIES

The **COUNTY** provides the **SUBRECIPIENT** the award under this Agreement to perform project activities under the **COUNTY'S** CDBG-DR Recovery and Resiliency Planning Program. Any proposal, application, or exhibit associated with this CDBG-DR funding award are binding and incorporated herein as a part of this **AGREEMENT**.

The **SUBRECIPIENT** shall submit to the **COUNTY** the required information and documentation to complete *Exhibits A (Scope of Work and Activities – Program/Project Activity Overview) & B (Scope of Work and Activities – Project Activity Scope of Work Description)*. If there is a disagreement between the **COUNTY** and **SUBRECIPIENT**, with respect to the formatting and content requirements of the Exhibit, the **COUNTY** has sole and absolute discretion; the **COUNTY'S** decisions shall prevail.

The **SUBRECIPIENT** must provide a statement of work, in accordance with 24 CFR 570.503 detailing the work to be performed, a schedule for completing the work, and a budget. The statement of work as prescribed by the **COUNTY** under *Exhibits A and B* must provide sufficient data and detail to provide a sound basis for the COUNTY to monitor performance.

The **SUBRECIPIENT** agrees to abide by all applicable state and Federal laws, rules and regulations, including but not necessarily limited to, the Federal laws and regulations set forth at 24 CFR 570, 2 CFR 200, the Federal Register Guidance, and the **COUNTY'S** Action Plan. This includes core CDBG-DR tenets and requirements as stated below:

SUBSECTION II.A. – MID REQUIREMENT: The **SUBRECIPIENT** must conduct all activities and expend all CDBG-DR award funds granted by the **COUNTY** in the "most impacted and distressed" (MID) areas resulting from the qualifying major disaster in 2022, which is in response to Hurricane Ian (Federal Emergency Management Agency (FEMA) Disaster No. 4673 – DR). As noted in the Federal Register Guidance (88 FR 32046), the HUD-identified MID area for this disaster allocation is all of Lee County.

SUBSECTION II.B. – ELIGIBLE ACTIVITIES: CDBG–DR funds are provided for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (HCDA), as amended (42 United States Code (U.S.C.) 5301 et seq.), related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation of related risk. The **SUBRECIPIENT** must utilize CDBG-DR funds, as prescribed under 24 CFR 570 Subpart C – Eligible Activities, and for alternative requirements and waivers as prescribed within the Federal Register Guidance. Furthermore, the **SUBRECIPIENT** shall conduct its project to align with the approved eligible activity(ies) found under the most-recent approved Action Plan for the **COUNTY'S** CDBG-DR (6) Recovery and Resiliency Planning Program.

SUBSECTION II.C. – NATIONAL OBJECTIVE: The **SUBRECIPIENT** must meet the criteria for one of the CDBG-DR program's national objectives. For this scope of work, the **SUBRECIPIENT** must adhere to the following national objective type, as defined at 24 CFR 570.208 and alternative requirements under the Federal Register Guidance, and as reflected as an approved national objective type for this CDBG-DR program within the Action Plan:

☐ Activities benefitting low- and moderate-income persons ("LMI");
☐ Activities which aid in the prevention or elimination of slums or blight ("Slum & Blight");
☐ Activities designed to meet community development needs having a particular urgency ("Urgent Needs"); or
☒ Activities expended for planning and administrative costs under 24 CFR 570.205 and 24 CFR 570.206, which are considered to address the national objectives.

SUBSECTION II.D. – CDBG-DR MITIGATION SET-ASIDE AND STORM "TIE-BACK": The **COUNTY** is responsible for informing the **SUBRECIPIENT** of whether CDBG-DR funding is awarded for an activity(ies) to address an unmet recovery need, a mitigation and resilience measure, or both. Depending on the recovery or mitigation designation by the **COUNTY**, the **SUBRECIPIENT** is responsible for documenting proof of the designation. For recovery activities, the **SUBRECIPIENT** must demonstrate that their activities "tie-back" to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated. For mitigation set-aside activities, the **SUBRECIPIENT**

must document how its activity(ies) (1) meet the definition of mitigation activities; (2) address the current and future risks as identified in the **COUNTY'S** mitigation needs assessment in the MID areas under its Action Plan; (3) is a CDBG-eligible activity under title I of the HCDA (or otherwise eligible pursuant to a waiver or alternative requirement); and (4) still meets a national objective. In some cases, the **COUNTY** may require the **SUBRECIPIENT** to provide evidence of the activity meeting both the CDBG-DR "tie-back" and mitigation measures justification. The **COUNTY** will spell out specific requirements for the **SUBRECIPIENT**, its project, and the project's eligible activity under *Exhibit A – Scope of Work and Activities – Program/Project Activity Overview* and *Exhibit B – Scope of Work and Activities – Project Activity Scope of Work Description*.

SECTION III: TERM OF AGREEMENT

This Agreement shall begin on ***{Enter Actual Date}*** ("*the Effective Date*") and end on ***{Enter Actual Date}***, unless suspended or terminated as specified in SECTION XI. SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION.

The **COUNTY** and the **SUBRECIPIENT** agree that this Agreement shall be electronically signed, and that any electronic signatures appearing on this Agreement shall have the same force and effect as a written signature for the purposes of validity, enforceability, and admissibility. The **COUNTY** and **SUBRECIPIENT** shall maintain this Agreement, including any amendments, in its files.

The **COUNTY** shall not grant any extension of the Agreement unless the **SUBRECIPIENT** provides written justification that is satisfactory to the **COUNTY,** in its sole discretion, and the **COUNTY'S** authorized organizational representative approves such extension in accordance with SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS of this Agreement.

SECTION IV: AGREEMENT MODIFICATIONS AND AMENDMENTS

SUBRECIPIENT must submit a written request, via the County's approved method for submitting such request, for an Agreement amendment which details the nature of and justification for the requested change and the desired effective date of the change(s). The **COUNTY** reserves the right to approve or deny all Agreement amendments on the basis that such approval or denial is in the **COUNTY'S** best interest. An approved amendment shall be documented on the Agreement amendment form and signed by both parties.

The Assistant County Manager over the **COUNTY'S** Office of Strategic Resources and Government Affairs (SRGA), the BoCC, or their designee may approve amendments to the Agreement, in accordance with the **COUNTY'S** *Hurricane Ian CDBG-DR Subrecipient Manual* and *Internal Grant Management Manual*. As noted within the Manual, the **COUNTY** reserves the right to review the request from the **SUBRECIPIENT** and determine whether an amendment is required or whether County Manager or BOCC approval is needed.

The **COUNTY** also affirms that it may unilaterally modify or amend any Manuals referenced throughout this Agreement without prior notification or agreement by the **SUBRECIPIENT.** Additionally, the **COUNTY** affirms that while it will seek agreement with the **SUBRECIPIENT** on proposed amendments to any Exhibits which are referenced throughout this Agreement, the **COUNTY** may unilaterally modify or amend any such Exhibits **COUNTY**, in its sole discretion, deems necessary to comply with federal policies or regulations.

As noted in the **COUNTY'S** Action Plan, substantial amendments to the Action Plan are defined as (1) a change in program benefit or eligibility criteria; (2) the addition or deletion of an activity(ies); (3) the allocation or reallocation of funds which exceeds or is expected to exceed 5 percent of the current total approved budget; (4) a material change occurs which impacts information and analysis on which the Action Plan was based on to fund certain priority activities (e.g., impact on anticipated beneficiaries, project or activity scope, significant

demographic changes, or new significant contributing factors on unmet needs in the jurisdiction); and/or upon HUD's written notification specifying a material change that requires the revision. The **SUBRECIPIENT** understands that requests for Agreement amendments of the nature described herein, and which involve new or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activity or beneficiaries must first receive HUD approval before consideration by the **COUNTY** to amend the Agreement.

SECTION V: COMPENSATION AND ALLOWABLE PAYMENTS

SUBSECTION V.A. – AGREEMENT PAYMENT: The **SUBRECIPIENT** agrees to accept as full compensation the total amount not to exceed *$500,000.00*__. The **COUNTY'S** standard method of payment to the **SUBRECIPIENT** is on a reimbursement basis. Payments under this method will be authorized only for work completed and/or services delivered during the term of the Agreement as stated in SECTION III: TERM OF AGREEMENT and prior to the payment request date. The **COUNTY** reserves the right to consider a written request from the **SUBRECIPIENT** for projects that require advanced payments in accordance with 2 CFR 200.305 and 24 CFR 570.502.

The **SUBRECIPIENT** will provide supporting documentation of eligible expenses as stated within this SUBSECTION and the applicable exhibits, forms, and attachments contained with this Agreement. Payment is subject to the provisions of SUBSECTION V.B. DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) and SECTION XI. SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION. Funding is contingent upon the availability of CDBG-DR funds and the obligation of said CDBG-DR funds through the **COUNTY'S** annual fiscal year (FY) budget appropriation process.

The **COUNTY** has agreed to reimburse the **SUBRECIPIENT** for approved budget line items listed for the project and its activities under the **COUNTY'S** CDBG-DR (6) Recovery and Resiliency Planning Program. The **SUBRECIPIENT** shall expend the allocation as follows:

	Most Impacted and Distressed (MID)
Activity Funds (Direct Project Costs)	$500,000.00
Activity Delivery Funds	$XXX,XXX.XX
TOTAL	$500,000.00

Furthermore, "not to exceed" line items and activity budgets under this Agreement shall be identified within the approved budget under the *Project Budget and Expense (Sources and Uses) Worksheet*.

After the **COUNTY** has approved funding and the Office of Strategic Resources and Government Affairs (SRGA) has issued an Agreement related to the funded project, the **SUBRECIPIENT** should sign and return the Agreement within 30 days for execution. In addition, the **SUBRECIPIENT** should begin to draw down funds as agreed upon within the project milestones set out under the *Project Schedule and Milestones* reporting deliverable unless additional time is authorized by the **COUNTY**. Failure to return the signed Agreement or begin spending funds within the agreed upon time frame may result in reduction or forfeiture of funds.

By execution of this Agreement, the **SUBRECIPIENT** attests that necessary written administrative procedures, processes, and fiscal controls are in place for the operation of its CDBG-DR program for which the **SUBRECIPIENT** received funds from the **COUNTY**. These written administrative procedures, processes, and fiscal controls must, at a minimum, comply with applicable state and Federal law, rules, and regulations, Federal Register Guidance, and the terms of this Agreement. The **SUBRECIPIENT** agrees to remedy any deficiencies in its written administrative procedures, processes, and fiscal controls

identified by the **COUNTY** or duly authorized CDBG-DR authorities.

The **SUBRECIPIENT** shall request all funds in the manner prescribed by the **COUNTY**, utilizing the Payment Request Form(s) as outlined under SUBSECTION VI.A. REPORTING AND AGREEMENT DELIVERABLES. Except as set forth herein, or unless otherwise authorized in writing by the **COUNTY**, costs incurred for eligible activities or allowable costs prior to the Effective Date of this Agreement are ineligible for funding with CDBG-DR funds.

If funds are not available to fully execute the project associated with this Agreement because of actions by the United States Congress, the Federal Office of Management and Budget, the **COUNTY** or the provision of SECTION XIII. ASSURANCE, CERTIFICATIONS, AND COMPLIANCE, all obligations on the part of the **COUNTY** to make any further payment of funds will terminate and the **SUBRECIPIENT** shall submit its administrative closeout report within thirty (30) calendar days from the receipt of notice from the **COUNTY**.

SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS): The **SUBRECIPIENT** shall expend CDBG-DR funds only for allowable costs and eligible activities which are incurred during the Agreement period, in accordance with federal cost principles at 2 CFR 200 Subpart E and 24 CFR 570 Subpart C, respectively. The **SUBRECIPIENT** shall ensure that its contractors, subcontractors, and consultants only expend funding under this Agreement for allowable costs resulting from the obligations incurred during the Agreement period as specified under SECTION III. TERM OF AGREEMENT.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds paid in excess of the amount to which the **SUBRECIPIENT** or its contractors, subcontractors, or consultants are entitled under the terms and conditions of this Agreement.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds received for an activity if the activity does not meet an approved National Objective in accordance with 24 CFR 570.208 and the terms of this Agreement.

The **SUBRECIPIENT** shall refund to the **COUNTY** any funds not spent in accordance with the conditions of this Agreement or applicable law. For the scenarios detailed above, such reimbursement shall be sent to the **COUNTY**, by the **SUBRECIPIENT**, within thirty (30) calendar days from the **SUBRECIPIENT'S** receipt of notification of such noncompliance.

The **COUNTY** may also defer payment to the **SUBRECIPIENT** for noncompliance with Agreement deliverables, program performance requirements, or sufficient documentation to meet regulatory and statutory requirements, including cross-cutting requirements**.** If, as a result of monitoring or audit, the **COUNTY** determines that submitted costs are not documented, a payment may be deferred. If costs are found to be unallowable and payment has been made, no future payments will be made until the full amount of overpayment is remitted to the **COUNTY** or a repayment agreement is established by the **COUNTY**. If the monitoring or audit occurs after the term of this Agreement, the **SUBRECIPIENT** will be required to remit funds to the **COUNTY** in accordance with the repayment conditions below.

The **SUBRECIPIENT** agrees to return to the **COUNTY** any overpayments due to disallowed cost, pursuant to the terms of this Agreement and/or Federal requirements. Such funds shall be considered **COUNTY** funds and must be refunded to the **COUNTY** within thirty (30) days of receiving notice from the **COUNTY** in writing regarding the overpayment. Should repayment not be made in a timely manner, the **COUNTY** will charge interest of one (1) percent per month compounded on the outstanding balance after forty (40) calendar days after the date of notification or discovery. The **SUBRECIPIENT** will be required to reimburse the **COUNTY** for disallowed costs or fines resulting from acts of noncompliance.

The **COUNTY'S** determination that an expenditure is eligible does not relieve the **SUBRECIPIENT** of its duty to repay the **COUNTY** in full for any expenditures that are later determined by the **COUNTY** or the Federal Government, in each of its sole discretion, to be an ineligible expenditure or a Duplication of Benefits.

If requested by the **COUNTY**, all refunds, return of improper payments, or repayments due to the **COUNTY** under this Agreement are to be made payable to Lee County and mailed directly to the **COUNTY,** pursuant to SECTION XIX. NOTICES and this Agreement.

The **SUBRECIPIENT** has responsibility for identifying and recovering grant funds that were expended in error, disallowed, or unused. The **COUNTY'S** provision of training, technical assistance, quality assurance and quality control reviews are in no way intended to alleviate the **SUBRECIPIENT** of the responsibility to administer activities in accordance with all federal, state, and local requirements, including the requirements outlined within this Agreement. The **SUBRECIPIENT** acknowledges full responsibility to return funds to the **COUNTY** in the event that HUD or other auditing agency determines that activities or costs are disallowed.

The **SUBRECIPIENT** will report all suspected or verified fraud to the **COUNTY,** regardless of whether the suspected or verified fraud is associated with disallowed cost or other perceived harm to the **SUBRECIPIENT** or the **COUNTY**.

SECTION VI: REPORTS AND EXHIBITS

SUBSECTION VI.A – REPORTING AND AGREEMENT DELIVERABLES: The **SUBRECIPIENT** shall provide the **COUNTY** with all reports and information set forth in the **COUNTY'S** approved system, including monthly performance reports and documentation outlined in all applicable exhibits to enable the Grantee to submit the required reporting to HUD within the Disaster Recovery Grant Reporting (DRGR) system.

The **SUBRECIPIENT'S** monthly reports, include administrative activity, financial activity, and program activity, must include sufficiently detailed summaries of the current status, progress, and completed work. The **SUBRECIPIENT** is responsible for all reporting of work of all contractors, subcontractors, and other entities under contract or agreement related to this Agreement.

At a minimum the following information will be required to be submitted in the system of record by the **SUBRECIPIENT**. Upon request from the **COUNTY**, the **SUBRECIPIENT** shall provide additional program or activity updates and information. If all required reports and copies are not sent to the **COUNTY** within the agreed-upon submission schedule or are otherwise not completed in a manner acceptable to the **COUNTY**, payments may be withheld in accordance with SUBSECTION V.B. DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) until the reports are completed. If the **COUNTY** withholds such payments, it shall notify the **SUBRECIPIENT** in writing of its decision, reasons for withholding payment, and the remedy for corrective action the **SUBRECIPIENT** must follow. The **COUNTY** may also take other action as stated within this Agreement or allowable by law.

The **SUBRECIPIENT'S reporting deliverables** include, but are not limited to, the following information**:**

1. **Project Schedule and Milestones:** A table or description of the work task, project start and end dates, other significant milestones (e.g., 50% complete), and timelines for the **SUBRECIPIENT** to submit outputs or deliverables to the **COUNTY**.

2. **Project Budget and Expense (Sources and Uses) Worksheet:** The **SUBRECIPIENT** must provide budget narratives and tables to describe all funding sources and the potential uses of those funding sources for the purposes of completing the project. This narrative will include, but may not be limited

to, (a) a description and justification of the proposed costs, (b) a description of project implementation support with **SUBRECIPIENT** or vendor staff, (c) sources of leveraged funds committed by the **SUBRECIPIENT** to the project, and (d) timelines for the projected expenditure of CDBG-DR funds.

3. **Payment Request Form:** The means by which the **COUNTY** and the **SUBRECIPIENT** document project and activity expenses and requests for payment. The **SUBRECEIPIENT** shall utilize this form when submitting or requesting any costs for payment and the form must be accompanied by legible supporting documentation to indicate the reasonableness, allowability, and appropriate procurement of the expense(s).

   As noted under SECTION III. TERM OF AGREEMENT and SECTION V. COMPENSATION AND ALLOWABLE PAYMENTS, all payments are reimbursements for eligible expenses or services defined as uncompensated expenses rendered during the Agreement term and paid prior to the final payment request due date. Copies of supporting documentation are required as part of the Payment Request for review of grant compliance and before payment will be authorized by the **COUNTY** to the **SUBRECIPIENT**. Reimbursement for eligible expenses will be made after review and authorization of a correct and complete Payment Request Form and required back up documentation. In accordance with the Federal Register Guidance, the **COUNTY** must be payor of last resort, meaning that if services are eligible to be billed to any other entity or funding source, including but not limited to, Medicaid, third party insurance or any other entity or funding source, the **COUNTY** will not pay for that service.

   Appropriate back-up/supporting documentation may include cancelled checks, vendor invoices, authorized purchase orders, attendance/service logs, other funder invoices, expenditure spreadsheets or other original documentation, as well as a copy of the **SUBRECIPIENT'S** check issued with authorized signature. For construction contracts, inspection reports from qualified officials should be submitted with the appropriate monthly payment request.

   The **SUBRECIPIENT** must submit the *Payment Request Form* with an authorized signature. Cancelled checks, paystubs, payroll reports, bank statements, and/or other documentation from vendors that expenses have been paid or services provided may be verified.

   As applicable, processing of payment requests is also subject to the requirements and conditions as set forth within the **COUNTY'S** *Hurricane Ian CDBG-DR Subrecipient Manual.*

4. **Monthly Activity Report:** The **SUBRECIPIENT** must identify information for this report that ties actual, real-time project and expenditure status to the approved activity budget, scope of work, and projected outcomes. Narratives on budget activity, project progress or delays, and performance measures are included within this report.

5. **Demographics and Beneficiary Report:** The **SUBRECIPIENT** must report on data and include documentation, such as maps detailing service areas, number of individual persons benefitting from the project, and other demographic information on households, where applicable, to indicate the public benefit of the project and activity.

6. **Project Amendment Request:** As referenced under SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS, the **SUBRECIPIENT** must notify the County and provide information on any project or activity changes within a project amendment request for the **COUNTY** to determine whether the request rises to the level of an amendment to the Agreement.

7. **Single Audit Certification Form:** The **SUBRECIPIENT**, if a nonprofit or governmental organization, must complete a form to certify whether it has expended $750,000 in federal and/or state funding within the **SUBRECIPIENT'S** given Fiscal Year.

8. **Davis-Bacon and Related Acts (DBRA) Labor Standards Reports (as applicable**): When an activity triggers DBRA requirements, the **SUBRECIPIENT** must report and submit information on assigned labor compliance staff, labor compliance review processes and outcomes, bid and contract requirements documentation, work classification and minimum prevailing wage rates, written clearance of labor compliance issue resolutions, file maintenance plans, and payroll review plans.

9. **Section 3 Reports (as applicable):** When an activity triggers Section 3 requirements, the **SUBRECIPIENT** is required to submit data and information on Targeted Section 3 worker labor hours, Section 3 worker labor hours, total worker labor hours, and other qualitative efforts which the **SUBRECIPIENT** and their vendors took in an attempt to reach or achieve Section 3 goals.

10. **Closeout Report:** The **SUBRECIPIENT** must report project completion data and provide documentation of closeout processes in relation to this project and activity(ies).

The **SUBRECIPIENT'S Agreement deliverables (as identified within "Exhibits"),** which the **SUBRECIPIENT** must follow**,** include, but are not limited to, the following information:

11. **Exhibit A: Scope of Work and Activities – Program/Project Activity Overview:** Brief description on the identified and agreed-upon CDBG-DR Program eligible activity, National Objective to be achieved for the activity and measures, as applicable, the number of individuals benefitting as a result of the project and its activities, and the appropriate CDBG-DR storm tie-back or resilience need being met, in accordance with SECTION II. SCOPE OF WORK AND ACTIVITIES.

12. **Exhibit B: Scope of Work and Activities – Project Activity Scope of Work Description:** Detailed scope of work defining the plan, design, and approach for the activity.

13. **Exhibit C: Financial/Grant Management System Budget Worksheet:** The high level, official budget for the project as approved under SECTION V.A. AGREEMENT PAYMENT. Any adjustments to this budget will require an amendment in accordance with SECTION IV. AGREEMENT MODIFICATIONS AND AMENDMENTS.

14. **Exhibit D: Indirect Cost Rate Allocation Plan (as applicable):** As identified within the (1) NOFA Application for the (6) Recovery and Resiliency Planning Program, the **SUBRECIPIENT** has the option for the **COUNTY** to approve an indirect cost rate allocation plan. Where applicable, the plan and approval of the indirect cost rate for this Agreement is established under this Exhibit.

15. **Exhibit E: Projected Performance Measures and Outcomes Form:** The **COUNTY** will utilize the **SUBRECIPIENT'S** detailed scope of work to establish and project out specific performance metrics which the **SUBRECIPIENT** is required to meet to as a condition of project completion and closeout. The **COUNTY** will select the performance measure based on the eligible activity and proposed scope of work approved within the }(1) NOFA Application, for the (6) Recovery and Resiliency Planning Program.

16. **Exhibit F: Application:** The **SUBRECIPIENT'S** approved application is attached to this Agreement for identification and understanding of **SUBRECIPIENT'S** responses to critical project components.

17. **Exhibit G: Certificate(s) of Insurance:** In accordance with SECTION X.B. INSURANCE REQUIREMENTS, the **SUBRECIPIENT** must supply insurance coverage for the implementation of the project. This Exhibit will contain those required insurance coverages of the **SUBRECIPIENT.**

18. **Exhibit H: Certification of CDBG-DR Compliance Provisions:** This Exhibit outlines the compliance provisions which the **SUBRECIPIENT** must follow as a requirement of the federal CDBG-

DR funding award. The **SUBRECIPIENT** must certify adherence with these conditions.

19. **Exhibit I: CDBG-DR Special Terms and Conditions:** The **COUNTY** may identify specific conditions, including but not limited to, training, technical assistance, capacity building, and policy development, which the **SUBRECIPIENT** must complete as a condition of receiving the CDBG-DR funding award.

20. **Exhibit J: Subrecipient Staff Organization:** In addition to annual certifications of continued operations, the **SUBRECIPIENT** is required to provide evidence of staff who will be responsible for conducting certain actions during project implementation. This Exhibit contains the contact information of those individual staff members.

21. **Exhibit K: CDBG-DR Program Subrogation Agreement:** As noted under SUBSECTION XIII.E. DUPLICATION OF BENEFITS and the Federal Register Guidance, the **SUBRECIPIENT**, as a recipient of federal assistance, must sign a Subrogation Agreement before the **COUNTY** can disburse CDBG-DR assistance to the **SUBRECIPIENT**.

An electronic signature or a scanned copy of the report with signature is acceptable for all reports or exhibits included above for which signatures are required. The **COUNTY** will instruct the **SUBRECIPIENT** on the approved System of Record under which the **SUBRECIPIENT** is expected to provide this data and information.

The **SUBRECIPIENT** is required to immediately report to the **COUNTY** any incident of suspected criminal misapplication of CDBG-DR funds associated with this Agreement.

The **COUNTY** notates in the *Subrecipient Agreement Document Checklist,* the required forms and reports the **SUBRECIPIENT** must submit. These reports and forms include, but are not limited to, activity performance reports, payment request forms, program information forms, budget analysis reports, closeout reports, and periodic certifications as described above.

The **SUBRECIPIENT** should submit all reports and forms electronically in a computer-readable format using the approved System of Record submission method specified by the **COUNTY**. When required, reports or exhibits must be certified by signature. An electronic signature is acceptable for all reports, forms, and attachments within the *Subrecipient Agreement Document Checklist.*

The **SUBRECIPIENT** is required to immediately report to the **COUNTY** any incident of suspected criminal misapplication of CDBG-DR funds associated with this Agreement.

SUBSECTION VI.B. – EXTERNAL REPORTING AND ORGANIZATIONAL DOCUMENT REQUIREMENTS: The **COUNTY** or its agents may also require the **SUBRECIPIENT** to submit additional non-project related reports, documentation, and information which are beneficial to determine the **SUBRECIPIENT'S** capacity, compliance, and performance related to this this Federal award compliance. The **COUNTY** may request external reports, including but not limited to, prior and current fiscal year audits, other agency monitoring reports or reviews under other funding sources, organizational documents, and prior grant closeout reports. The **SUBRECIPIENT** agrees to provide such reports, documentation, and information requested by the County or its agents.

SECTION VII: AUDITS, MONITORING, AND RECORDS

SUBSECTION VII.A. – AUDITS AND INSPECTIONS: In in accordance with 2 CFR 200.332, 2 CFR 200.337, and 24 CFR 570.508, the **SUBRECIPIENT** will allow the **COUNTY**, Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives right of access to any documents, papers, or other records which are

pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the **SUBRECIPIENT'S** non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

The Clerk of Courts Internal Audit Division, Lee County employees, HUD, or any of their duly authorized representatives have the right of timely and reasonable access to any books, documents, papers, or other records, including electronic storage media, of the **SUBRECIPIENT** or Certified Public Accountant (CPA) that are pertinent to the Agreement, in order to make audits, examinations, excerpts, transcripts and copies of such documents in accordance with 2 CFR 200.332, 2 CFR 200.337, and 24 CFR 570.508.

If noncompliance with this Agreement or material weaknesses in the organization are noted, the **COUNTY** or other authorized representatives have the right to unlimited access to records during an audit or inspection. This includes timely and reasonable access to the **SUBRECIPIENT'S** personnel for the purpose of interview and discussion related to such documents.

SUBSECTION VII.B. – INDEPENDENT AUDIT REQUIREMENTS: Under the Single Audit Act and in accordance with the provisions of 2 CFR 200.501, the **SUBRECIPIENT** must conduct a single or program-specific audit if it expends $750,000 or more in Federal awards from all sources during its fiscal year.

The **SUBRECIPIENT** shall also comply with the Federal Audit Clearinghouse (FAC) rules and directives, including but not limited to the pertinent report submission provisions of 2 CFR 200.512, when such provisions are applicable to this Agreement.

For **SUBRECIPIENTS** who are Nonprofit Corporations and do not trigger the Single Audit Act requirements or provisions under 2 CFR 200.501, the **SUBRECIPIENT** must submit an independent certified, audited financial statement of the most recent or immediate prior fiscal year, including the management letter and written response. The **COUNTY** may consider exceptions on an individual basis, to include other supporting audit documents, such as a current CPA's peer review letter or monthly financial statements within the last 60 days, to meet this requirement.

In accordance with 2 CFR 200.514, a complete, independent financial audit of the **SUBRECIPIENT'S** financial accounting statements, in accordance with Generally Accepted Accounting Principles (GAAP) and/or current Generally Accepted Government Auditing Standards (GAGAS), as applicable, is required and must include the following:

1. Auditor's opinion;
2. Requisite reports on internal control and compliance, if required;
3. Management letter addressing internal controls (Note: If there were no items to be addressed, the letter must still be completed and state that no comments were noted);
4. Management's response to such letter;
5. The programs that are funded by this Agreement either in the statement of functional expenses, revenues and expenditures, footnotes, schedule of Federal awards and state financial assistance or as supplemental data in the financial statements. The statement should be consistent with programs detailed in the corresponding proposal(s), exhibit(s), and attachment(s).

The **SUBRECIPIENT** must submit the audit reports electronically to the **COUNTY** within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or within nine months after the end of the **SUBRECIPIENT'S** audit period. If applicable, any associated corrective action plan must be submitted. Failure to submit the report within the required time frame can result in the withholding of payment, or termination of the Agreement by the **COUNTY**.

The audit must be conducted by an independent, licensed certified public accountant expressing an

unmodified opinion on their current peer review and must be in accordance with the General Accounting Office (GAO) Yellow Book, Generally Accepted Government Auditing Standards, 2 CFR 200 Subpart F – Audit Requirements, as applicable, the Florida Single Audit Act (F.S. 215.97) as applicable, and the Auditor General Rule 10.550 (Government) or 10.650 (Not For Profit) as applicable.

SUBSECTION VII.C. – SUBRECIPIENT RISK ASSESSMENTS AND MONITORING: In accordance with 2 CFR 200.332, the **COUNTY**, as HUD's Grantee and a pass-through entity, must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for the purposes of determining the appropriate subrecipient monitoring. To enable those periodic assessments, the **SUBRECIPIENT** must provide information and documentation as required to the **COUNTY**. The **COUNTY'S** risk assessments results will be used to support the **COUNTY'S** oversight strategies and the level and frequency of monitoring, technical assistance, training to the **SUBRECIPIENT**.

The **SUBRECIPIENT** agrees to permit the **COUNTY** and persons duly authorized by the **COUNTY**, HUD, and other Federal, state, or local agencies, as applicable, or any authorized representatives under these agencies, to have access to and inspect all records, papers, documents, facility's goods and services, and project activity sites of the **SUBRECIPIENT** including interviews of any clients and employees of the **SUBRECIPIENT** to assess satisfactory performance and compliance of the full terms and conditions of this Agreement, in accordance with 2 CFR 200 (specifically 200.332), 24 CFR 570, and the Federal Register Guidance and to the extent permitted by the law, after giving the **SUBRECIPIENT** reasonable notice of such inspection.

The **SUBRECIPIENT** must submit to monitoring of its project activity by the **COUNTY** and persons duly authorized, as necessary, to ensure the CDBG-DR subaward is used for authorized purposes in compliance with Federal statutes, regulations and the terms and conditions of this Agreement.

Monitoring will include: (1) reviewing financial and performance reports required by the Grantee; (2) following up and ensuring that the **SUBRECIPIENT** takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the **SUBRECIPIENT** from the Grantee detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to the **SUBRECIPIENT** from the Grantee as required by 2 CFR 200.521. Any limited monitoring review scope of the terms and conditions within this Agreement does not relieve the **SUBRECIPIENT** of its obligation to manage the grant in accordance with all applicable rules and sound management practices.

Following such monitoring and in accordance with 2 CFR 200.521, the **COUNTY** will deliver to the **SUBRECIPIENT** a written report regarding management decisions which notate how activities are being conducted and whether corrective action(s) by the **SUBRECIPIENT** need to be taken to address deficiencies. The **SUBRECIPIENT** will rectify all noted deficiencies documented by the **COUNTY** within the specified period of time indicated in the monitoring report or provide the **COUNTY** with a reasonable and acceptable justification for not correcting the noted deficiencies as defined by the **COUNTY**. The **SUBRECIPIENT'S** failure to correct or provide the COUNTY with accepted justification for the deficiencies within the time specified by the **COUNTY** may result in withholding of payments or being deemed in breach or default of this Agreement and may result in the termination of this Agreement.

In response to **SUBRECIPIENT** deficiencies or other instances of capacity concerns prior to this Agreement, the **COUNTY** may also impose additional conditions on the use of the CDBG-DR funds, as noted under *Exhibit I – CDBG-DR Special Terms and Conditions*. This Exhibit ensures future compliance through trainings, technical assistance, and capacity building in an effort to correct or avoid early noncompliance.

SUBSECTION VII.D. – RECORDKEEPING REQUIREMENTS: The **SUBRECIPIENT** must comply with

the recordkeeping requirements of 24 CFR 570.506, as amended by the Federal Register Guidance's Consolidated Notice waivers and alternative requirements, which describes the types of records which must be kept by the **SUBRECIPIENT** and the **COUNTY** for the Federal CDBG-DR award.

The **SUBRECIPIENT** must comply with the longer of the records retention requirements contained within the Uniform Administrative Requirements (UAR) at 2 CFR 200.334 and State of Florida GS1-SL, except that the **SUBECIPIENT** must:

1. Retain records for individual CDBG-DR activities for 5 years after the Agreement has ended, as prescribed in State of Florida GS1-SL.
2. Maintain records for individual activities subject to the reversion of assets provisions at 24 CFR 570.503 or change of use provisions at 24 CFR 570.505 for as long as those provisions continue to apply to the activity(ies).
3. Maintain records for individual activities in which there are outstanding loan balances, other receivables, or contingent liabilities until such receivables or liabilities have been satisfied and for 5 years following that satisfaction.

In accordance with 24 CFR 570.506, the **SUBRECIPIENT** shall also maintain books, records and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by the **COUNTY** under this Agreement. The **SUBRECIPIENT** must also retain all financial, client demographics, and programmatic records, supporting documentation, statistical records, and other records, which are necessary to document purchases, expenses, revenue, income, and assets of the **SUBRECIPIENT** by funding source, program, and functional expenses category during the term of this Agreement.

If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the retention period, the records shall be retained by the **SUBRECIPIENT** until all litigation, claims, or audit findings involving the records have been resolved and final action taken in accordance with 2 CFR 200.334. Additional types of records are further described under *Exhibit H – Certification of CDBG-DR Compliance Provisions*.

The records retention period, as described within this Subsection, may be longer depending on other funding sources for activities. It is the **SUBRECIPIENT'S** further obligation to comply with all Federal and State of Florida retention schedules if other schedules shall apply.

The **SUBRECIPIENT**, including all its employees or agents, contractors, subcontractors, and consultants to be paid from CDBG-DR funds provided under this Agreement, shall allow access to its records at reasonable times for audits, inspections and monitoring as described in this Section and Subsections.

The **SUBRECIPIENT** specifically acknowledges its obligations under 2 CFR 200.338 (further detailed within SUBSECTION XIII.K. PERSONALLY IDENTIFIABLE INFORMATION), and to comply with F.S., 119.0701, as amended from time to time, with regard to public records, and shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the **COUNTY** in order to perform the services required under this Agreement;
2. Upon request from the **COUNTY'S** custodian of public records, provide the **COUNTY** with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 Florida Statutes or as otherwise provided by law;
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
4. Meet all requirements for retaining public records and transfer, at no cost to the **COUNTY**, all public records in possession of **SUBRECIPIENT** upon termination of this Agreement and destroy any

duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the **COUNTY** in a format that is compatible with the information technology system of the **COUNTY**.

IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, http://www.leegov.com/publicrecords.

SECTION VIII: CONTRACTOR STATUS

SUBSECTION VIII.A. – INDEPENDENT CONTRACTOR: It is the Parties' intention that the **SUBRECIPIENT** will be an independent contractor and not the **COUNTY'S** employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Florida revenue and taxation law, Florida Worker's Compensation law and Florida Unemployment Insurance Law. The **SUBRECIPIENT** will retain sole and absolute discretion in the judgment of the manner and means of carrying out the **SUBRECIPIENT'S** activities and responsibilities hereunder. The **SUBRECIPIENT** agrees that it is a separate and independent enterprise from the public employer, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the **SUBRECIPIENT** and the **COUNTY**, and the **COUNTY** will not be liable for any obligation incurred by the **SUBRECIPIENT**, including, but not limited to, unpaid minimum wages and/or overtime premiums.

SUBSECTION VIII.B. – SUBCONTRACTS: Primary roles and responsibilities of the **SUBRECIPIENT** cannot be subcontracted. It is mutually agreed that any program component that is subcontracted by the **SUBRECIPIENT** must have a written contract. The **SUBRECIPIENT** must provide written notice to the **COUNTY** of all subcontractors, as well as provide copies of all contracts entered into with subcontractors, upon the **COUNTY'S** request. Procurement and/or bidding of non-primary roles and responsibilities must be awarded on a fair and non-collusive basis and must be in compliance with all applicable Lee County, State of Florida, and Federal procurement standards at 2 CFR 200.318-327. The **SUBRECIPIENT** shall not enter into a transaction with a person or affiliate placed on the Florida Department of Management Services' Convicted Vendor List. For projects and services receiving federal funds, the **SUBRECIPIENT** shall also not enter into a transaction with debarred, suspended or ineligible contractors and participants included on the Federal Excluded Parties List, in accordance with 2 CFR 200.214. The **SUBRECIPIENT** must ensure each subcontractor conforms to the terms and conditions of this Agreement, *Exhibit H – Certification of CDBG-DR Compliance Provisions*, and *Exhibit F – Application*, as applicable, and must be subject to indemnification as stated in SUBSECTION X.A. INDEMNIFICATION AND LIABILITY below.

SUBSECTION VIII.C. – CONTRACTS AND FEDERAL PROCUREMENT STANDARDS: If the **SUBRECIPIENT** contracts any of the work required under this Agreement, a copy of the proposed contract template and any proposed amendments, extensions, revisions, or other changes thereto, must be forwarded to the **COUNTY** Program Manager for prior written approval. For each contract, the **SUBRECIPIENT** shall report to the **COUNTY** as to whether that contractor or any subcontractors hired by the contractor, is a minority business and women's business enterprise, as defined in section 288.703, F.S. and in accordance with 24 CR 570.506, 24 CFR 570.507, and 2 CFR 200.321. The **SUBRECIPIENT** shall comply with the procurement standards at 2 CFR 200.318 - 200.327 and 2 CFR 200.330 when procuring property and services under this Agreement. The **SUBRECIPIENT** shall include the following

terms and conditions in any contract pertaining to the work required under this Agreement:

1. The period of performance or date of completion;
2. The performance requirements;
3. That the contractor is bound by the terms of this Agreement;
4. That the contractor is bound by all applicable state and Federal laws, rules, and regulations;
5. That the contractor shall hold the **COUNTY** and the **SUBRECIPIENT** harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;
6. The obligation of the **SUBRECIPIENT** to document in the **SUBRECIPIENT'S** reports the contractor's progress in performing its work under this Agreement;
7. The requirements of Appendix II to 2 CFR 200 - Contract Provision for Non-Federal Entity Contract Under Federal Awards - (refer to *Exhibit H – Certification of CDBG-DR Compliance Provisions*)

The **SUBRECIPIENT** must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.609 and 2 CFR 200.214), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, payment, performance bonds, if applicable, and liquidated damages.

The **SUBRECIPIENT** shall maintain oversight of all activities performed under this Agreement and shall ensure that its contractors perform according to the terms and conditions of the procured contracts or agreements and the terms and conditions of this Agreement.

SECTION IX: CONFLICTS OF INTEREST

The **SUBRECIPIENT** agrees that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of activities required under this Agreement. The **SUBRECIPIENT** further agrees that no person having any such interest shall be employed or engaged for said performance. The **SUBRECIPIENT** agrees that no employee, officer, agent of the **SUBRECIPIENT** or its subrecipients shall participate in the selection, award, or administration of a contract or construction bid if a conflict-of-interest, either real or implied, would be involved. The **SUBRECIPIENT** or its subrecipient employees, officers and agents should refrain from accepting gratuities, favors or anything of monetary value from contractors or potential contractors based on the understanding that the receipt of such an item of value would influence any action or judgment of the **SUBRECIPIENT**.

The **SUBRECIPIENT** is subject to the requirements at 24 CFR 570.611 and 2 CFR 200.318, as applicable, which includes developing or maintaining written standards of conduct and a conflict-of-interest policy that complies with the process for promptly identifying and addressing such conflicts.

Any potential conflict of interest shall be reported using the **COUNTY'S** disclosure form.

SECTION X: RISK MANAGEMENT

SUBSECTION X.A. – INDEMNIFICATION AND LIABILITY: To the fullest extent permitted by applicable law, **SUBRECIPIENT** shall protect, defend, indemnify, save and hold the **COUNTY**, the Board of County Commissioners, its agents, officials, and employees harmless from and against any and all claims, demands, fines, loss or destruction of property, liabilities, damages, for claims based on the negligence, misconduct, or omissions of the **SUBRECIPIENT** resulting from the **SUBRECIPIENT'S** work as further described in this Agreement and its attachments, which may arise in favor of any person or persons resulting from the **SUBRECIPIENT'S** performance or nonperformance of its obligations under this Agreement except any damages arising out of personal injury or property claims from third parties caused solely by the negligence, omission(s) or willful misconduct of the **COUNTY**, its officials, commissioners, employees or agents, subject to the limitations as set out in Florida general law, Section 768.28, Florida

Statutes, as amended from time to time. Further, the **SUBRECIPIENT** hereby agrees to indemnify the **COUNTY** for all reasonable expenses and attorney's fees incurred by or imposed upon the **COUNTY** in connection therewith for any loss, damage, injury, liability, or other casualty. The **SUBRECIPIENT** additionally agrees that the **COUNTY** may employ an attorney of the **COUNTY'S** own selection to appear and defend any such action, on behalf of the **COUNTY**, at the expense of the **SUBRECIPIENT**. The **SUBRECIPIENT** further agrees to pay all reasonable expenses and attorney's fees incurred by the **COUNTY** in establishing the right to indemnity.

The **SUBRECIPIENT** further agrees that it is responsible for any and all claims arising from the hiring of individuals relating to activities provided under the Agreement. All individuals hired are employees of the **SUBRECIPIENT** and not of the **COUNTY.**

The **SUBRECIPIENT** further agrees to assume sole responsibility, training and oversight of the parties it deals with or employs to carry out the terms of this Agreement to the extent set forth in Section 768.28, F.S. The **SUBRECIPIENT** shall hold the **COUNTY** harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. Nothing herein shall be construed as consent by the **SUBRECIPIENT** to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

If the **SUBRECIPIENT** is a state agency or subdivision, as defined in Section 768.28, F.S., then the **SUBRECIPIENT** agrees to be fully responsible for its negligent or tortious acts of omissions, which result in claims or suits against the **COUNTY**. The **SUBRECIPIENT** agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, F.S. Nothing herein shall be construed as consent by the state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

Nothing herein is intended to serve as a waiver of sovereign immunity by the **COUNTY** or the **SUBRECIPIENT**.

The provisions of this SUBSECTION X.A. INDEMIFICATION AND LIABILITY shall survive the termination of this Agreement.

SUBSECTION X.B. – INSURANCE REQUIREMENTS

INSURANCE – NONPROFIT SUBRECIPIENTS

The **SUBRECIPIENT** agrees to secure and maintain the insurance coverage outlined below during the term of this Agreement. The **SUBRECIPIENT** agrees that this insurance requirement shall not relieve or limit **SUBRECIPIENT'S** liability and that the **COUNTY** does not in any way represent that the insurance required is sufficient or adequate to protect the **SUBRECIPIENT'S** interests or liabilities but are merely minimums. It is the responsibility of the **SUBRECIPIENT** to ensure that all subcontractors comply with the insurance requirements.

Certificate(s) of Insurance ***naming Lee Board of County Commissioners as Certificate Holder and additional insured*** will be attached to this Agreement as an Exhibit (*Exhibit G – Certificate(s) of Insurance*). Name and address for Certificate Holder should be: Lee Board of County Commissioners, P.O. Box 398, Fort Myers, FL 33902. Certificate(s) must be provided for the following coverages at the time of Agreement execution and upon policy renewal. Renewal certificates are due to the **COUNTY** on or before the expiration date.

1. **Workers' Compensation:** Statutory benefits as defined by Section 440, F.S., encompassing all operations contemplated by this Agreement to apply to all owners, officers, and employees. Employers' liability will have minimum limits of:
   $100,000 per accident

$500,000 disease limit
$100,000 disease limit per employee

2. **Commercial General Liability:** Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:
$500,000 bodily injury per person (BI)
$1,000,000 bodily injury per occurrence (BI)
$500,000 property damage (PD) or
$1,000,000 combined single limit (CSL) of BI and PD

   The General Liability Policy Certificate shall name **"Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials"** as **"Additional Insured".** The **SUBRECIPIENT** agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage being excess.

3. **Business Auto Liability:** The following Automobile Liability will be required and coverage shall apply to all owned, hired, and non-owned vehicles used with minimum limits of:
$100,000 bodily injury per person (BI)
$300,000 bodily injury per occurrence (BI)
$100,000 property damage (PD) or
$300,000 combined single limit (CSL) of BI and PD

4. **Directors & Officers Liability:** Entity coverage to cover claims against the organization directly for wrongful acts with limits not less than $100,000.

5. **Fidelity Bonding:** Covering all employees who handle the agency's funds. The bond amount must be equivalent to the highest daily cash balance or a minimum amount of $50,000.

INSURANCE – GOVERNMENT/MUNICIPALITY SUBRECIPIENTS
Documentation of the above coverage requirements are not applicable to local governments or municipalities that are self-insured.

SUBSECTION X.C. – NOTICE OF CANCELLATION OR MODIFICATION: The **COUNTY** will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Lee County Risk Manager, P. O. Box 398, Ft. Myers, FL 33902.

SECTION XI: SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION

In accordance with the Federal Register Guidance, 2 CFR 200.208, 2 CFR 200.339, Appendix II to 2 CFR 200, 24 CFR 570.503, and other rights which may be available under law, the following Subsections identify suspension and termination of the Agreement, with and without cause, the potential events of default by the **SUBRECIPIENT**, and potential remedies by the **COUNTY** for noncompliance by the **SUBRECIPIENT** of any and all requirements of this Agreement, including any exhibits, attachments, and terms and conditions herein:

SUBSECTION XI.A. – SUSPENSION: The **COUNTY** reserves the right to suspend funding for failure to comply with the requirements of this Agreement. If the **SUBRECIPIENT** fails to submit required documents by the due date, the **COUNTY** can suspend the Agreement and withhold payments until all requirements are satisfied.

In the event the **SUBRECIPIENT** ceases operation for any reason or files for protection from creditors

under bankruptcy law, any remaining unpaid portion of this Agreement, less funds for expenditures already incurred, shall be retained by the **COUNTY** and the **COUNTY** shall have no further funding obligation to the **SUBRECIPIENT** with regard to those unpaid funds.

SUBSECTION XI.B. – EVENTS OF DEFAULT: If any of the following events occur ("Events of Default"), the **COUNTY** may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies set forth in SUBSECTION XI.C. REMEDIES or pursue any remedy at law or in equity, without limitation:

1. Any warranty or representation made by the **SUBRECIPIENT**, in this Agreement with the **COUNTY**, is or becomes false or misleading in any respect, or if the **SUBRECIPIENT** fails to keep or perform any of the obligations, terms, or covenants in this Agreement with the **COUNTY**, and/or has not cured them in a timely fashion and/or is unable or unwilling to meets its obligations under this Agreement and/or as required by statute, rule, or regulation;
2. Any material adverse change occurred in the financial condition of the **SUBRECIPIENT** at any time during the term of this Agreement and the **SUBRECIPIENT** fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by the **COUNTY**;
3. The **SUBRECIPIENT** fails to submit any required reports or submits any required report with incorrect, incomplete or insufficient information or fails to submit additional information as requested by the **COUNTY**;
4. The **SUBRECIPIENT** fails to perform or timely complete any of its obligations under this Agreement, including participation in the **COUNTY'S** measures for technical assistance and training;
5. Both the **SUBRECIPIENT** and the **COUNTY** agree that in the event the **COUNTY** elects to make payments or partial payments after any Events of Default, it does so without waving the right to exercise remedies allowable herein or at law and without becoming liable to make any further payment; or,
6. Neither the **SUBRECIPIENT** nor the **COUNTY** (Parties) shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the **SUBRECIPIENT,** the **COUNTY**, or either Parties' employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar causes wholly beyond both Parties' control or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the **SUBRECIPIENT** shall take all reasonable measures to mitigate any and all resulting delays or disruptions in the **SUBRECIPIENT'S** performance obligation under this Agreement. If the delay is excusable under this Subsection, the delay will not result in any additional charges or cost under the Agreement to either Parties. In the case of any delay the **SUBRECIPIENT** believes is excusable under this Subsection, the **SUBRECIPIENT** shall notify the **COUNTY** in writing of the delay or potential delay and describe the cause of the delay either (1) with ten (10) calendar days after the cause that creates or will create the delay first arose, if the **SUBRECIPIENT** could reasonably foresee that a delay could occur as a result or (2) within five (5) calendar days after the date the **SUBRECIPIENT** first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. The foregoing shall constitute the **SUBRECIPIENT'S** sole remedy or excuse with respect to delay. Providing notice in accordance with this Subsection is a condition precedent to such remedy. The **COUNTY**, at its sole discretion, will determine if the delay is excusable under this Subsection and will notify the **SUBRECIPIENT** of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against the **COUNTY**. The **SUBRECIPIENT** shall not be entitled to an increase in the Agreement price or payment of any kind from the **COUNTY** for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, the **SUBRECIPIENT** shall perform at no increased cost, unless the **COUNTY** determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to the **COUNTY**, in which case, the **COUNTY** may

do any or all of the following: (1) accept allocated activity(ies) performance or deliveries from the **SUBRECIPIENT**, provided that the **SUBRECIPIENT** grants preferential treatment to the **COUNTY** with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by the **SUBRECIPIENT** for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity or (3) terminate the Agreement in whole or in part.

SUBSECTION XI.C. – REMEDIES: If an Event of Default occurs, the **COUNTY** may, in its sole discretion and without limiting any other right or remedy available, provide thirty (30) calendar days written notice to the **SUBRECIPIENT,** and if the **SUBRECIPIENT** fails to cure within those thirty (30) calendar days, the **COUNTY** may choose to exercise one or more of the following remedies, either concurrently or consecutively:

1. Terminate this Agreement upon written notice by the **COUNTY,** sent in conformity with SECTION XIX. NOTICES;
2. Begin any appropriate legal or equitable action to enforce performance of this Agreement;
3. Withhold or suspend payment of all or any part of a request for payment;
4. Demand the **SUBRECIPIENT** return to the **COUNTY** any funds used for ineligible activities or unallowable costs under this Agreement or any applicable law, rule or regulation governing the use of the funds; and
5. Exercise any corrective or remedial actions, including but not limited to:
    a. Request additional information from the **SUBRECIPIENT** to determine the reasons for or the extent of noncompliance or lack of performance;
    b. Issue a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or
    c. Advise the **SUBRECIPIENT** to suspend, discontinue, or refrain from incurring costs for any activities in question.
6. Exercise any other rights or remedies which may be otherwise available under law.

Pursuit of any of the above remedies does not preclude the **COUNTY** from pursuing any other remedies in this Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Agreement or failure by the **COUNTY** to require strict performance does not affect, extend, or waive any other right or remedy available or affect the later exercise of the same right or remedy by the **COUNTY** for any other default by the **SUBRECIPIENT**.

SUBSECTION XI.D. – TERMINATION BY COUNTY: Excluding those scenarios and exceptions as noted within SUBSECTION XI.A. SUSPENSION, SUBSECTION XI.B. EVENTS OF DEFAULT, and SUBSECTION XI.C. REMEDIES, the **COUNTY** may, at any time and for other reasons not mentioned above ("for convenience"), cancel this Agreement by giving twenty–four (24) hours written notice to the **SUBRECIPIENT** by Certified Mail, Process Server or Hand Delivery following a determination by the County Manager or designee, at its sole discretion, that such cancellation is in the best interest of the people of the **COUNTY**. From the date of cancellation, neither party shall have any further obligation unless specified in the termination notice.

If the financing for this project is contingent upon funding sources other than Lee County as identified in the application for this Agreement, and such funds become unavailable, the obligations of each party hereunder may be terminated upon no less than twenty-four (24) hours written notice.

SUBSECTION XI.E. – TERMINATION BY SUBRECIPIENT: Excluding those scenarios and exceptions as noted within SUBSECTION XI.A. SUSPENSION, SUBSECTION XI.B. EVENTS OF DEFAULT, and SUBSECTION XI.C. REMEDIES, the **SUBRECIPIENT** may, at any time and for other reasons not mentioned above ("for convenience"), cancel this Agreement by giving seventy-two (72) hours prior written notice to the **COUNTY** by Certified Mail or Process Server of such and specifying the effective

date.

The **COUNTY'S** obligation to make any payments under any provision of this Agreement shall cease on the effective date of termination.

In the event that this Agreement is terminated, the **SUBRECIPIENT** shall not incur new obligations under the terminated portion of the Agreement after the date the **SUBRECIPIENT** has received the notification of termination. The **SUBRECIPIENT** shall cancel as many outstanding obligations as possible. The **COUNTY** shall disallow all costs incurred after the **SUBRECIPIENT'S** receipt of the termination notice. The **COUNTY** may, to the extent authorized by law, withhold payments to the **SUBRECIPIENT** for the purpose of set-off until the exact amount of damages due to the **COUNTY** from the **SUBRECIPIENT** is determined.

In accordance with 24 CFR 570.503, upon expiration or termination of this Agreement, the **SUBRECIPIENT** shall transfer to the **COUNTY** any CDBG-DR funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-DR funds.

SECTION XII: USE AND REVERSION OF ASSETS, REAL PROPERTY

The **SUBRECIPIENT** must ensure that any equipment or fixed assets purchased in whole or in part with CDBG-DR funds be adequately safeguarded and assure such assets are used solely for authorized purposes. The purchase, use, management and disposition of equipment and other capital assets must comply with 2 CFR 200.313, 2 CFR 200.439, the applicable Federal Register Guidance, and 24 CFR 570. See SECTION XI: SUSPENSION, EVENTS OF DEFAULT, REMEDIES, AND TERMINATION regarding the revision of any CDBG-DR funds or assets upon termination or expiration of this agreement. Per 24 CFR 570.502(a)(8), in all cases when equipment purchased with CDBG funds is sold, the net proceeds are considered program income, and shall be returned to the **COUNTY** within 30 days of receipt of the proceeds.

Any real property under the **SUBRECIPIENT'S** control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to the **SUBRECIPIENT** in the form of a loan) in excess of $25,000 must (1) be used to meet a national objective until five years after expiration or termination of this Agreement (24 CFR 570.505), unless otherwise agreed upon by the Parties, or except as otherwise set forth herein or (2) if not used to meet a national objective, the **SUBRECIPIENT** shall pay to the **COUNTY** an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for the acquisition or improvement of the property for five years after expiration or termination of this Agreement.

The rights and remedies under this Section are in addition to any other rights or remedies provided by law or under this Agreement.

SECTION XIII: ASSURANCE, CERTIFICATIONS, AND COMPLIANCE

The **SUBRECIPIENT** agrees that compliance with these assurances and certifications constitutes a condition of continued receipt of or benefit from CDBG-DR funds provided through this Agreement, and that it is binding upon the **SUBRECIPIENT**, its successors, transferees, and assignees for the period during which services are provided and activities are performed. Additional requirements of the assurances, certifications, and compliance measures below can be further detailed or outlined in the Agreement's exhibits, forms, and attachments.

SUBSECTION XIII.A. – IMMIGRATION LAWS AND CITIZENSHIP STATUS: The **COUNTY** will not intentionally award Agreements to any **SUBRECIPIENT** who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 a(e)

Section 274A(e) of the Immigration and Nationality Act (INA).

The **COUNTY** shall consider the employment by the **SUBRECIPIENT** of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of the Agreement by the **COUNTY**.

Additionally, the **SUBRECIPIENT** must follow requirements to verify citizenship of CDBG-DR fund recipients in certain circumstances. In accordance with 49 CFR 24.408, the **SUBRECIPIENT** cannot provide relocation assistance to a person who has not provided certification of U.S. citizenship or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the **SUBRECIPIENT** that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States. The **COUNTY** may require the **SUBRECIPIENT** to follow other verification requirements as prescribed within the Federal Register Guidance, regulations, or within the Action Plan.

Furthermore, the **SUBRECIPIENT** shall ensure that CDBG-DR funds, which are passed through Lee County, are restricted to people legally able to reside in the United States.

SUBSECTION XIII.B. - E-VERIFY REQUIREMENTS: The **SUBRECIPIENT** must verify employment eligibility of all new employees hired during the Agreement term through the U.S. Department of Homeland Security's E-Verify system.

Section 448.095, F.S., requires the following:

1. Every public employer, contractor, and subcontractor shall register with and use the E- Verify system to verify the work authorization of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
2. A private employer shall, after making an offer of employment which has been accepted by a person, verify such person's employment eligibility. A private employer is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a person is a contract employee retained by a private employer, the private employer must verify the employee's employment eligibility upon the renewal or extension of his or her contract.

E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to the employer to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: *https://www.e-verify.gov/*.

If the **SUBRECIPIENT,** or its contractors, consultants, or subrecipients, does not use E-Verify, they shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the Effective Date of this Agreement.

SUBSECTION XIII.C. – NATIONAL OBJECTIVE: All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives. The **SUBRECIPIENT** certifies that the activities carried out under this Agreement shall meet the stated national objective as outlined under SUBSECTION II.C. NATIONAL OBJECTIVE. Furthermore, the **SUBRECIPIENT** certifies and acknowledges that it understands documentation and records requirements for the stated national objective type(s), as defined at 24 CFR 570.208, 24 CFR 570.506, and any and all alternative requirements under the Federal Register Guidance in relation to relevant national objective type(s) as stated in the above Subsection.

SUBSECTION XIII.D. – USE OF FUNDS AND ORDER OF ASSISTANCE: CDBG–DR Appropriations Acts generally include a statutory order of assistance for Federal agencies which require Grantees to verify whether funds made available by FEMA or the U.S. Army Corps of Engineers (USACE) are available for an activity, or the costs are reimbursable by FEMA or the USACE, *before* awarding CDBG-DR assistance for the cost of carrying out the same activity.

The **SUBRECIPIENT** shall not use CDBG–DR funds for activities reimbursable by or for which funds are made available by FEMA or the U.S. Army Corps of Engineers (USACE). The **SUBRECIPENT** must verify and inform the **COUNTY** if FEMA and USACE funds are available prior to award or expenditure of CDBG-DR funds to an eligible activity within the Scope of Work contained under *Exhibit B – Scope of Work and Activities – Project Activity Scope of Work Description*. *Exhibit H – Certification of CDBG-DR Compliance Provisions* further outlines Duplication of Benefits certifications which the **SUBRECIPIENT** must adhere to. Failure to do so can result in a return of funds as further outlined within this Agreement under SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS) and SUBSECTION XIII.E. DUPLICATION OF BENEFITS.

SUBSECTION XIII.E. – DUPLICATION OF BENEFITS: The **SUBRECIPIENT** certifies that it shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5155 et seq.) and described within Appropriations Acts and Federal Register Guidance. The **SUBRECIPIENT** must comply with HUD's requirements for Duplication of Benefits (DOB), as described in the Federal Register Guidance (Section IV.A.1. – Grant Administration; Duplication of Benefits (DOB)) and HUD guidance (including HUD training materials), including specific Order of Assistance requirements as noted under SUBSECTION XIII.D. USE OF FUNDS AND ORDER OF ASSISTANCE. The **SUBRECIPIENT** shall carry out the activities under this Agreement in compliance with the **COUNTY's** procedures to prevent DOB. The **SUBRECIPIENT** shall also sign a Subrogation Agreement (see *Exhibit K – CDBG-DR Program Subrogation Agreement*).

In accordance with the Federal Register Guidance at 88 FR 32053 – Section IV.A.1.(d)(v) Applicable Rules, Statutes, Waivers, and Alternative Requirements: Reassess Unmet Need When Necessary, the **SUBRECIPIENT** certifies that they will notify the **COUNTY** immediately of any funding source changes and/or additions from other sources that are different from that shown in the **SUBRECIPIENT'S** proposal. This notification must include a statement explaining how this change in funding affects the provisions of the project and activity requirements as well as the use of and continued need for CDBG-DR funds through the **COUNTY**.

The **SUBRECIPIENT** shall either (1) maintain all funds provided under this Agreement in a separate bank account or (2) ensure that the **SUBRECIPIENT'S** accounting system shall have sufficient internal controls to separately track expenditure of all funds under this Agreement, in accordance with 2 CFR 200.302. In cases where the project and its activities are funded by more than one funding source (other funds besides CDBG-DR funds) where potential duplicative assistance could exist, the **SUBRECIPIENT** shall not commingle CDBG-DR funds provided under this Agreement with any other funds, projects or programs, when those funds are determined to be for the same purpose and same use, in accordance with the Federal Register Guidance. 88 FR 32050, Section IV.A.1.(a) – Overview of Grant Process, The Stafford Act – and Section 312 of the Stafford Act makes recipients of Federal disaster assistance liable for repayment of the amount of Federal disaster assistance that duplicates benefits available for the same purpose from another source (42 U.S.C. 5155(c)). The **COUNTY** may, in its sole discretion, disallow costs made with commingled funds that were designated as being available for the same purpose and use as the CDBG-DR funds and require reimbursement for such costs as described herein (SUBSECTION V.B. – DEFERRED PAYMENTS AND RETURN OF FUNDS (RECAPTURE FOR DISALLOWED COSTS)).

SUBSECTION XIII.F. – CIVIL RIGHTS REQUIREMENTS: The **SUBRECIPIENT** further assures that all

contractors, subcontractors, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs, projects, and activities are not discriminating against those participants or employees in violation of statutes, regulations, guidelines and standards. By acceptance of this CDBG-DR funding, the **SUBRECIPIENT** assures and certifies the following:

1. That they will comply with all applicable Federal, state and local anti-discrimination laws pertaining to nondiscrimination in programs receiving Federal financial assistance, including but not limited to:
   a. Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations – including that recipients/grantees of Federal financial assistance are required to take reasonable steps to ensure meaningful access to persons who are Limited English Proficiency (LEP), as per Executive Order 13166 and the Federal Register Guidance, to items such as, but not limited to, project outreach, project, or activity materials including communique in the form of digital (website) media and paper materials.
   b. Section 109 - Title I of the Housing & Community Development Act of 1974
   c. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
   d. Age Discrimination Act of 1975 (42 U.S.C. 610 et. seq.)
   e. Fair Housing Act
2. That they will comply with the Americans with Disabilities Act of 1990 ("ADA") (P.L. 101-336, as codified at U.S.C. 42.126 (sections 12101-12213) and as amended, and 28 CFR 35); the Florida Civil Rights Act, as amended, Chapter 76, F.S.; Title VII of the Civil Rights Act of 1964, as amended; and laws which gives civil rights protections to individuals with disabilities, guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. A Single-Point-of-Contact shall be required if the agency employs 15 or more employees. The Single-Point-of-Contact will ensure effective communication with deaf or hard-of-hearing customers or companions in accordance with Section 504 and the ADA and coordinate activities and reports with the **SUBRECIPIENT'S** Single-Point-of-Contact.
3. That if clients are to be transported under this Agreement, **SUBRECIPIENT** will comply with the provisions of Chapter 427, Florida Statutes, which requires the coordination of transportation for the disadvantaged.
4. That if personnel in programs under this Agreement work directly with children/youths and vulnerable or disabled adults, the **SUBRECIPIENT** will comply with applicable provisions under Florida Statutes 943.0542; 943.04351; 393.0655; 402, regarding employment screening.
5. That activities under this Agreement shall provide for access to equal participation of religious or faith-based organizations, where applicable, in accordance with 24 CFR 570.200 and Executive Order 13279.

Additional requirement information can be accessed at the following websites:

- Office of Fair Housing and Equal Opportunity (FHEO) Fair Housing Rights and Obligations
- FHEO main website
- Guidelines for promoting Fair Housing for individuals with Limited English Proficiency (LEP)

These requirements are designed to prevent discrimination in the delivery of benefits and services because of race, color, religion (creed), sex, national origin, age, familial status or disability. Affirmative marketing plans and use of universal design features for construction and rehabilitative projects should be incorporated when possible.

All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logotype, statement, or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Different styles/types/sizes of

logos and information regarding brochures can be found on the Fair Housing and Equal Opportunities HUD website.

SUBSECTION XIII.G. – DETECTION AND PREVENTION OF FRAUD, WASTE, AND ABUSE: In accordance with the Federal Register Guidance, the **SUBRECIPIENT** certifies that they will administer their programs under procedures, supervision, safeguards, and such other methods as may be necessary to prevent fraud, waste, and abuse, and that it will target its services and activities to those who need them the most. Additionally, the **SUBRECIPIENT** certifies that their written standards of conduct and their conflict-of-interest policy will supplement their anti-fraud, waste, and abuse (AFWA) initiatives, and that the **SUBRECIPIENT** may be required to take part in fraud, waste, and abuse (FWA) training and will work with the **COUNTY** to develop a FWA complaint and reporting process, including reporting such complaints to the **COUNTY**.

SUBSECTION XIII.H. – INELIGIBLE ACTIVITIES: The **SUBRECIPIENT** assures that it will not conduct or expend CDBG-DR funds on any activities which are deemed ineligible by the Federal Register Guidance (88 FR 32077, Section III.G.), federal regulations (most notably at 24 CFR 570.207), the Action Plan, and all other applicable laws.

SUBSECTION XIII.I. – PROGRAM INCOME: The **SUBRECIPIENT** shall report to the **COUNTY** all program income (as defined at 24 CFR 570.500 or in the Federal Register Guidance governing the CDBG-DR funds) generated by activities carried out with CDBG-DR funds made available under this Agreement as part of the **SUBRECIPIENT'S** periodic reporting outlined under SECTION VI. REPORTS AND EXHIBITS and SECTION VII. AUDITS, MONITORING, AND RECORDS.

The **SUBRECIPIENT** must return to the **COUNTY**, prior to closeout, any program income generated by the project and its activities. The **COUNTY** certifies that it shall use program income in accordance with the applicable requirements of 2 CFR 200.307 and alternative requirements and waivers as prescribed under the Federal Register Guidance at 88 FR 32074, Appendix B: CDBG-DR Consolidated Notice - Section III.E. Program Income (in place of requirements at 24 CFR 570.500 and 24 CFR 570.504), and the terms of this Agreement. The **SUBRECIPIENT** shall return program income to the **COUNTY** if a program income balance exists, or program income is generated after closeout. In all cases, any program income received that is not used to continue the disaster recovery activity will not be subject to the waivers and alternative requirements of the Federal Register Guidance or the **COUNTY'S** CDBG Entitlement program, if program income is transferred to that program.

SUBSECTION XIII.J. – CITIZEN PARTICIPATON AND PUBLIC WEBSITE REQUIREMENTS: The **COUNTY**, as a Grantee, certified to HUD that it has a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in waivers and alternative requirements under the Federal Register Guidance). Additionally, the **COUNTY**, as a Grantee, certified to HUD that it will maintain a comprehensive CDBG-DR public website that permits individuals and entities awaiting assistance and the general public to see how all grant funds ae used and administered. The Action Plan also details how the **COUNTY** will adhere to both requirements.

The **SUBRECIPIENT** certifies that it will adhere to requirements by the **COUNTY** to provide documentation and information which informs both the citizen participation and public website requirements. Further details on information needed to meet these requirements are spelled out in the exhibits, attachments, and forms as part of this Agreement.

SUBSECTION XIII.K. – PERSONALLY IDENTIFIABLE INFORMATION (PII): As previously referenced under SUBSECTION VII.D. RECORDKEEPING REQUIREMENTS and in accordance with 2 CFR 200.1 and 2 CFR 200.338, Personally Identifiable Information (PII) means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. The definition of PII is not anchored

to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Protected PII means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, and educational transcripts. This does not include PII that is required by law to be disclosed.

PII must always be safeguarded, even in instances of public records requests. No Federal awarding agency may place restrictions on the non-Federal entity that limits public access to the records of the non-Federal entity pertinent to a Federal award, *except for protected PII or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency*.

The **SUBRECIPIENT** certifies that they understand the PII definitions as noted above, and in accordance with their internal controls under 2 CFR 200.303, the **SUBRECIPIENT** shall take reasonable measures to safeguard protected PII and other information HUD or the **COUNTY** designates as sensitive or the **SUBRECIPIENT** considers sensitive consistent with applicable Federal, state, and local laws regarding privacy and responsibility over confidentiality.

Additionally, the **COUNTY**, pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a "covered entity," as the law defines that term. Any "personal health information" (PHI) as defined by the law that the **COUNTY** receives pursuant to this Agreement in connection with this project and its activities, as applicable, is subject to the disclosure and security requirements of HIPAA. Transfer of information to the **COUNTY** sufficiently "de-identified" to no longer be considered PHI is encouraged as being in the best interest of client PHI confidentiality to the extent that public services are unaffected. Methods to accomplish the highest levels of public service coupled with PHI confidentiality will be an ongoing task of the affected staffs of the **COUNTY** and the **SUBRECIPIENT**.

SUBSECTION XIII.L. – NECESSARY AND REASONABLE REQUIREMENTS: The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for the Federal Awards in 2 CFR 200 Subpart E (Federal Cost Principles) apply to all CDBG-DR Grantees and their Subrecipients. The **SUBRECIPIENT** certifies that all costs incurred under this Agreement are necessary and reasonable for the performance of its project and/or activities. The Cost Principles are made applicable to local governments through 24 CFR 570.502. The **SUBRECIPIENT** must consider factors described at 2 CFR 200.404(a-e) when determining which types and amounts of cost items incurred under this Agreement are necessary and reasonable.

SUBSECTION XIII.M. – COPYRIGHT, PATENT AND TRADEMARK: In accordance with 2 CFR 200.1 and 2 CFR 200.135, trademarks, copyrights, patents and patent applications and property, are identified as intangible property, or property having no physical existence. The **SUBRECIPIENT** may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this CDBG-DR award. HUD, through the **COUNTY** as its pass-through entity, reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. The **SUBRECIPIENT** is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at 37 CFR 401 ("Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements").

Any and all patent rights accruing under, or in connection with, the performance of this Agreement are hereby reserved to the **COUNTY**. Any and all copyrights accruing under, or in connection with, the performance of this Agreement are hereby transferred by the **SUBRECIPIENT** to the **COUNTY**.

1. If the **SUBRECIPIENT** has a pre-existing patent or copyright, the **SUBRECIPIENT** shall retain all rights and entitlement to that pre-existing patent or copyright unless this Agreement expressly provides otherwise.
2. If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement or in any way connected with it, the **SUBRECIPIENT** shall refer the discovery or invention to the **COUNTY** for a determination whether the **COUNTY** will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the **COUNTY**. If any books, manuals, films, or other copyrightable material are produced, the **SUBRECIPIENT** shall notify the **COUNTY**. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the **SUBRECIPIENT** to **COUNTY**. Within thirty (30) calendar days of execution of this Agreement, the **SUBRECIPIENT** shall disclose all intellectual properties relating to the performance of this Agreement which give rise to a patent or copyright. The **SUBRECIPIENT** shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and the **COUNTY** shall have the right to all patents and copyrights which accrue during performance of this Agreement.

SUBSECTION XIII.N. – FEDERAL TERMS AND CONDITIONS: For Federal CDBG-DR funded programs, the **SUBRECIPIENT** has or will develop and maintain the capacity to carry out disaster recovery activities in a timely manner and will ensure compliance with applicable Uniform Administrative Requirements as described in 2 CFR 200, Community Development Block Grants (CDBG) regulations at 24 CFR 570, the Federal Register Guidance, the Action Plan, and all other established, applicable HUD regulations, acts, and statutes, as now in effect and as may be amended from time to time. The **COUNTY** outlines full CDBG-DR Compliance Provisions for the **SUBRECIPIENT** under *Exhibit H – Certification of CDBG-DR Compliance Provisions* and details program management standards within the respective program's manual.

SUBSECTION XIII.O. – STATE AND LOCAL GOVERNMENT REQUIREMENTS: The **SUBRECIPIENT** agrees to the following statements as it relates to state and/or local government requirements:

1. The **SUBRECIPIENT** will comply with all applicable laws, ordinances, and regulations of the United States, the State of Florida, the **COUNTY**, and the municipalities as said laws, ordinances, and regulations exist and are amended from time to time. In entering into this Agreement, the **COUNTY** does not waive the requirements of any **COUNTY** or local ordinance or the requirements of obtaining any permits or licenses that are normally required to conduct business or activity contemplated by the **SUBRECIPIENT**.

2. The **SUBRECIPIENT** will comply with Chapter 39.201, Florida Statutes, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).

3. The **SUBRECIPIENT** will comply with Chapter 415.1034, Florida Statutes, that any person who knows or has reasonable cause to suspect that a vulnerable and or disabled adult has been abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).

4. The **SUBRECIPIENT** will comply with and implement this Agreement in a manner satisfactory to Lee County and HUD and consistent with all applicable laws, regulations, and policies and procedures that may be required as a condition of Lee County providing the grant funds, including but not limited to, all applicable program administration and compliance requirements set forth by this Agreement, and in accordance with the CDBG-DR NOFA Application, CDBG-DR Action Plan, and any other

documentation previously provided by the **SUBRECIPIENT**, attached as *Exhibit F – Application*, and made a part hereof.

5. Lee County's provision of grant funds under this Agreement is specifically conditioned on the **SUBRECIPIENT's** compliance with this provision and all terms and conditions of this Agreement, the most recently published version of Lee County's *Hurricane Ian CDBG-DR Subrecipient Manual* and *Internal Grant Management Manual*, and the CDBG-DR (6) Recovery and Resiliency Planning Program Policies and Procedures Manual, which can be accessed on https://cdbgdr.leegov.com, and any amendments thereto, related Federal Register Guidance (including Guidance, which is provided under future Federal Register Notices), and the requirements of the authorities cited above, as the same may be amended from time to time.

6. The **SUBRECIPIENT** will acknowledge support for activities funded wholly or in part by CDBG-DR funds provided by HUD and the **COUNTY**. In publicizing, advertising, or describing the program, state "Funding provided by Lee Board of County Commissioners and HUD."

7. The **SUBRECIPIENT** will notify the **COUNTY** of any changes to the **SUBRECIPIENT** organization to include Board Membership (roster), Articles of Incorporation and Bylaws within ten (10) working days of the effective date.

8. If needed, **SUBRECIPIENT** may be called upon to assist the **COUNTY** during a natural disaster or emergency. This may include, but is not limited to, the use of the **SUBRECIPIENT'S** facility to assist with Emergency Food Stamp preregistration if the facility is operations and use of staff to assist with case management and post-disaster shelter assessments. **SUBRECIPIENT** will be responsible to notify United Way 211 via phone, email, or through submission of online survey form, immediately after a disaster declaration if the location is accessible and operational and of any **SUBRECIPIENT** staff who are available to assist with recovery efforts.

SECTION XIV: OTHER PROVISIONS AND CONDITIONS

If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from and shall not invalidate any other provision of this Agreement.

Any power of approval or disapproval granted to the **COUNTY** under the terms of this Agreement shall survive the term of this Agreement.

All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

In the event travel is pre-approved by the **COUNTY**, any bills for travel expenses shall be submitted and reimbursed in accordance with section 112.061, F.S., the rules promulgated thereunder and 2 CFR 200.474.

If the **SUBRECIPIENT** is allowed to temporarily invest any advances of CDBG-DR funds under this Agreement, any interest income shall either be returned to the **COUNTY.**

The **SUBRECIPIENT** acknowledges being subject to Florida's Government in the Sunshine Law (section 286.011, F.S.) with respect to the meetings of the **SUBRECIPIENT'S** governing board or the meetings of any subcommittee making recommendations to the governing board. The **SUBRECIPIENT** agrees that all such aforementioned meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records made available to the public in accordance with Chapter 119, F.S.

The **SUBRECIPIENT** shall comply with section 519 of P.L. 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990; and section 906 of P.L. 101-625, the Cranston-Gonzalez National Affordable Housing Act, 1990, by having, or adopting within ninety (90) days of execution of this Agreement, and enforcing, the following:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

Upon expiration or termination of this Agreement, the **SUBRECIPIENT** shall transfer to the **COUNTY** any CDBG-DR funds remaining at the time of expiration or termination, and any accounts receivable attributable to the use of CDBG-DR funds.

SECTION XV: CITIZEN COMPLAINTS

The **SUBRECIPIENT** is responsible for tracking and reporting citizen complaints to the **COUNTY** under the following types of complaints and/or inquiries: (1) Program or Project Appeals, where applicable; (2) HUD complaints; (3) Fair Housing complaints; and (4) Fraud, Waste, and Abuse (FWA) complaints. The **SUBRECIPIENT** must adopt the **COUNTY's** written citizen complaint policy or provide their own policy that provides citizens with the address, phone number, and times for submitting complaints and grievances. The policy must also provide that timely written answers to written complaints and grievances will be provided within 15 working days, where practicable, or the **SUBRECIPIENT** must document why additional time for the response is required.

SECTION XVI: LEGAL AUTHORIZATION

The **SUBRECIPIENT** certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The **SUBRECIPIENT** certifies that the undersigned person has the authority to legally execute and bind the **SUBRECIPIENT** to the terms of this Agreement. The **COUNTY** may, at its discretion, request documentation evidencing the undersigned has authority to bind the **SUBRECIPIENT** to this Agreement as of the Effective Date; any such documentation is incorporated herein by reference.

Prior to the execution of this Agreement, the **SUBRECIPIENT** warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation, or any other legal or financial condition that would in any way prohibit, restrain, or diminish the **SUBRECIPIENT'S** ability to satisfy its obligations. The **SUBRECIPIENT** shall immediately notify the **COUNTY** in writing if its ability to perform is compromised in any manner during the term of this Agreement.

SECTION XVII: AGREEMENT DISPUTE RESOLUTION PROCEDURE

Any dispute between the Parties with respect to provisions contained in a Lee County Office of Strategic Resources and Government Affairs Agreement or issues that arise pertinent to an Agreement shall be resolved as follows:

The Parties may, by mutual agreement, attempt to resolve their dispute in the following manner within a thirty (30) day period. If both parties are in agreement, the thirty (30) daytime period can be extended for an additional ten (10) days.

1. Duly authorized representatives shall meet as often as mutually agreeable to discuss in good faith the dispute and to negotiate a mutually agreeable resolution. Authorized representatives for SRGA include the Agreement Coordinator and Program Manager.
2. During the course of the dispute process, requests made by one Party to the other for non-privileged information, reasonably related to the dispute, shall be responded to in good faith.
3. If the dispute is unable to be resolved between the authorized representatives within the specified time period, it will be forwarded to the Department Director for resolution. A decision by the Director will be issued within ten (10) days.
4. If the dispute remains unresolved after the Department Director's decision, the parties may proceed to litigation. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens. This Agreement and the rights and obligations of the Parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles. Unless otherwise agreed in writing, the **SUBRECIPIENT** will be required to continue all obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual period of mediation or judicial proceedings.
5. Either Party may at any time commence formal court proceedings, which shall be immediately communicated, and will end the informal Dispute Resolution process as described in Paragraph 1-3 above.

SECTION XVIII: AGREEMENT CLOSEOUT

The **SUBRECIPIENT** must complete a closeout checklist and final closeout reports to ensure complete and final documentation of all finance and program activities. The closeout checklist and reports must be submitted to the **COUNTY** within 90 days after the end date of this agreement.

The closeout checklist must include documentation and certification that:

1. All CDBG-DR funds have been expended within the exception of any closeout liabilities or contingent liabilities (24 CFR 570.509(a)(1));
2. All work financed with CDBG-DR funds has been completed, is eligible, and meets a national objective, including activities financed through escrow accounts, loan guarantees, or similar mechanisms; performance and expenditure reports have been submitted and account for program income and administrative expenditures (24 CFR 570.509(a)(2-5)); and
3. All other responsibilities under this Agreement have been met or the **COUNTY** has determined that there is no further benefit in keeping the Agreement open to secure performance (24 CFR 570.509(a)(6)).

The final closeout reports must include the following:

1. Final Project Performance Measures and Outcomes Form (*Exhibit E)*;
2. Final *Monthly Activity Report* (with final progress narrative);
3. Updated *Project Budget and Expense (Sources and Uses) Worksheet* (including program income);
4. Final *Payment Request Form*; and
5. Inventory of property acquired or improved with CDBG funds. The inventory should identify real property acquired with over $25,000 of CDBG funds including its current use, to facilitate compliance with requirements for the continuing eligible use of property at 24 CFR 570.505.

Based on the **SUBRECIPIENT'S** final reports and other relevant information, the **COUNTY** may execute a closeout agreement that specifies closeout costs or contingent liabilities that are subject to payment with

CDBG-DR funds after the closeout agreement is signed; continuing responsibilities after closeout; or other provisions appropriate to special circumstances.

As specified in 2 CFR 200.345, the closeout of a CDBG-DR award to a **SUBRECIPIENT** does not affect:

1. The **COUNTY**'s right to disallow costs and/or recover funds on the basis of a later audit or other review.
2. The **SUBRECIPIENT**'s obligation to return funds due to the **COUNTY** from subsequent refunds, corrections, or other transactions.
3. The **COUNTY** and **SUBRECIPIENTS'S** obligation to comply with records retention as specified in 2 CFR 200, Subpart D—Post Federal Award Requirements, Records Retention and Access, including 2 CFR 200.334-338, as modified by 24 CFR 570.502(a)(7)(ii).
4. The **SUBRECIPIENT**'s responsibilities for property management and disposition:
    - For real property in 24 CFR 570.503(b)(7).
    - For other property, as applicable in 2 CFR 200, Subpart D, Post Federal Award Requirements, Property Standards, including:
        - 2 CFR 200.310 (Insurance coverage).
        - 2 CFR 200.312 (Federally owned and exempt property).
        - 2 CFR 200.313 and 24 CFR 570.502(a)(6) (Equipment).
        - 2 CFR 200.314 (Supplies).
        - 2 CFR 200.315 (Intangible property).
        - 2 CFR 200.316 (Property trust relationship).
        - Audit requirements in 2 CFR 200, Subpart F.

SECTION XIX: NOTICES

Official notices concerning this Agreement will be directed to the following authorized representatives below, either in writing, by hand delivery, first class, or certified mail with return receipt requested at the addresses below, or in electronic format, by electronic mail:

SUBRECIPENT
Name: Elly Soto McKuen
Title: Senior Project Manager
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: (239) 949-6262
Email: elly.mckuen@cityofbonitasprings.org

COUNTY
Name: Glen Salyer
Title: Assistant County Manager
Agency: Office of Strategic Resources and Government Affairs
Address: 2115 Second Street, Fort Myers, FL 33901
Telephone: (239) 533-2315
Email: GSalyer@leegov.com

The signatures of the two persons shown below are designated and authorized to sign all applicable reports:

Elly Soto McKuen	
Name (printed/typed)	Name (printed/typed)
Signature	Signature
Senior Project Manager	
Title	Title

In the event that the **SUBRECIPIENT** designates different representatives after execution of this Agreement, notice of the name and address of the new representative will be rendered in writing or electronically by authorized officer of the **SUBRECIPIENT** to the **COUNTY**.

SECTION XX: ALL TERMS AND CONDITIONS INCLUDED

This Agreement and its attachments, and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of this Agreement is legally determined unlawful or unenforceable, the remainder of the Agreement shall remain in full force and effect and such terms or provisions shall be stricken.

IN WITNESS THEREOF, the **SUBRECIPIENT** and the **COUNTY** have caused this Agreement and all Agreement Exhibits, Attachments, Reports, and Forms as indicated on the *Subrecipient Agreement Document Checklist* to be executed by their undersigned officials as duly authorized.

SUBRECIPIENT: City of Bonita Springs

AUTHENTICATION:

_____ _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:

Bogacz	Steinmeyer
Purdon	Fullick
Carr	Forbes
Corrie	

Date filed with City Clerk: _____

ATTEST:
CLERK OF CIRCUIT COURT

BY:_____

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY:_____
Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

_____
County Attorney's Office

EXHIBIT B

SCOPE OF WORK AND ACTIVITIES

PROJECT ACTIVITY SCOPE OF WORK DESCRIPTION

The information provided under this Exhibit is retrieved from the Subrecipient's approved application in response to the NOFA 1. In coordination and agreement with the Subrecipient, the County will utilize the information below to inform and update the County's approved System of Record for key performance measures and project budget cost eligibility. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record and/or under a formal amendment in accordance with the Agreement.

Project Activity Scope of Work Description ("Work")

The Bonita Springs Parks and Recreation Master Plan will seek an experienced recreational planning consultant to analyze both the City's existing recreational facilities and the anticipated future needs and priorities. The plan will create a blueprint to enrich and/or upgrade the City's existing recreational facilities. At a minimum the plan will address, but not limited to: • An evaluation of the City's existing parks and recreation system • An assessment of the City's needs and priorities • Analysis of current park and recreation facilities levels of service • Develop a long-range vision for the City's parks and recreation services • Prepare a detailed implementation plan including proposed capital improvements, costs and funding sources • Incorporate visual and sensory relationships between people and the built and natural environment (urban design features) throughout the city's park system As with any community-wide study, included in the plan will be a community outreach and participation plan included to develop a framework for citywide communication and a participation strategy that builds stakeholder consensus and is inclusive of the community at large. Community outreach will include but will not be limited to outreach workshops/open houses, in-person presentations, project meetings, and City Council meetings. The Plan's focus will be citywide, but particular attention will be directed in the City's Low Moderate Income Areas (LMA). Residents in LMAs do not always have access to parks in their neighborhoods and must travel to utilize the City's park system. A number of LMA residents rely specifically on pedestrian and bicycle pathways to travel to the City's existing park facilities. The projected outcome/deliverable of the parks and recreation plan will be an illustrative plan that includes a prioritized list of recommended actions and strategies. The plan will also encompass a detailed implementation plan including proposed capital improvements, costs and funding sources.

Design and Approach: The City will advertise for an experienced recreational planning consultant to complete the master plan through the City's procurement portal. The Request for Proposals/Qualifications will clearly define the project scope for the plan. The City's procurement manager will work with the plan's project manager to develop the Request for Proposals or Qualifications. The proposal will be advertised on the City's Procurement webpage for a minimum of 45 days based on the complexity of the proposal. The City encourages consultants/contractors/vendors to register and bid on all opportunities. The vendors receive targeted notices that the City intends to publicize proposal

request. Depending on their interests, the vendor will have the opportunity to download the RFP/RFQ and submit a proposal. The City also advertises the RFP/RFQ in the local newspaper to solicit additional interested parties that may have not registered on the City's procurement webpage. Once the proposal deadline has expired, the procurement manager will review each submittal for completeness. Should any requested information be missing the manager has the ability to request missing information. The proposals are then submitted to the Selection Committee for review and evaluation. Each committee member is provided a hard copy of the proposals for evaluation. Following the review by each member, an initial meeting is held to evaluate the proposals. The committee has the ability to review and rank the proposals as submitted or recommend that public presentations be scheduled. The selection committee's recommendation is forwarded to City Council for approval. The procurement manager and the plan's project manager will develop the contract for execution by the Mayor. The plan's project manager will then issue a Notice to Proceed with the top ranked firm and the project scope will begin. There will be an initial kick-off meeting with staff and the consultant and at a minimum monthly progress meetings between the city and the consultant. All issues/problems/decisions will be resolved as they come up in order to keep the progress of the plan on schedule and on budget.

EXHIBIT C

FINANCIAL AND GRANT MANAGEMENT SYSTEM BUDGET WORKSHEET

The information provided under this Exhibit is retrieved from the Subrecipient Agreement. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up and encumber budget obligations within the County's financial accounting system for the awarded CDBG-DR funds. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record, financial accounting records, and/or under a formal amendment in accordance with the Agreement.

Financial and Grant Management System Budget Worksheet

As noted within the Agreement, the Subrecipient's allocation of CDBG-DR funding for this project is broken down in the following manner:

	Most Impacted and Distressed (MID
Activity Funds (Direct Project Costs)	$500,000.00
Activity Delivery Funds	$0
Total	$500,000.00

EXHIBIT D

INDIRECT COST RATE ALLOCATION PLAN

The information provided under this Exhibit is retrieved from the Subrecipient Agreement and the Subrecipient's approved application in response to the NOFA 1. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up and encumber budget obligations for an indirect cost rate within the County's financial accounting system. Subrecipients will work with the County to ensure any edits and amendments to this Exhibit are subsequently reviewed and approved within the System of Record, financial accounting records, and/or under a formal amendment in accordance with the Agreement.

Indirect Cost Rate Allocation Plan

When applicable, documentation that supports the indirect cost rate and Activity Delivery Cost must be included under this Exhibit. The County is responsible for reviewing and approving the Subrecipient's indirect cost allocation plan or proposal included below. Calculated Modified Total Direct Costs (MTDCs) subject to a: Not applicable – an indirect cost rate will not be utilized or requested from the subrecipient under this Agreement.

See the plan or proposal above for further details and requirements of when the Subrecipient is set to receive indirect costs. The County also identifies financial data and information in Exhibit C for the Subrecipient's use in the submission of Payment Request Forms, Single Audits, and other reports which require the County's accounting of CDBG-DR funding through its financial system.

EXHIBIT E

PROJECTED PERFORMANCE MEASURES AND OUTCOMES FORM

The information provided under this Exhibit is retrieved from the Subrecipient Agreement and the Subrecipient's approved application in response to the *CDBG-DR Recovery and Resiliency Planning Notice of Funding Applications*. In coordination and agreement with the Subrecipient, the County will utilize the information below to set up detailed performance management goals for the Subrecipient to meet through implementing and completing the project.

The Subrecipient will report via the monthly activity report on how the project has progressed on reaching the target numbers of the projected performance measure(s). Subrecipients will work with the County to ensure any updates to this Exhibit are subsequently reviewed and approved within the System of Record in accordance with the Agreement.

Projected Performance Measures and Outcomes

When applicable, documentation which supports the performance measure(s) is taken from the Subrecipient's stated project scope of work ("projected outcomes"). The following table provides those measures which the Subrecipient must report performance on related to meeting performance goals:

The reporting schedule is dependent on the County contract. Typically, the City will assume monthly and quarterly reporting during the life of the project. A final or closeout report will also be submitted with the last payment request.

Eligible Activity Type	Possible Performance Measures/Accomplishments (select at least one measure for the eligible activity being met)	Projected Total
Planning	# of Water Management/Flood Maps Updated	
	# of Community Engagement Meetings/Events Conducted	1
	# of Public Education Meetings Conducted	
	# of Hazard Mitigation Plans Prepared	
	# of Resilience Plans Created	
	# of Plans or Planning Products	
	# of Water Management/Flood Plans Completed	
	# of Floodplain Design Standards Updated	
	% of Survey Respondents with an Increased Understanding of Flood Risks and Water Management Issues	
	# of Mitigation Plans Completed	
	# of Plans Adopted	1
	# of Non-Business Organizations Benefiting	
	# of Entities at Resilience Meetings	
	# of Climate Action Plans Completed	
	# of Acres with Improved Multiple Hazard Risk Mapping	
	# of Disaster Recovery Plans Completed	
	# of Persons at Resilience Meetings	
	# of Planning Studies and Initiatives Completed	
	Other	

Exhibit F

Lee County
Southwest Florida

Recovery and Resiliency Planning Program

Organization Information

Organization Name:	City of Bonita Springs
Address:	9101 Bonita Beach Road Bonita Springs, FL 34135
Organization Type:	Unit of general local government
Telephone:	(239) 949-6262
Federal Employer ID #:	59-3649914
Organization Website:	www.cityofbonitasprings.org
Unique Entity Identifier:	LLWSKDMXTCJ8

Authorized Organization Representative

Name:	Rick Steinmeyer
Title:	Mayor

Contact Person

Name:	Elly McKuen
Title:	Senior Project Manager
Email:	elly.mckuen@cityofbonitasprings.org
Telephone:	(239) 949-6262

Plan Information

☒ Plan Name:	Bonita Springs Mobility Plan
☒ Plan Type:	New Plan

Plan Type

☐ Comprehensive	☐ Historic Preservation
☐ Community Development	☐ Housing
☐ Continuity of Operations	☐ Land-Use
☐ Economic Revilatization	☐ Open Space and Recreation
☐ Energy Use and Conservation	☑ Transportation
☐ Floodplain, Wetlands Management, or other Natural Hazards	☐ Utilities
☐ Other:	☐ Human Services

Target Service Location

- ☐ City of Cape Coral
- ☐ City of Fort Myers
- ☑ City of Bonita Springs
- ☐ City of Sanibel
- ☐ Other:
- ☐ Town of Fort Myers Beach
- ☐ Village of Estero
- ☐ Unincorporated Lee County
- ☐ All of Lee County

Additional Service Areas

- ☐ Service Areas Outside Lee County: No

The scope and projected outcome(s) of the plan

The Bonita Springs Mobility Plan will create a blueprint for transforming city identified roadways into multi-modal corridors that encourage vehicles, pedestrian and bicyclist transportation in a more livable and sustainable manner. The plan will address accessibility for all modes of users (motorized and non-motorized). At a minimum the plan will compile, collect and analyze existing conditions data and multi-modal level/quality of services for all modes of travel in the mobility study area related to motorized vehicles (traffic data), pedestrian and bicycle facilities, transit (ridership, routes and stops)and roadways (widths, lanes and intersections) to identify opportunities and constraints with respect to pedestrian, bicycle and motorized vehicles. The mobility conditions will be identified on a GIS based map for the study area. Plan evaluations will include, but not be limited to the City's adopted Complete Street Program, traffic calming measures, location of on-street parking (as applicable), landscape treatments and pedestrian and transit passenger amenities and focusing on connectivity. As with any community-wide study, included in the plan will be a community outreach and participation plan included to develop a framework for citywide communication and a participation strategy that builds stakeholder consensus and is inclusive of the community at large. Community outreach will include but is not limited to outreach workshops/open houses, in-person presentations, project meetings, and City Council meetings. The study's focus will be citywide, but particular focus will be directed in the City's Low Moderate Income Areas (LMA). Residents in LMA do not always have access to a motorized vehicle for daily errands and getting to/from employment. The LMA residents rely specifically on pedestrian and bicycle pathways (Multi-Use Pathways) for their safety and security while residents in their vehicles rely on roadways. The projected outcome/deliverable of the mobility plan will be an illustrative mobility improvement plan that includes a prioritized list of recommended actions and strategies. The plan will also identify the necessary mobility improvement projects with cost estimates.

Implementation Plan - The approach to completing the plan

The City will advertise for a transportation consultant to complete the mobility plan through the City's procurement portal. The Request for Proposals/Qualifications will clearly define the project scope for the plan. The City's procurement manager will work with the plan's project manager to develop the Request for Proposals or Qualifications. The proposal will be advertised on the City's Procurement webpage for a minimum of 30 to 60 days depending on the complexity of the proposal. The City encourages consultants/contractors/vendors to register and bid on future opportunities. The vendors receive targeted notices that the City intends to publicize proposal request. Depending on their interests, the vendor will have the opportunity to download the RFP/RFQ and submit a proposal. The City also advertises the RFP/RFQ in the local newspaper to solicit additional interested parties that have not registered on the City's procurement webpage.

Once the proposal deadline has expired, the procurement manager will review each submittal for completeness. Should any requested information be missing the manager has the ability to request the missing information. The proposals are then submitted to the Selection Committee for review and evaluation. Each committee member is provided a hard copy of the proposals for evaluation. Following the review by each member, an initial meeting is held to evaluate the proposals. The committee has the ability to review and

rank the proposals as submitted or recommend that public presentations be scheduled.

The selection committee's recommendation is forwarded to City Council for approval. The procurement manager and the plan's project manager will develop the contract for execution by the Mayor. The plan's project manager will then issue a Notice to Proceed with the top ranked firm and the project scope will begin. There will be an initial kick-off meeting with staff and the consultant and at a minimum monthly progress meetings between the city and the consultant. All issues/problems/decisions will be resolved as they come up in order to keep the progress of the plan on schedule and on budget.

The unmet or mitigation need that is being addressed by the plan and how the plan aligns with community goals

There is a large portion of the City's population that either does not have access to a vehicle for daily errands and getting to/from employment or choose to rely specifically on walking, biking or transit for their daily transportation. Transportation is a critical piece of the City's mobility puzzle. The City was incorporated in late 1999. The city limits incorporates approximately 47 square miles of land. There are numerous north south corridors to move motorized and non-motorized traffic through the City. The major north/south corridors are Interstate 75, U.S. 41 (aka Tamiami Trail), Old 41 Road and Imperial Parkway. There are also a number of smaller residential collector roads that connect to the major corridors. However, there are only two (2) major east-west corridors that handles through traffic in the City, i.e., Bonita Beach Road and Terry Street. During hurricane and/or emergency events both east-west corridors are used primarily as evacuation corridors to Interstate 75. One of the critical issues to be evaluated in the study is to define the potential addition of east-west corridors the City can develop to move traffic more quickly and safer in the event of a major disaster. Each year during the City's budget cycle City Council develops Strategic Priorities (community goals). Transportation is the #2 priority following Stormwater Management. Both priorities go hand-in-hand in the development of a roadway improvements.

Explain your agency's experience completing plans of a similar size and scope, including federal, state, and/or local government grant experience and capacity of the organization to administer the plan and oversee all compliance requirements

Experience completing plans similar size and scope - Since incorporation in 1999 City staff has commissioned a number of community wide plans. They range in scope, to name a few, from community development master plans, transportation corridor plans, citywide bicycle and pedestrian master plans, comprehensive land development plans, master park plans, downtown planning/parking studies, etc. to more specific smaller site plans. A recent example of a small scale site plan is the Downtown Community Center Development Project. Federal, state, local government grant experience and capacity - The day-to-day grant management operation, coordination and responsibility falls to Elly Soto McKuen, Senior Project Manager in the Public Works Department. Ms. McKuen reports to the Assistant City Manager/Public Works Director, Matt Feeney. The Public Works staff works hand-in-hand with the City's Finance Department. The Finance

Department provides a separation of finance and contract monitoring duties from the Public Works Department. The organization chart (Attachment __) provides a full array of staff and vendors for the mobility study. There is a number of City staff that will support the project manager. The organization chart highlights each staff member's responsibilities. Highlighted below are the three (3) critical positions for the project oversight: • As the Senior Project Manager/Grant Manager, Ms. McKuen has over 30 years of experience with U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) entitlement programs. She has hands-on experience with infrastructure projects (water, sewer, stormwater, sidewalk installation, park improvements, etc.), housing rehabilitation, redevelopment projects and acquisition. She has also implemented Emergency Shelter Solution programs for the homeless populations as well as the HOME programs. She also has been on the grant implementation side of HUD programs by creating a pass-through grant application program for subrecipients, monitored subrecipients for programmatic compliance and written many policies and procedures for the various programs she managed. She currently manages approximately $40.0 million in grants for the City. • The Director of Financial & Administrative Services, Lisa Roberson, has been a Certified Public Accountant (CPA) for almost 24 years, with 18 years of municipal experience at the Director level providing financial management including preparing annual budgets and audited financial statements. Prior to coming to the City, Ms. Roberson had seven (7) years of experience with CPA firms working the last 4 years providing auditing services to various local governmental entities in Florida. Additionally, the Director performed Single Audits while in practice as a CPA. • The Compliance Administrator, Brenda Reetz, has been working in governmental accounting for both state & local levels for the past 26 years. Ms. Reetz has been the Compliance Administrator at Bonita Springs for the last 9 years. During her 15 years with Bonita Springs, for both annual audit and single audit, she has been responsible for grant reconciliation and preparation of all grant audit workpapers. Prior to working for the City, Brenda worked for over 11 years with the Michigan Senate in the Finance Department. • The remaining staff are considered experts in their fields and come to the program with vast amounts of "real world" program and technical knowledge to enhance the process.

Describe how the proposed plan integrates mitigation measures and strategies to reduce natural hazard risks, including climate-related risks. Mitigation measures include but are not limited to reducing risks to people and property; public service interruption for members who are most vulnerable to natural and climate-related risks; and/or community lifelines.

Hazards are events, either caused by natural forces or by human activity, that carry the potential for significant disruptions to natural and human systems. Ultimately, hazards threaten the safety and stability of communities (Lee County Hazard Identification and Risk Assessment (LCHIRA), v.2, 2022, Pg.35). Over the last ten (10) years changes in the demographics, economy, along with the built and natural environments of [Bonita Springs] have naturally results in changes to risk and vulnerability from hazards (LCHIRA, Pg. 36). The Bonita Springs Mobility Plan will look for ways to evaluate alternative means of moving traffic through the City during emergency situations (both manmade and by natural forces). The development of the mobility plan will work to identify new connector roadways and pathways especially in east-west corridors that will provide improved access times for emergency services (fire, law enforcement and emergency management services) that currently may not be able to respond in a timely manner if services are needed during or following a storm event.

Identify the risks or hazards being reduced and the impacts that those hazards have on people and property

The identification of potential additional rights-of-way to move vehicles out of the area will reduce vehicle congestion during mandatory evacuations before storm events. It will also provide more access points during the re-entry process after the storm. Currently Bonita Beach Road is the only major corridor that provides access to Hickory Island in Bonita Springs.

Describe the value of the proposed plan to the community. Describe the anticipated short-term impacts during normal circumstances, as well as how the plan will enhance resilience in the long term and during extreme events. Description should include qualitative or quantitative data

Transportation is the act of moving goods or people. Mobility is the ability to freely move or be moved. At a high level the City's mobility plan will focus on moving people/goods in an easier and more efficient way. The plan will look at vehicular traffic circulation current and future in the short term. The next step is the incorporation of bicycle and pedestrian transportation into the study. The last component is transit since not everyone has access to a motorized vehicle or the ability/strength to use a bicycle or the ability to walk long distances. The mobility study's focus will also look at the enhanced ability to find various ways to serve the residents of Bonita Springs to evacuate in a more quick and efficient way more effectively before strong storm events. The study will be the backbone of all future studies and updates. Each update will build on previous studies, will gauge the accomplishments from projects constructed and will provide a roadmap for future

development.

Timelines of critical tasks to be accomplished for each proposed activity, including a description of the steps you will take to complete the funded activities and describe any dependencies or actions that need to happen before you can start on the activities

The critical tasks has been identified below: . Notice of award . Contract development and execution . City provides all requested deliverables prior to County issuing a Notice of Funding . Notice of Funding issued . City develops RFP/RFQ for transportation consultant . City posts and advertises RFP/RFQ for consultant . City receives and evaluations proposals . Selection committee recommendation to City Council for approval . City develops consultant contract . Consultant contract executed . Notice to Proceed issued . Mobility study begins . All aspects of proposal developed . Community input and stakeholder meetings . Draft final report . Final report . Submit all closeout items to Lee County for final review . Grant closeout coordination with Lee County . Final payment request

Monthly spending plans and proposed draw down schedules

Following the contract award of the transportation consultant and the study beginning the City anticipates monthly payment requests from the consultant. The City, in turn, will submit monthly payment requests to Lee County for reimbursement.

Reporting schedule for outcomes achieved

The reporting schedule is dependent on the County contract. Typically, the City will assume monthly and quarterly reporting during the life of the project. A final or closeout report will also be submitted with the last payment request.

Describe the process carried out to determine cost estimations prior to applying

The City has reviewed numerous local (Southwest Florida) plan development costs similar in scope to the mobility plan. Staff has also polled various procurement officials to determine their opinion for mobility plans or similar plans previously awarded.

Describe additional steps you will take, if approved, to manage costs, change orders, and ensure the plan is completed on time and within budget

During contract development the City is very clear with the consultant to identify ALL costs associated with the plan. The City also makes it clear that change orders must be kept at a minimum and should only be requested for extra ordinary and unforeseen issues that may arise during the development of the plan. Milestones are typically identified in the contract and monthly progress meetings with the consultant ensures that timelines are being met. Invoices are reviewed by the project manager against the work performed during that contract period to ensure funds and tasks are expended and performed in a timely manner.

Describe the actions that will be taken to implement the plan after completing the plan. Describe how the plan will be maintained and updated

The Bonita Springs Mobility Plan will be used as a guide during the development of each Capital Improvement Program (CIP) during each budget cycle. The transportation segment of the CIP will use the plan to prioritize the development of transportation projects in the applicable years. The mobility plan will also be used as an implementation tool when grant funds are available. Additionally, it will be reviewed every four (4) to five (5) years for needed updates. New projects will be identified and completed projects will be deleted so a fresh mobility plan can be used to guide the City for transportation priorities.

Describe how the plan is innovative, based on national best practices, and designed in accordance with an existing evidence-based program

Traditional mobility plans look for ways to improve moving motorized vehicles from one place to the next in the quickest time possible at the shortest route. The City's mobility plan will evaluate and integrate the popularity of alternative transportation modes, i.e., bicycle and pedestrian facilities, transit networks (stops, stations, routes) , etc. along with the vehicle movement focus.

A description of how you will coordinate with other planning, community development, and/or recovery or resilience plans and initiatives that are underway

Mobility plans cannot be developed in a vacuum. Transportation is an essential component of land development. The City's mobility plan will be consulted during any future citywide Comprehensive Land Development Plan update are reviewed and/or any new residential/commercial/industrial private development plan that comes into the community.

Are there any existing plans?

No

A description of the area of high need that will be addressed by the plan

Moving vehicles, both motorized and non-motorized, is critical to the health of the community. Traffic snags and backups can quickly degrade the community's quality of life. Over the last 10 years the footprint of Southwest Florida has changed dramatically which in turn results in changes to the community's risk and vulnerability. It is essential that the City has a plan that identifies the most current transportation needs and identifies projects that can be implemented to increase the health of the community.

A description of the intended impact the plan will have on the community and area of high need

FEMA's strongest general evacuation guidance when a disaster is approaching is that the best action to protect yourself and your family from flooding and high winds caused by hurricanes is to evacuate when ordered to do so, before those conditions hit your area. The best was to evacuate safely is to know and follow the directions from local officials for community evacuation and follow posted evacuation routes. The mobility plan and the identification of addition evacuation routes away from Bonita Springs and the beaches is critical to moving residents out of harm's way. When an evacuation notice is posted the majority of the residents in Bonita Springs are advised to connect with Interstate 75. Lanes in both directions are used to move residents out of the area. The mobility plan will look at alternative sites and possible new locations for east-west roadways to move traffic out of the community in a more efficient and quicker pace.

A description of the intended beneficiaries of the plan, including any HUD-defined vulnerable populations and communities who are the intended beneficiaries of the plan

In the broad sense the City's mobility plan will support all residents within the city limits of Bonita Springs and all surrounding areas. There are no strict boundaries identified during a disaster and evacuation. Local residents will simply utilize the shortest route to safety when evacuating. However, the City has a large population located in Low-Moderate Income Areas (LMA). The majority of the LMA's are located east of U.S. 41 and east of Interstate 75. Residents located in LMA are less likely to have access to a vehicle during evacuation and rely on transit to relocate to a safe secure location. While discussing the identification of alternative roadways when referencing the mobility plan, the City intends to review all avenues available, i.e., pathways, roadways, transit, etc.

Authorized Organization Representative

	Census Tract	Block Group

1	504	1, 2, 3, 4, 5
2	505	1, 2, 3
3	503.12	2

The types of entities benefitting from the plan

☑ Residents
☑ Businesses
☐ Local Government
☐ Other:

☒ If “Residents” is selected, list the projected number of beneficiaries and number of LMI beneficiaries who will benefit from the plan, if it were implemented

Total Number of Beneficiaries: 1000
Total LMI Beneficiaries: 800

The target populations from the table below who would benefit from the plan if it were implemented

☑ Populations presumed by HUD to be LMI persons:

- Abused children
- Elderly persons (62 and older)
- Battered spouses
- Homeless persons
- Severely disabled adults (as defined by the Census)
- Illiterate adults
- Persons living with AIDS
- Migrant farm workers

☑ Protected classes (groups protected from discrimination under federal civil rights law based on the following):

- Race
- Color
- National origin
- Sex (including sexual orientation and gender identity)
- Religion
- Familial status
- Disability
- Age

☑ Vulnerable populations, as defined by HUD in the Consolidated Notice:

- Groups or communities whose circumstances present barriers to obtaining or understanding information or accessing resources, based on such factors as the following:
  - Geography
  - Markets
  - Prevalent housing stock and tenure
  - History
  - Prejudice

☑ Underserved communities, as defined by HUD in the Consolidated Notice:

- Populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life

A description of the method used to identify the intended beneficiaries of the plan if it were implemented

The City will use the U.S. Census information to identify the number of residents living in the LMA and will track by census tracts and blocks. Additionally, the City will use an identified proportional share of citywide residents to identify potentially impacted residents.

A description of the community outreach and engagement that has happened to date, including a description of the stakeholders and approaches to outreach and engagement

A public hearing was held at the February 7, 2024 City Council meeting. Staff presented the item, described the need for public comments and solicitated comments. The mobility plan was described and invited the public to come forward to address the need for the study. No public comment was received in support of or denied against.

A description of additional community outreach, engagement, and partnerships that will occur as part of the development of this plan, including the approach to engaging new stakeholders, if applicable

The City intends to have a strong community outreach component to the plan. The participation plan will include the development of a framework for citywide communication and a participation strategy that builds stakeholder consensus and is inclusive of the community at large. Community outreach will include but is not limited to outreach workshops/open houses, in person presentations, project meetings and City Council meetings.

A description and justification of the proposed costs

The City has reviewed numerous local (Southwest Florida) plan development costs similar in scope to the mobility plan. Staff has also polled various procurement officials to determine their opinion for mobility plans or similar plans previously awarded.

A description of whether the plan will be implemented with applicant staff, vendor support and/or other

City staff will be responsible for the day-to-day operation of the process. A transportation vendor will be hired to develop the mobility plan. Once the plan is submitted to the City Council for final adoption, city staff will be charged with the implementation of the plan.

A description of the timeframe, dependencies, and methods for obligating grant funds, and how the applicant plans to ensure funds are spent timely. A description of how the applicant will address and control for dependencies, if applicable

The City will follow the steps outlined in question #8 and anticipates the study would take approximately a year or so to complete. The number 1 dependency to move the project forward is grant funding. Once funding has been provided and a contract is in place with Lee County the City will begin soliciting for a transportation consultant to complete the plan. The grant funds will be obligated to the top ranked consultant in the form of a contract between the consultant and the City. Following the contract award of the transportation consultant and the study beginning the City anticipates monthly payment requests from the consultant. The City, in turn, will submit monthly payment requests to Lee County for reimbursement. Milestones are typically identified in the contract and monthly progress meetings with the consultant ensures that timelines are being met. To control dependencies, invoices are reviewed by the project manager against the work performed during that contract period to ensure funds and tasks are expended and performed in a timely manner.

Budget Form & Duplication of Benefits

Description	Total Requested
Development of Plan (Comprehensive, Land Use, Resiliency and Mitigation)	$500,000.00
Mapping and Data Upgrades	$0.00
Education or Outreach Programs	$0.00
Building Codes	$0.00
Zoning Ordinances	$0.00
Other Eligible Costs	$0.00
Funding Requested from CDBG-DR	$500,000.00

Sources of Leveraged Funds

Source of Funds	Amount	% of Total	Status of Funds
FEMA Building Resilient Infrastructure and Communities (BRIC)	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
FEMA Hazard Mitigation Grant Program (HMGP)	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
FEMA Public Assistance (PA)	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
Local (Municipal) Funds	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
Other CDBG-DR Funds (from Florida COM)	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
Other State Funds	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
Resilient Florida	$0.00	0.00	N/A
Use of Funds:			

Source of Funds	Amount	% of Total	Status of Funds
Purpose of Funds:	N/A		
US Army Corps of Engineers (USACE)	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
US Department of Transportation	$0.00	0.00	N/A
Use of Funds:			
Purpose of Funds:	N/A		
Total	$0.00		

Funding Summary

Item	Total Amount
Other Funding Sources	$0.00
Total Funds Available for Plan	$500,000.00
Remaining Unmet Need	$0.00

Application Certification

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct and that the application and all support documentation has been duly authorized by the governing body of the applicant. I further certify that I am authorized to submit this application and have followed all policies and procedures of my agency regarding grant application submissions.

Authorized Organization Representative Name:	Rick Steinmeyer
Authorized Submitter Representative Name:	Rick Steinmeyer
Authorized Submitter Representative Title:	Mayor
Certification Date:	02/21/2024
Authorized Submitter Representative Signature:	Rick Steinmeyer
Authorized Submitter Representative IP Address:	198.72.45.46

Exhibit G

FLORIDA MUNICIPAL INSURANCE TRUST
PROPERTY, ALLIED LINES AND CRIME
DECLARATIONS

I. DESIGNATED MEMBER
City of Bonita Springs

Agreement No.: FMIT #0927

II. GOVERNMENT DESCRIPTION
Municipality

III. COVERAGE PERIOD
From October 1, 2023 to October 1, 2024 12:01 A.M. Standard Time at the address of the Designated Member.

		Premium Basis	Deductible/ Type	Limit	Net Premium
IV. Property and Allied Coverages					$463,909
Real Property*			$1,000	$26,688,235	Included
Personal Property			$1,000	$822,038	Included
Named Storm Coverage and Percentage Deductible			**Refer to Named Storm Coverage and Percentage Deductible Endorsement**		
	Coinsurance:	Agreed Amount			
	Valuation Basis:	Replacement Cost			
	Blanket**:	Yes			
	Inflation Guard:	No			
Non-scheduled PITO Sub-Limit*				$280,000	Included
Time Element					
Business Income		Per Extension	$0		Included
Extra Expense		Per Extension	$0		Included
Inland Marine	Valuation Basis:	Per Schedule	Per Schedule	$329,920	Included
	Blanket:	Yes			Included
Valuable Papers		Per Extension	$0		Included
Accounts Receivable		Per Extension	$0		Included
Bond					
Faithful Performance Blanket Bond			$500	$50,000	Included
Employee Theft - Per Loss Coverage			$500	$50,000	Included

Miscellaneous Property Coverages

FMIT #0927

October 1, 2023 - October 1, 2024

Business Income

All locations are covered under Building and Personal Property Coverage Form Coverage Extension 5 t.

Extra Expense

All locations are covered under Building and Personal Property Coverage Form Coverage Extension 5 s.

Limits on Loss Payment: 40%-80%-100%

Valuable Papers & Records

All locations are covered under Building and Personal Property Coverage Form Coverage Extension 5 u.

Accounts Receivable

All locations are covered under Building and Personal Property Coverage Form Coverage Extension 5 r.

Crime / Bond

Bond Type	Bond Limit	Deductible Amount
Employee Theft - Per Loss	$50,000	$500
Faithful Performance Blanket Bond	$50,000	$500

FLORIDA MUNICIPAL INSURANCE TRUST
GENERAL/PROFESSIONAL LIABILITY COVERAGE AGREEMENT
DECLARATIONS

I. DESIGNATED MEMBER
City of Bonita Springs

Agreement No.: FMIT #0927

II. GOVERNMENT DESCRIPTION
Municipality

III. COVERAGE PERIOD
From October 1, 2023 to October 1, 2024 12:01 A.M. Standard Time at the address of the Designated Member.

	Premium Basis	Deductible/ Type	Limit	Net Premium
IV. General/Professional Liability		$0	$5,000,000	$101,330
Payroll:	4,339,600			
1. General Liability				
a. Broad Form Property Damage		$0	Per Form	Included
b. Extra Contractual Legal Expense		N/A	Per Form	Included
c. Fire Legal Liability		$0	Per Form	Included
d. Medical Attendants'/Medical Directors' Malpractice Liability		$0	$5,000,000	Included
2. Errors and Omissions Liability		$0	$5,000,000	Included
a. Employment Practices Liability		$0	$5,000,000	Included
b. Employee Benefits Program Administration Liability		$0	$5,000,000	Included

V. This agreement includes these endorsements and schedules: See Schedule A

VI. ESTIMATED ANNUAL PREMIUM

Florida Municipal Insurance Trust (FMIT)

Normal Premium	**Incentive Credit**	**Net Premium**
$119,209	$(17,879)	$101,330

Florida League of Cities Sponsored Insurance Programs Since 1977

THIS DECLARATIONS AND THE SUPPLEMENTAL DECLARATIONS, TOGETHER WITH THE COMMON CONDITIONS, COVERAGE FORM(S) AND ENDORSEMENTS COMPLETE THE ABOVE NUMBERED AGREEMENT.

CERTIFICATE OF COVERAGE

Certificate Holder

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
PO BOX 398
FORT MYERS FLORIDA 33902

Administrator Issue Date 04/30/24

Florida League of Cities, Inc.
Department of Insurance and Financial Services
P.O. Box 530065
Orlando, Florida 32853-0065

COVERAGES
THIS IS TO CERTIFY THAT THE AGREEMENT BELOW HAS BEEN ISSUED TO THE DESIGNATED MEMBER FOR THE COVERAGE PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE AGREEMENT DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH AGREEMENT

COVERAGE PROVIDED BY: **FLORIDA MUNICIPAL INSURANCE TRUST**

AGREEMENT NUMBER: FMIT 0927	**COVERAGE PERIOD:** FROM 10/1/23	**COVERAGE PERIOD:** TO 10/1/24 12:01 AM STANDARD TIME

TYPE OF COVERAGE - LIABILITY

General Liability

- [X] Comprehensive General Liability, Bodily Injury, Property Damage, Personal Injury and Advertising Injury
- [X] Errors and Omissions Liability
- [X] Employment Practices Liability
- [X] Employee Benefits Program Administration Liability
- [X] Medical Attendants'/Medical Directors' Malpractice Liability
- [X] Broad Form Property Damage
- [ ] Law Enforcement Liability
- [X] Underground, Explosion & Collapse Hazard

Limits of Liability

* Combined Single Limit

Deductible N/A

Automobile Liability

- [X] All owned Autos (Private Passenger)
- [X] All owned Autos (Other than Private Passenger)
- [X] Hired Autos
- [X] Non-Owned Autos

Limits of Liability

* Combined Single Limit

Deductible N/A

TYPE OF COVERAGE - PROPERTY

- [X] **Buildings**
  - [X] Basic Form
  - [X] Special Form
- [X] **Personal Property**
  - [ ] Basic Form
  - [X] Special Form
- [ ] Agreed Amount
- [X] Deductible $1,000
- [X] Coinsurance 100%
- [X] Blanket
- [X] Specific
- [X] Replacement Cost
- [ ] Actual Cash Value
- [X] **Miscellaneous**
  - [X] Inland Marine
  - [X] Electronic Data Processing
  - [X] Bond

Limits of Liability on File with Administrator

TYPE OF COVERAGE - WORKERS' COMPENSATION

- [X] Statutory Workers' Compensation
- [X] Employers Liability
  - $1,000,000 Each Accident
  - $1,000,000 By Disease
  - $1,000,000 Aggregate By Disease
- [ ] Deductible N/A
- [ ] SIR Deductible N/A

Automobile/Equipment - Deductible

- [X] Physical Damage
- Per Schedule - Comprehensive - Auto
- Per Schedule - Collision - Auto
- Per Schedule - Miscellaneous Equipment

Other

* The limit of liability is $200,000 Bodily Injury and/or Property Damage per person or $300,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to $5,000,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability/settlement for which no claims bill has been filed or liability imposed pursuant to Federal Law or actions outside the State of Florida.

Description of Operations/Locations/Vehicles/Special Items

RE: Verification of Coverage for – The Mobility Plan & Park Master Plan

The certificate holder is hereby added as an additional insured, except for Workers' Compensation and Employers Liability, as respects the member's liability for the above-described event.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE AGREEMENT ABOVE.

Designated Member

City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs FL 34135-4215

Cancellations

SHOULD ANY PART OF THE ABOVE DESCRIBED AGREEMENT BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED ABOVE, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE PROGRAM, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

EXHIBIT H (SIGNATURE REQUIRED)

CERTIFICATIONS
CDBG-DR COMPLIANCE PROVISIONS
Planning and Public Services

This Exhibit to the Community Development Block Grant Disaster Recovery ("CDBG-DR") Program Subrecipient Agreement contains supplementary compliance conditions for use with procured contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

This Exhibit shall be included as part of the terms of the agreement for all procured contracts and subrecipient agreements funded fully or in part by the CDBG-DR Program by Lee County and the selected contractor or subrecipient.

By signing this Exhibit, the applicant certifies they understand that all the below compliance provisions will apply to all projects that are awarded CDBG-DR funds.

1. NATIONAL OBJECTIVES

In accordance with 24 CFR 570.208, Section 104(b)(3) of the Housing and Community Development Act of 1974, all CDBG-DR funded activities must meet a National Objective. Under Section 101(c) of the authorizing Act (42 U.S.C. 5301), all CDBG-DR Activities must satisfy one of the named National Objectives.

1. Benefit to Low-to-Moderate Income Persons (LMI)
2. Urgent Need (UN)
3. Elimination of Slum and Blight (SB)

Planning Exemption
Planning activities are presumed to meet a National Objective. HUD's Federal Register Notice (88 FR 32046) governing the CDBG-DR funds describes planning efforts as addressing the National Objectives without the limitation of any circumstances. In the CDBG Entitlement Program, these more general planning activities are presumed to meet a national objective under the requirements at 24 CFR 570.208(d)(4). HUD notes that almost all effective recoveries in the past have relied on some form of area-wide or comprehensive planning activity to guide overall redevelopment, independent of the ultimate source of implementation funds.

Upon completion of approved activity(ies) funded under this Agreement and prior to the funding expiration date of this Agreement, whichever comes first, the Subrecipient

must document that the approved activity(ies) met the approved National Objective, as necessary.

For Subrecipients with a National Objective requirement, the County shall review the actual National Objective achievements of the activity. If the Subrecipient does not or cannot satisfactorily document the National Objective achievement of an approved activity(ies), the activity(ies) may be deemed ineligible, and repayment of funds may be required of the Subrecipient.

2. DUPLICATION OF BENEFITS

A Duplication of Benefits (DOB) occurs when a person, household, business, or other entity receives disaster assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. The amount of the duplication is the amount of assistance provided in excess of the total need for the same purpose. It is the County's responsibility to ensure that CDBG-DR programs provide assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source.

The Subrecipient or Contractor must report all funds obtained for the same activity from any source from the date of the disaster until the activity is completed.

The Subrecipient or Contractor agrees to repay to the County, immediately upon demand, any assistance later received for the same purpose as the CDBG-DR funds and that exceeds the total need for the particular recovery purpose.

3. EQUAL EMPLOYMENT OPPORTUNITY

The obligations undertaken by the Subrecipient or Contractor include, but are not limited to, the obligation to comply with all Federal laws and regulations described in Subpart K of 24 CFR Part 570 and specifically with each of the following, among other things, as the same may be amended from time to time:

a. Title VI of the Civil Rights Act of 1964: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving Federal financial assistance.

b. Title VII of the Civil Rights Act of 1968 (The Fair Housing Act): This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.

c. Restoration Act of 1987: This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives Federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability

or age in a program or activity which does not directly benefit from such assistance.

d. Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]: This Section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.

e. The Fair Housing Amendment Act of 1988: This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.

f. The Age Discrimination Act of 1975: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic.

g. Section 504 of the Rehabilitation Act of 1973: It is unlawful to discriminate based on disability in Federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance.

h. The Americans with Disabilities Act of 1990 (ADA): This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.

i. Executive Order 11063: This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with Federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal government.

j. Executive Order 12259: This executive order provides that the administration of all Federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities

throughout the United States.

k. The Equal Employment Opportunity Act: This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, state, and local governments under the Civil Rights Act of 1964.

l. The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978: This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal, and referral. It is designed to assist employers, labor organizations, employment agencies, licensing, and certification boards in complying with the requirements of Federal laws prohibiting discriminatory employment.

m. The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002): This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.

n. Executive Order 11246: This executive order applies to all Federally-assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race

4. CERTIFICATION OF NONSEGREGATED FACILITIES
(applicable to contracts and subcontracts over $10,000)

The Subrecipient or Contractor and its subcontractor(s) certifies that the entity does not maintain or permit employees to perform their services at any location where segregated facilities are maintained. The Subrecipient or Contractor certifies further that it shall not maintain or provide for employees any segregated facilities at any of its establishments and will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Subrecipient or Contractor and its subcontractor(s) agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Subrecipient or Contractor further agrees that (except where it has obtained for

specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the equal opportunity clause; that it will retain such certifications in project files; and will provide notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

5. ENVIRONMENTAL PROTECTION AND ACTS

a. National Environmental Protection Act (NEPA): All Federally funded activities are subject to the National Environmental Policy Act of 1969 (NEPA) and its regulations under 40 CFR 1500 – 1508. Additionally, 24 CFR 58.22 prohibits committing or spending HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environment review once a project has Federal funding, in full or in part. This prohibition on "choice-limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions, prior to completion of the environmental review. Awarded activities must have completed an environmental review to demonstrate compliance with NEPA, as well as 24 CFR 58.

b. Clean Air and Water Acts: *(applicable to contracts and subcontracts exceeding $100,000)* The Subrecipient or Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

c. Flood Disaster Protection: The Subrecipient or Contractor shall comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001). The Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, that flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

d. Energy Efficiency: The Subrecipient or Contractor shall comply with mandatory standards and policies relating to energy efficiency under the Energy Policy and Conservation Act (Public Law 94-163).

e. Procurement of Recovered Materials: Per 2 CFR 200.323, a non-Federal entity that is a state agency or an agency of a political subdivision of a state, and its contractors, must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in

guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

6. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

The Subrecipient or Contractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include:

a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists:

b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources:

c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and

e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

7. POLITICAL ACTIVITY

The Subrecipient or Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

8. LOBBYING PROHIBITION AND BYRD ANTI-LOBBYING AMENDMENT

The Subrecipient is prohibited from using contracted funds for the following purposes: (1) political activities; (2) lobbying; (3) political patronage; (4) nepotism activities; and (5) inherently religious activities such as worship, religious instruction, or proselytization. The Subrecipient will also comply with Chapter 216.347, Florida Statutes, which prohibits the expenditure of Agreement funds for the purpose of lobbying the legislature, state or county agencies.

Additionally and in accordance with 24 CFR 87, the Subrecipient certifies that it will not use CDBG-DR funds received from the County to directly or indirectly influence legislation or any other official action by the Florida legislature, any state agency, or other local government and county (BOCC) business, including through the use of Federal appropriated funds being paid to any person for influencing or attempting to influence an office or employee of any agency, a member of Congress, an office or employee of Congress or an employee of a member of Congress in connection with this Federal contract, grant, loan or cooperative agreement. If the County and/or the Subrecipient suspects such action of occurring, the County reserves the right to request that the Subrecipient disclose and certify such activities in accordance with reporting requirements noted within the Agreement.

The Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) requires that Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier, up to the non-Federal award.

The Contractor certifies, to the best of his or her knowledge and belief that:

1) No Federally appropriated funds have been paid or will be paid by, or on behalf of, the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

9. CONFLICT OF INTEREST

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality during his/her tenure

or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Subrecipient or Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

No member of, or delegate to, Congress, or any Resident Commissioner, shall be admitted to any share or part of any contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to any contract if made with a corporation for its general benefit.

10. DOMESTIC PREFERENCES FOR PROCUREMENTS.

Per 2 CFR 200.322, as appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section: (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole, or in part, of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; or aggregates such as concrete; glass, including optical fiber; and lumber.

11. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

Per 2 CFR 200.216, Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in Public Law 117–328, section 208, subsection (a), covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country, is prohibited.

12. AGREEMENTS BETWEEN SUBRECIPIENTS AND CONTRACTORS

a. The Subrecipient shall not enter into any agreement, written or oral, with any contractor or other party without the prior determination that the contractor or other party is eligible to receive federal funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible contractors.

The terms "other party" is defined as public or private nonprofit agencies or organizations and certain (limited) private for-profit entities who receive grant funds from a Subrecipient to undertake Approved Activities.

b. An agreement between the Subrecipient and any contractor or other party shall require:

1) Compliance with all State and Federal requirements described in this Agreement including, without limitation, those that pertain to labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity and Drug Free Workplace, and prevailing wages.

2) Maintenance of at least the minimum State required Workers' Compensation Insurance for those employees who will perform the Approved Activities.

3) Maintenance, as required by law, of unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or damaged by the contractor, or any subcontractor, in performing the Approved Activities.

4) Compliance with the applicable Equal Opportunity Requirements described in Section 3 of this Exhibit.

c. Contractors shall:

1) Perform Activities in accordance with Federal, state, and local regulations, as applicable.

13. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If a Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the Subrecipient or Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance, the Subrecipient or Contractor must comply with requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulation issued by the awarding agency.

14. PATENTS

a. The Subrecipient or Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.

b. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Subrecipient or Contractor.

c. If the Subrecipient or Contractor uses any design device or materials covered by letters, patents or copyrights, he shall provide for such use by suitable agreement with the owner of such patented or copy-righted design device or material. It is mutually agreed and understood, that without exception the contract prices shall include all royalties or costs arising from the use of such design, device, or materials, in any way involved in the work. The Subrecipient or Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copy-righted design, device, materials, or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

15. COPYRIGHT

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Subrecipient or Contractor for copyright purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

16. DRUG-FREE WORKPLACE ACT OF 1988

a. Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.

b. Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon

employees for drug abuse violations.

c. Notify employees that as a condition of employment on a Federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within 5 calendar days, if he or she is convicted of a criminal drug violation in the workplace.

d. Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.

e. Impose a penalty on or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.

f. Make an ongoing, good faith effort to maintain a drugfree workplace by meeting the requirements of the act.

17. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS, AND ACCIDENT PREVENTION

a. Use of Explosives: When the use of explosives is necessary for the prosecution of the work, the contractor shall observe all local, state, and Federal laws in purchasing and handling explosives. The contractor shall take all necessary precautions to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced, and the material shall be covered with suitable timber, steel, or rope mats.

b. The contractor shall notify all owners of public utility property of intention to use explosives at least 8 hours before blasting is done close to such property. Any supervision or direction of use of explosives by the engineer does not in any way reduce the responsibility of the contractor or his Surety for damages that may be caused by such use.

c. Danger Signals and Safety Devices: The contractor shall make all necessary precautions to guard against damages to property and injury to persons. The contractor shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades, and other devices necessary to protect the public.

d. Protection of Lives and Health: The contractor shall exercise proper precautions at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific

safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971, Title 29 - LABOR, shall be observed and the contractor shall take, or cause to be taken,, such additional safety and health measures as the Developer may determine to be reasonably necessary.

18. PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of:

a. Obtaining the County's approval of the Application for such assistance; or,

b. Any other approval or concurrence of the County required under this Agreement, Title I of the Housing and Community Development Act of 1974, or State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

19. CONFIDENTIAL FINDINGS

All of the reports, information, data, etc., prepared or assembled by the Subrecipient or Contractor under any Agreement are confidential, and the Subrecipient or Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

20. ACCESS TO RECORDS - MAINTENANCE OF RECORDS

Lee County, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Subrecipient or Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with any contract will be maintained in a central location by the unit of local government and will be maintained for a period of five (5) years from the official date of the County's final closeout of the grant.

21. INSPECTION

The authorized representative and agents of Lee County and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

22. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in any contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

BY: _____ June 5, 2024

Signature Date

Rick Steinmeyer

Name (print)

EXHIBIT I

CDBG-DR SPECIAL TERMS AND CONDITIONS

This Exhibit to the Community Development Block Grant Disaster Recovery ("CDBG-DR") Program Subrecipient Agreement contains special conditions for use with procured contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

This Exhibit shall be included as part of the terms of the agreement for all procured contracts and subrecipient agreements funded fully or in part by the CDBG-DR Program by Lee County and the selected contractor or subrecipient.

1. INITIAL RISK ASSESSMENT

The Subrecipient has provided, or will provide, the County with information about the Subrecipient's experience, processes, policies, and procedures related to the management of Federal funding by the Subrecipient. These submissions, in addition to discussions with the Subrecipient, have been used by the county to assess the risk of noncompliance and capacity to compliantly execute the required activities for which the Agreement is made.

Should there be substantive changes to the organization, key personnel, methods, capacity, policies, or processes of the Subrecipient that impact the implementation of this Agreement, the Subrecipient shall notify the County of said changes within 30 days of those changes.

The Subrecipient agrees to provide documents and information to the County, within 30 days of such a request made by the County, to facilitate its due diligence review as required by Federal Register Notice 88 FR 32046. Subrecipient further agrees to comply with the requirements, requests, and results of the County's due diligence and maintain the capacity to carry out disaster recovery activities in a timely and compliant manner at all times during the term hereof.

2. RISK ASSESSMENT

During the term of this Agreement, the Subrecipient agrees to provide documents and information, within 30 days of such a request made by the County, to facilitate the County's Subrecipient risk assessment process. The Subrecipient further agrees to comply with the requirements, requests, and results of the County's risk assessment, including participation in Subrecipient monitoring events.

3. SPECIAL CONDITIONS

Pursuant to *Exhibit A*, Scope of Work, and the Risk Assessment Sections, as referenced above, Subrecipient agrees to adhere to the following Special Conditions:

a. None

EXHIBIT J

SUBRECIPIENT STAFF ORGANIZATION

Bonita Springs Mobility Plan

The Subrecipient must complete the following information, as applicable, as an extension of the requirements outlined within SECTION XVIII. NOTICES of the Agreement. The Subrecipient is not required to hire or create the following positions or titles but should assign the following roles to staff members who will serve as a primary point of contact for relevant responsibilities associated with that role.

Some projects or activities will not require a contact for all roles identified below. In addition, individual staff members may perform multiple roles. The Subrecipient will complete the contact information for those roles which are applicable for successful completion of this project/activity and denote where a specific member is performing multiple roles. If certain roles are not applicable for implementation of this project/activity, please denote “Not Applicable” under the Contact Information for each role.

The Subrecipient is responsible for providing an updated version of this Exhibit as contact information changes or updates are made to personnel which impact the roles and responsibilities. Descriptions of each role are outlined below.

Section 1: Subrecipient Contract Administrator

1. Description

The Subrecipient Contract Administrator (must be a Subrecipient employee) is identified in SECTION XVIII. NOTICES of the Agreement. Unless otherwise directed by the County, any notice, report, or other communication required by the Agreement shall be directed via the County’s approved system or written to the Subrecipient’s Contract Administrator at the contact information identified in SECTION XVIII. NOTICES of the Agreement.

2. Contact Information

Name: Elly Soto McKuen
Title: Senior Project Manager
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: elly.mckuen@cityofbonitasprings.org
Email: (239) 949-6262

Section 2: Project Manager

1. Description

The Subrecipient staff member who will serve as the primary contact and decision-maker for the project's implementation. This staff member is responsible for ensuring the project reaches established milestones and deadlines for completion, oversees all elements of project completion (e.g., procurement actions, reconciliations, contract management, administration), and is considered the administrator to ensure general and overall compliance of the project/activity with the CDBG-DR grant.

2. Contact Information

Name: Elly Soto McKuen
Title: Senior Project Manager
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: elly.mckuen@cityofbonitasprings.org
Email: (239) 949-6262

Section 3: Davis Bacon and Labor Standards Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Section 3 and Davis-Bacon and Related Acts (DBRA) labor standards. This staff member is responsible for actions such as providing guidance to (including conducting monitoring and oversight of) contractors and vendors on Section 3 and labor compliance requirements. This includes, but is not limited to, overseeing Section 3 goals reporting by contractors and vendors, conducting employee interviews, reviewing certified labor payrolls, and completing Section 3 and labor compliance reports for submission of performance data to the County. The Coordinator would likely be responsible for ensuring proper recordkeeping of such files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Elly Soto McKuen
Title: Senior Project Manager
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: elly.mckuen@cityofbonitasprings.org
Email: (239) 949-6262

Section 4: Section 504 Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Section 504, the Americans with Disabilities Act of 1990 ("ADA") and ensuring meaningful access to persons who are Limited English Proficiency (LEP). This staff member is responsible for actions which include, but are not limited to, conducting a Section 504 evaluation or self-assessment of Subrecipient facilities, detailing and tracking complaints or grievances on potential Section 504 or Civil Rights violations, and developing and maintaining Language Access Plans (LAPs) for LEP individuals, as applicable. The Coordinator would likely be responsible for ensuring proper recordkeeping of files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Brenda Reetz
Title: Contract Administrator
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: Brenda.reetz@cityofbonitasprings.org
Email: (239) 949-6262

Section 5: Fair Housing Coordinator

1. Description

The Subrecipient staff member who will serve as the contact and subject matter expert for ensuring the project's compliance with Fair Housing requirements as outlined within the Agreement and Exhibits. This staff member is responsible for actions which affirmatively promote fair housing, which may include, but are not limited to, conducting, overseeing, and documenting fair housing activities, conducting affordable housing reports, and detailing and tracking complaints or grievances on potential Fair Housing violations, as applicable. The Coordinator would likely be responsible for ensuring proper recordkeeping of such files to provide access to records by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. If this role is handled by a consultant or other personnel who is not a part of the Subrecipient's staff, please also note a Subrecipient staff member who is responsible for overseeing the acceptable completion of duties by personnel for this role.

2. Contact Information

Name: Jessica Lynch
Title: Fair Housing Coordinator
Agency: Lee County Human and Veteran Services
Address: 2440 Thompson Street, Fort Myers, FL 33901
Telephone: Jynch2@leegov.com
Email: (239) 533-7900

Section 6: Financial Manager

1. Description

The Subrecipient staff member who will serve as the primary contact and subject matter expert for all financial management duties associated with the project. This staff member is most likely responsible for overseeing accounting actions such as accounts receivable, accounts payable, project budget setup, or encumbering the CDBG-DR dollars within the Subrecipient's financial management system and/or fiscal year (FY) obligations of CDBG-DR dollars to the project/activity governed by this Agreement. Tasks of the Financial Manager may include, but are not limited to, approving project invoices, overseeing monthly account reconciliations, creating or approving annual budgets for expending CDBG-DR dollars under this project/activity, and being responsible for walking through accounting procedures for County staff. The Financial Manager would likely be responsible for ensuring proper recordkeeping of such financial and accounting records for access by the County or other parties, as described in the Agreement, in support of monitoring, audits, and inspections. Given the segregation of duties for financial and accounting staff, the Financial Manager may also supervise or oversee multiple accounting clerks, financial analysts, or other financial staff who perform duties described above.

2. Contact Information

Name: Lisa Roberson
Title: Director of Finance and Administrative Services
Agency: City of Bonita Springs
Address: 9101 Bonita Beach Road, Bonita Springs, FL 34135
Telephone: lisa.roberson@cityofbonitasprings.org
Email: (239) 949-6262

Section 7: Certification of Time Allocation

Are there any staff who are working on both CDBG-DR and non CDBG-DR programs? Yes

If so how many, and list names:

Yes. 1. Elly Soto McKuen 2. Matt Feeney 3. Lisa Roberson 4. Brenda Reetz 5. Evan Grant

EXHIBIT K

CDBG-DR PROGRAM SUBROGATION AGREEMENT

This Subrogation and Assignment Agreement ("Agreement") is made and entered into by and between ***City of Bonita Springs*** (hereinafter referred to as "Subrecipient") and Lee County (hereinafter referred to as “County”).

In consideration of the Subrecipient's receipt of funds or the commitment by the County to evaluate the Subrecipient's application for the receipt of funds (collectively, the "Subrecipient Award") under the Community Development Block Grant – Disaster Recovery Program (the "CDBG-DR Program") administered by the County, the Subrecipient hereby assigns to the County all of the Subrecipient's future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit, or insurance policies of any type or coverage, or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("FEMA”) or the Small Business Administration ("SBA") (singularly, a "Disaster Program" and collectively, the "Disaster Programs"), that was the basis of the calculation of the Subrecipient Award paid or to be paid to the Subrecipient under the CDBG-DR Program and that are determined at the sole discretion of the County to be a duplication of benefit ("DOB”), as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA, or the SBA, or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "Proceeds," and any Proceeds that are a DOB shall be referred to herein as "DOB Proceeds."

The Subrecipient agrees to notify the County within five (5) business days of any additional or new payments, loans, grants, or awards by HUD, FEMA, SBA, the State of Florida, or any other entity not specifically disclosed in this Agreement. Further, the Subrecipient understands and acknowledges the County’s right and responsibility to enforce this requirement by recapturing all or a portion of the CDBG-DR Subrecipient Award if the Proceeds received are determined to be DOB Proceeds within this CDBG-DR Program activity. The Subrecipient will be required to pay back the received CDBG-DR Subrecipient Award, which was found to be DOB Proceeds, within 30 days of receipt of the identified duplicative payment. The amount of DOB determined to be paid to the County shall not exceed the Subrecipient Award amount received by the Subrecipient from the CDBG-DR Program.

The Subrecipient agrees to assist and cooperate with the County to pursue any of the claims the Subrecipient has against insurers for reimbursement of DOB Proceeds under any such policies. The Subrecipient's assistance and cooperation shall include, but not be limited to, allowing suit to be brought under the Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing records and other evidence, testifying at trial, and any other form of assistance and cooperation reasonably requested by the County. The Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Program.
If requested by the County, the Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to the County, to

the extent of the Subrecipient Award paid to the Subrecipient under the CDBG-DR Program, the policies, any amounts received under the CDBG-DR Program that are DOB Proceeds, and/or any right thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the County to consummate and make effective for the purposes of this Agreement.

The Subrecipient explicitly allows the County to request of any company with which the Subrecipient held insurance policies, FEMA, SBA, or any other entity from which the Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by the County to monitor and enforce its interest in the rights assigned to it under this Agreement and give the Subrecipient's consent to such company(ies) to release all information to the County.

If the Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, the Subrecipient agrees to promptly pay such amounts to the County, if Subrecipient received a Subrecipient Award under the CDBG-DR Program in an amount greater than the amount the Subrecipient would have received if such DOB Proceeds had been considered in the calculation of the Subrecipient's award.

In the event that the Subrecipient receives or is scheduled to receive any subsequent Proceeds, the Subrecipient shall notify the County in the manner above of such subsequent Proceeds. The County will determine the amount, if any, of the subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of the determined Subsequent DOB Proceeds shall not be requested from the Subrecipient to provide to the County. Subsequent DOB Proceeds shall be remitted to the County as follows:

1. If the Subrecipient has received full payment of the Subrecipient Award, any Subsequent DOB Proceeds shall be remitted to the County.
2. If the Subrecipient has received no payment of the Subrecipient Award, any determined Subsequent DOB Proceeds shall be used by the County to reduce payments and the agreed-upon amount of the Subrecipient Award to the Subrecipient, and all Subsequent DOB Proceeds shall be retained by the Subrecipient for use on the CDBG-DR Program activity.
3. If the Subrecipient has received a portion of the Subrecipient Award, any Subsequent DOB Proceeds shall be used, retained, and/or disbursed in the following order: **(A)** Subsequent DOB Proceeds shall first be used to reduce the remaining payments or agreed-upon amount of the Subrecipient Award, and Subsequent DOB Proceeds in such amount shall be retained by the Subrecipient for use on the CDBG-DR Program activity; and **(B)** any remaining Subsequent DOB Proceeds shall be remitted to the County.
4. If the County makes the determination that the Subrecipient does not qualify to participate in the CDBG-DR Program or the Subrecipient determines not to participate in the CDBG-DR Program, the Subsequent DOB Proceeds shall be returned to the Subrecipient, less any portion of the Subrecipient Award amount paid to the Subrecipient and which needs to be remitted to the County, and this Agreement shall terminate.

Once the County has recovered an amount equal to the Subrecipient Award paid to the Subrecipient, the County will reassign to the Subrecipient any right assigned to the County pursuant to this Agreement.

The Subrecipient represents that all statements and representations made by the Subrecipient regarding Proceeds received by the Subrecipient shall be true and correct as of the date of the signing of this Agreement.

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

The person executing this Agreement on behalf of the Subrecipient hereby represents that he/she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by the Subrecipient.

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

City of Bonita Springs	**LEE COUNTY**
By: Rick Steinmeyer	By: _____
Signature: _____	Signature: _____
Title: Mayor	Title: _____
Date: June 5, 2024	Date: _____

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-082
June 5, 2024

REQUESTED MOTION: Adopt resolution as required for U.S. Housing and Urban Development Community Development Block Grant – Disaster Recovery (CDBG-DR) funding.

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA: Consent

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

BACKGROUND: The City was awarded $500,000 each for two (2) planning grants (Mobility Study and Park Master Plan) from CDBG-DR funding through Lee County as a result of Hurricane Ian.

All grant recipients must adopt a policy protecting individuals engaged in nonviolent civil rights demonstration.

On December 5, 2023, Lee County adopted this policy via Resolution 23-12-07 and the City has been requested to adopt a similar resolution. This resolution ensures that Lee County and the City will coordinate with the County Sheriff's Office to implement this Resolution through existing Sheriff's Office procedures to protect individuals engaged in nonviolent civil rights demonstration.

STAFF RECOMMENDATION: Adopt resolution as required for CDBG-DR funding

ATTACHMENTS:

1. Resolution

REVIEWERS:

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

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 24 -

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA, ADOPTING A POLICY PROTECTING INDIVIDUALS ENGAGED IN NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Congress of the United States has passed Section 104(1) to the Title I of the Housing and Community Development Act stating that no CDBG or CDBG-DR funds may be obligated or expended by any unit of general local government that fails to adopt and enforce a policy of prohibiting the use of excessive force by local law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; or fails to adopt and enforce a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of nonviolent civil rights demonstrations within its jurisdiction; and,

WHEREAS, the City of Bonita Springs has received a Community Development Block Grant from the U.S. Housing and Urban Development and is required to comply with the Title I of the Housing and Community Development Act; and,

WHEREAS, the failure to enforce such policies may cause Bonita Springs to lose its grant or eligibility for future federal grants.

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

Section 1: It is the policy of the City of Bonita Springs that excessive force by local law enforcement agencies shall not be used against individuals engaged in lawful and nonviolent civil rights demonstrations within the City limits.

Section 2: It is the policy of the City of Bonita Springs to enforce applicable state and local laws against the physical barring of an entrance to or exit from a facility or location which is the subject of nonviolent civil rights demonstrations within its jurisdiction.

Section 3. The City of Bonita Springs will coordinate with the Lee County Sheriff's Office to implement this Resolution through existing Sheriff's Office procedures.

Section 4. This Resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, this 5th day of June, 2024.

AUTHENTICATION:

_____	_____
Mayor	City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:	Steinmeyer	Corrie
	Bogacz	Fullick
	Purdon	Forbes
	Carr	

Date filed with the City Clerk: _____

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-083
June 5, 2024

REQUESTED MOTION: Approve the proposal from EnviroStruct, LLC under the Construction Manager at Risk Continuing Services agreement for the Riverside Park Bandshell Dressing Room and Restroom facility renovation project and approving a budget transfer resolution in the amount of $213,571.

REQUESTOR: Nicole Perino, Parks and Recreation Director

AGENDA: Consent

STRATEGIC PRIORITY: #5 Community Aesthetics

BACKGROUND:

In February 2024, the Community Park Baseball Complex restroom renovations were completed and at the May 1st City Council meeting, a proposal was approved for the Soccer Complex Concession and Restroom facility renovations. In keeping with the improvements to our city's recreation facilities, the Riverside Park Bandshell Renovations and Updates were approved by City Council for the FY 2024 Budget year.

The Riverside Park Bandshell facility was constructed 20 years ago and is in need of renovation as this facility is greatly utilized by our community and visitors to the downtown area for the many events held at Riverside Park each year. The renovations are needed to upgrade the building in order to meet the needs of all users.

Attached is a proposal from EnviroStruct, LLC in the amount of $288,570.74 for the Riverside Park Bandshell Dressing Room and Restroom facility renovation project. The work is outlined in the scope of work and fee proposal attached.

Section 46 (d) of the City Charter allows the transfer for all or part of any unrestricted appropriations from one department to another by resolution.

A transfer from Unassigned Fund Balance into the Bandshell Renovations and Updates 30.605.572.6205 of $213,571 to fund this project is required.

STAFF RECOMMENDATION: Approve proposal from EnviroStruct, LLC and Resolution for budget transfer.

ATTACHMENTS:

1. Resolution
2. Proposal and scope of work from EnviroStruct, LLC

REVIEWERS:

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

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 24-

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING THE BUDGET AMENDMENT FOR FISCAL YEAR 2023-2024; ACCEPTING PROPOSAL FROM ENVIROSTRUCT, LLC UNDER THE CONSTRUCTION MANAGER AT RISK CONTINUING SERVICES AGREEMENT FOR THE RIVERSIDE PARK BANDSHELL RESTROOM AND DRESSING ROOM FACILITY RENOVATION PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 20, 2023, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2024, Fiscal Year 2023-2024; and

WHEREAS, Section 46 (d) of the City Charter allows the transfer for all or part of any unrestricted appropriations from one department to another; and

WHEREAS, a budget transfer into the Bandshell Renovations and Updates (30.605.572.6205) of $213,571 is required to fund this project; and

WHEREAS, as outlined in City Council agenda item 24-06-083 the City accepts the proposal submitted by proposal from EnviroStruct, LLC under the Construction Manager at Risk Continuing Services agreement for the Riverside Park Bandshell Restroom and Dressing room facility renovation project in the amount of $288,570.74.

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

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

Section 2: Transfer funding of $213,571 from the Unassigned Fund Balance in the General Fund into 30.605.572.6205 the Riverside Park Bandshell Restroom and Dressing room facility renovation project.

Section 3. 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 5th day of June, 2024.

AUTHENTICATION:

_____ _____
Mayor City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:	Steinmeyer	Corrie
	Bogacz	Fullick
	Purdon	Forbes
	Carr	

Date filed with the City Clerk: _____

ENVIROSTRUCT LLC
GENERAL CONTRACTORS & CONSTRUCTION MANAGERS

Bonita Springs Bandshell Restrooms and Dressing Room
5/29/2024

Schedule – Is based on 7 weeks of construction once we receive Notice to Proceed. One Superintendent will be onsite daily (not full-time) managing the project and weekly visits from our General Superintendent and Project Manager to monitor the progress of the job.

Pricing – $288,570.74 see attached estimate. Selections made per Nicole Perino

Scope of work:

Demolition:

- Remove existing finishes – Casework, plumbing fixtures, lighting, bath accessories. Remove 5 doors and frames. Remove accordion door.

Metal work:

- Add decorative metal cover screen to interior of louver in 5 restrooms.

Paint:

- Paint all new exterior/interior doors, louvered grilles, drywall ceiling/stucco patches.

Doors:

- (5) 3070 flush hollow metal doors, 5 with louvers and frames. Some frames have a custom header on them.
- Frame pocket wall with plywood sheathing. Supply and install flush pocket door.
- Supply & Install the following finish hardware:
  Hager ECBB1101 NRP SS 4.5 x 4.5 hinges, US32D finish
  Hager Privacy handle lock sets (re-use dead bolt cylinder)
  Hager 5200 Closers, Hager 750S Sweeps, Hager 412S Threshold, ALUM finish

Casework and Tops:

- New base and upper cabinets in dressing room with locking hardware. Shaker style cabinets.
- New solid surface tops and support brackets.

Tile/Flooring:

- Tile walls and epoxy floors (same as Ballfields).

Acoustical Ceiling:

- Replace odd and stained ceiling tiles. Rework grid as necessary.

26701 Dublin Woods Circle, Bonita Springs, FL 34135
Tel. 239-494-5700 / Fax 239-491-7155 / Lic. # CGC1517202

Bath Accessories:

- New grab bars, hand dryers, Lavatory mirrors, baby changing tables, robe hooks, sanitary receptacles, ADA signs (gray). (2) full length mirrors (decorative). Install "lit" makeup mirrors. TP, seat covers, and soap dispensers not included.

Plumbing:

- Supply and install (7) ADA toilets and seats, (7) wall hung lavatories, Zurn and Sloan supply faucets and flush valves, new water stops. New on demand water heaters. 2 new UM sinks and faucets in Dressing room. Delete water fountains and replace with bottle fill (only) units.

Mechanical:

- Replace exhaust fans and ceiling grilles. Replace thermostat with programable and remote sensor in dressing room. Replace AC grilles.

Electric:

- New LED lighting and occupancy sensors, including EM wall packs and Exits. Rewire exhaust fans and (5) hand driers. Supply and wire "Lit" makeup mirrors.
- Supply and install decorative conduit covers (2). New outlets and trim plates (all white).

Clarifications:

- Excludes design and engineering fees.
- Excludes impact fees.
- Excludes performance and payment bond.

26701 Dublin Woods Circle, Bonita Springs, FL 34135
Tel. 239-494-5700 / Fax 239-491-7155 / Lic. # CGC1517202

Bonita Springs Parks and Rec Bandshell

10450 Reynolds St

Estimate

May 29, 2024

ENVIROSTRUCT LLC
GENERAL CONTRACTORS & CONSTRUCTION MANAGERS

Bldg Area: 200 sf
Site Area: .0 ac.

General Conditions (1.66 Months)

Cost Code	Description	Qty.	U/M	Rate	Total
Total				**$**	**39,960.00**

Sub Contractor & Supplier Cost

Cost Code		Description	Qty.	U/M	Rate	Total
02-232	1	Demolition	1	LS	$ -	$ 9,600.00
05-727	2	Metal screens	1	LS	$ -	$ 4,000.00
06-700	3	Casework and tops	1	LS	$ -	$ 15,204.00
08-100	4	Doors and Hardware	1	LS	$ -	$ 29,000.00
09-130	5	Acoustical Ceiling	1	LS	$ -	$ 1,000.00
09-810	6	Tile Walls	1	LS	$ -	$ 28,880.00
09-670	7	Epoxy Floors	1	LS	$ -	$ 27,353.00
09-940	8	Paint/Drywall/Stucco Repairs	1	LS	$ -	$ 13,000.00
10-815	9	Bath Accessories & Mirrors	1	LS	$ -	$ 24,200.00
15-400	10	Plumbing	1	LS	$ -	$ 34,105.00
15-500	11	Mechanical	1	LS	$ -	$ 11,528.00
16-001	12	Electrical	1	LS	$ -	$ 19,925.00
Total						**$ 217,795.00**

Estimate Summary

Total General Conditions w/ Labor Burden	$	39,960.00
Total Subcontractor Costs	$	217,795.00
Contingency	$	-
Design Fees - Architectural / Structural / Civil / MEP		By Owner
Permit & Impact Fees	$	1,500.00
Builders Risk	$	1,000.00
Liability Insurance	$	2,082.04
Performance & Payment Bond	$	-
Total Fee	$	26,233.70
Total Base Bid	**$**	**288,570.74**

Qualifications & Assumptions:
Not inlcuded is removal of equipment or furniture

Options:
Back stock lit mirrors $300ea.

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-087
June 5, 2024

REQUESTED MOTION: Discussion regarding the Imperial 41 Special Assemblage Plan submitted by Barron Collier Companies and provide direction to staff.

REQUESTOR: Arleen Hunter, City Manager; John Dulmer, Director of Community Development

AGENDA: City Manager

STRATEGIC PRIORITY: Economic Development

BACKGROUND: In January 2024, Barron Collier Companies and Peninsula Engineering submitted a final plan approval request for the Imperial 41 project. The plan was reviewed by City Staff as well as DPZ CoDesign.

A copy of the staff's draft memorandum of approval with conditions, conceptual site plan and draft architectural renderings are attached for Council's review. Representatives from Barron Collier Companies will be present at the meeting to discuss the project. Upon City Council approval of the proposed plan, staff will process the required administrative approvals.

STAFF RECOMMENDATION: Approve as conditioned and authorize staff to process the required administrative approvals.

ATTACHMENTS:

1. Draft Letter of Approval for Imperial 41 Special Assemblage Plan with conditions, dated June 5, 2024
2. Conceptual Site Plan
3. Draft Architectural Renderings

REVIEWERS:

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

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Mayor

Jamie A. Bogacz
Council Member
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Council Member
District Two

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Council Member
District Three

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Community Development
(239) 444-6150

June 5, 2024

DRAFT

Re: ADD24-109299-BOS: Imperial 41 Special Assemblage Plan

Dear Mayor & Council Members,

City Staff has reviewed the proposal for Imperial 41 and finds the project consistent with the following items outlined in LDC 4-875:

- The project exceeds the requirement for at least 12 percent dedicated to civic open space
- On-site parking to accommodate all uses
- A lease agreement has been established that includes development guidelines
- Multiple pedestrian points-of-access are proposed
- The maximum permitted height of 60 feet has not been exceeded and the height and scale of the proposed buildings are compatible with what is permitted on surrounding properties (located in the T5-core and T5 transects)

In addition to City Staff, the Applicant has also coordinated with DPZ CoDesign on proposed modifications. The Applicant has agreed to the following conditions:

1. Increase the amount and total length of louvered window treatments
2. Enhance the separation banding and treatment between the first floor and floors 2-4
3. Adjust the roof line to include more prominent features at the corners and md building, without the need for structural changes that add to the project cost
4. Open the first-floor porch space on the south side building, including more open railings
5. Include more prominent entries along Old 41 and reduce the hardscape in-between entries
6. Include the option of recessed breezeways with railings on floors 2-4

The following additional conditions would be proposed by Staff:

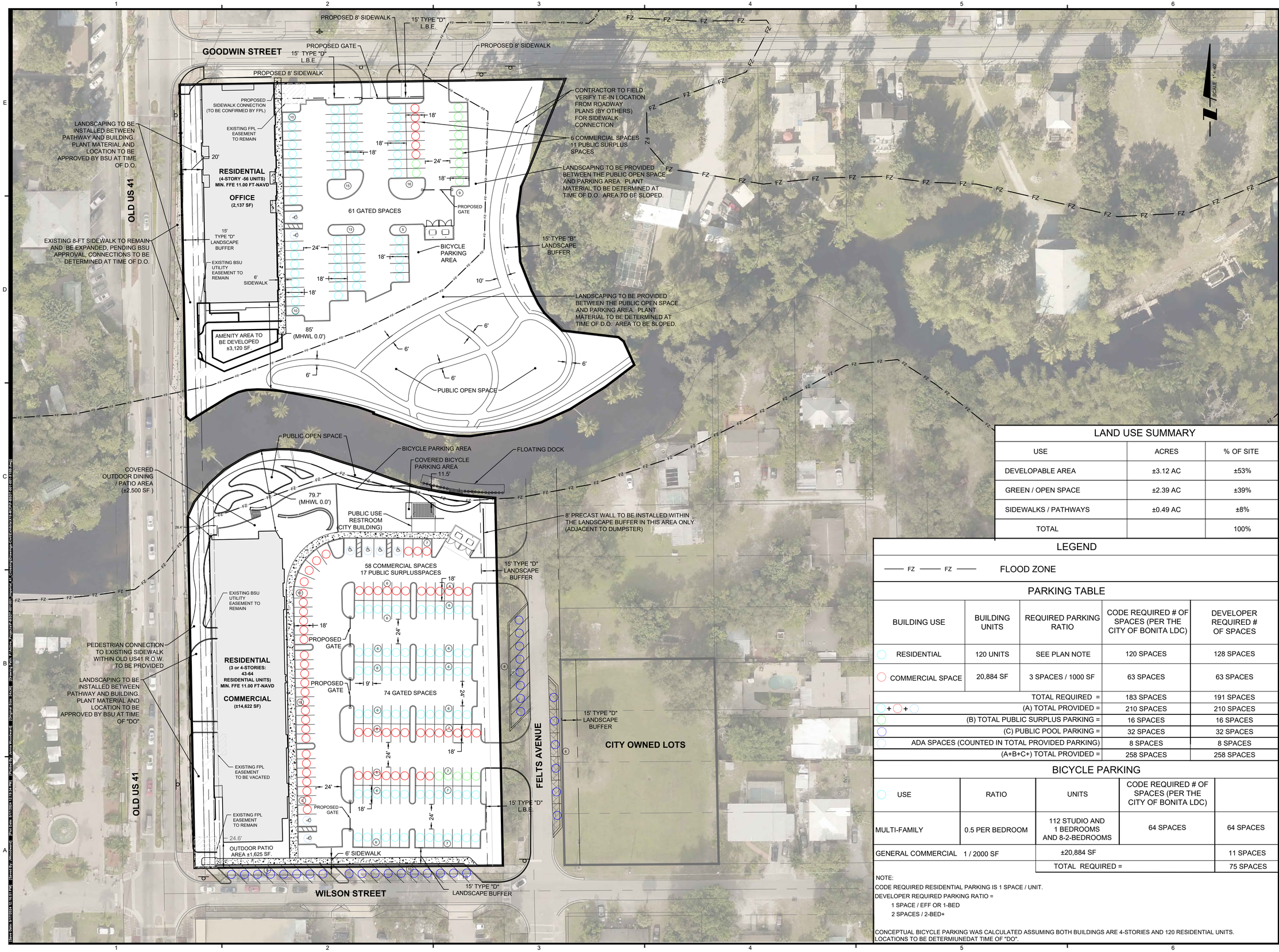
1. At time of Local Development Order(s), all required bicycle, pedestrian and multimodal facilities shall meet or exceed the intent of the specifications set forth in LDC 3-263, 3-302, 3-303, and 3-491, as may be amended; as well as all applicable elements of the City of Bonita Springs Long Range Bicycle Pedestrian Master Plan, the Old US 41 Downtown Form Based Code, and the City of Bonita Springs Public Works Department requirements and standards for consecution within the downtown redevelopment area(s).
2. Approval of this special assemblage plan does not guarantee approval of a local development order or building permit.

If the Applicant is in agreeance with the aforementioned conditions, then the Staff opinion is that the project is compliant with the requirements of the Form Based Code and the Special Assemblage plan process.

Should you require additional information or clarifications, please do not hesitate to reach out.

Regards,

John Dulmer, AICP
Director of Community Development
City of Bonita Springs, Florida



LAND USE SUMMARY

USE	ACRES	% OF SITE
DEVELOPABLE AREA	±3.12 AC	±53%
GREEN / OPEN SPACE	±2.39 AC	±39%
SIDEWALKS / PATHWAYS	±0.49 AC	±8%
TOTAL		100%

LEGEND

FZ —— FZ —— FLOOD ZONE

PARKING TABLE

BUILDING USE	BUILDING UNITS	REQUIRED PARKING RATIO	CODE REQUIRED # OF SPACES (PER THE CITY OF BONITA LDC)	DEVELOPER REQUIRED # OF SPACES
RESIDENTIAL	120 UNITS	SEE PLAN NOTE	120 SPACES	128 SPACES
COMMERCIAL SPACE	20,884 SF	3 SPACES / 1000 SF	63 SPACES	63 SPACES
		TOTAL REQUIRED =	183 SPACES	191 SPACES
+ +		(A) TOTAL PROVIDED =	210 SPACES	210 SPACES
		(B) TOTAL PUBLIC SURPLUS PARKING =	16 SPACES	16 SPACES
		(C) PUBLIC POOL PARKING =	32 SPACES	32 SPACES
		ADA SPACES (COUNTED IN TOTAL PROVIDED PARKING)	8 SPACES	8 SPACES
		(A+B+C+) TOTAL PROVIDED =	258 SPACES	258 SPACES

BICYCLE PARKING

USE	RATIO	UNITS	CODE REQUIRED # OF SPACES (PER THE CITY OF BONITA LDC)	
MULTI-FAMILY	0.5 PER BEDROOM	112 STUDIO AND 1 BEDROOMS AND 8-2-BEDROOMS	64 SPACES	64 SPACES
GENERAL COMMERCIAL	1 / 2000 SF	±20,884 SF		11 SPACES
		TOTAL REQUIRED =		75 SPACES

NOTE:
CODE REQUIRED RESIDENTIAL PARKING IS 1 SPACE / UNIT.
DEVELOPER REQUIRED PARKING RATIO =
1 SPACE / EFF OR 1-BED
2 SPACES / 2-BED+

CONCEPTUAL BICYCLE PARKING WAS CALCULATED ASSUMING BOTH BUILDINGS ARE 4-STORIES AND 120 RESIDENTIAL UNITS. LOCATIONS TO BE DETERMIUNEDAT TIME OF "DO".

PENINSULA ENGINEERING
• CIVIL ENGINEERING • LANDSCAPE ARCHITECTURE
• PLANNING AND ZONING • SURVEYING
• ENVIRONMENTAL SERVICES • LAND DEVELOPMENT
2600 Golden Gate Pkwy 239.403.6700
Naples, FL 34105 Pen-Eng.com

PROJECT:

IMPERIAL 41 - DOWNTOWN BONITA SPRINGS

TITLE:

SPECIAL ASSEMBLAGE PLAN

OWNER/CLIENT/CONSULTANT:

BARRON COLLIER DT BONITA, LLC

REVISIONS:

No:	Revision:	Date:
1	SAP CITY COMMENTS	2/14/2024
2	SAP CITY COMMENTS	05/14/24

NOTES:

PROFESSIONAL SEALS:
PROFESSIONAL ENGINEER:
FLORIDA LICENSE NUMBER:

DATUM NOTE:
ALL ELEVATIONS ARE BASED ON NAVD 88 (NORTH AMERICAN VERTICAL DATUM OF 1988).
Bar Scale: 1" = 40'
0 10' 20' 40' 80' 120'

SEC: 35 TWP: 47S RGE: 25E
City: BONITA SPRINGS County: LEE
Designed by: J FRUTH
Drawn by: S CARLISLE
Date: MAY 2024
Horizontal Scale: 1" = 40'
Vertical Scale: N.T.S.
Project Number: BSDT
File Number: P-BSDT-001-001-X18B

Sheet Number: C-X18
01 of 01

① Extend canopies/awnings over the terrace – **Canopy on west façade has been extended down the length of the building. Subject to BSU approval.**



SOUTH BUILDING (4 STORY) - SW CORNER

2 Add interruptions in the roofline. – **Roofline has been receded not to extend past the balcony feature.**

3 Create more breaks in the buildings (by redesigning the balconies and/or railings).
"Old Florida" railing to be incorporated, dependent on cost.

6 **Column sizes have increased to give a stronger colonnade presence.**



SOUTH BUILDING (4 STORY) - SW CORNER

4 Enhance the staircases to the commercial area (riverfront) by adding more green space. **Direct access from sidewalk to the building to pronounce entrances for the public.**

5 ~~Increase the terrace~~ width from 7' to a min. of 8' (10' preferred). Push the building east. – **Site limitations restrict the building from being pushed back any further than it already has.**
Due to the existing BSU easement on the western portion of the site, the buildings have been pushed eastward to avoid intervening with the easement. In addition to pushing the building back we also have certain minimum parking requirement. We are not able to intervene with the amount of parking spots required for this building program further pushing the building out eastward.



SOUTH BUILDING (4 STORY) - WEST FACADE

7 Eliminate the meandering pathway design. – **Pathway has been straightened out.**

8 Add green space in front of the ground floor units to give the illusion of private yards – **Greenspace has been added as a result of straightening out the path on the west façade of the building.**

7-8



NORTH BUILDING - NW CORNER

RENDERINGS | IMPERIAL x 41 | **BONITA SPRINGS, FL**

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-084
June 5, 2024

REQUESTED MOTION: Receive summary on Accessory Dwelling Units and provide direction to Community Development staff, as applicable.

REQUESTOR: John Dulmer, Community Development Director and Jacqueline Genson, Planning and Zoning Manager

AGENDA: City Manager Items

STRATEGIC PRIORITY: Economic Development

BACKGROUND: Accessory dwelling units (ADU) are additional living quarters typically located on single-family lots that are independent of the principal residence. They typically include a separate kitchen, bathroom, and sleeping area. ADUs can be attached to the principal residence or can be a freestanding building incidental to the principal residence. ADUs are also referred to as an accessory apartment, garage apartment, granny or mother-in law flat. An ADU is smaller in size, is typically located in the rear of a parcel, and can be required to meet property development regulations and other design requirements to achieve desired community aesthetics.

Historically, ADUs have been used as an affordable housing tool in jurisdictions across the country. However, changing demographics indicate that ADUs are used for smaller households, elderly households, young adult children, caregivers, or households with disabled members. ADUs promote mixed-income communities by providing renters with an option to live where there is existing infrastructure that is close to employment and other goods and services.

The City currently has two options that permit ADUs. The first option includes areas outside of the Downtown District, in approximately four areas of the City that have a Future Land Use Map designation of Medium Density Residential, and which are zoned Residential Two-family Conservation (TFC-2) or Residential Single-family RS-1. In this first option, the ADU is defined as an accessory apartment pursuant to LDC Sec. 4-929. The regulations allow the accessory apartment by right in the TFC-2 district and by approval of a special exception in the RS-1 district. The accessory apartment is defined as a living unit, with or without cooking facilities, constructed subordinate to a single-family dwelling unit and available for rent or lease. The design requirements are as follows:

- Maximum floor area requirements for attached and detached designs
    - Constructed as part of the principal building: maximum floor area of the accessory apartment shall not exceed 50 percent of the floor area of the main dwelling unit
    - Not constructed as part of the main dwelling: maximum floor area shall be 500 square feet or 50 percent of the floor area of the main dwelling unit, whichever is less
- Maximum lot coverage cannot be exceeded
- Limited to one family, as defined in the LDC
- The lot must be an existing lot of record which conforms to the minimum lot size of the district in which it is located. However, in no case shall the lot area be less than 6,000 square feet
- Garage conversions are permissible (attached and detached) subject to setback regulations
- Must park both single-family and apartment all within the site
- Should be designed to retain the appearance of a single-family residence
- Counts towards density requirement and incurs impact fees

The second option for ADUs in the City is within the Downtown District, which was adopted under the Form-based Code in 2020. Under this second opportunity, the ADU is defined as accessory dwelling pursuant to LDC Sec. 4-879, which allows for an accessory dwelling/apartment not greater than 800 square feet, which shares ownership and utility connections with a principal building. The regulations allow for the ADU by right in all transects except the Special District-Imperial River District (SD-IRD).

The design requirements under this section are as follows:

- Limited to one unit per principal building
- Same ownership and utility connections
- Additional design standards required pursuant to applicable transect (height, setbacks, glazing, building orientation)
- Maximum floor area of 800 square feet within or attached to a primary structure, detached, and/or above garage designs
- Cannot exceed occupation (building)/coverage (impervious) standards
- Must park all units within the site or through on-street parking standards
- Must have an entry independent of the primary dwelling, accessible from a sidewalk or from a rear alley where possible
- Does not count towards density requirement
- Does not incur impact fees

Prior to 2020, the City Council authorized a Zoning Board subcommittee to research ADUs, but the subcommittee dissolved due to the pandemic. Community Development has received inquiries about the use of ADUs in other parts of the City, primarily for housing elderly family members. There is also an interest in amending the land development code so all ADUs are regulated like those in the Downtown District, where the main benefit is that the ADU does not count towards density nor incur impact fees. Changes such as these would require amendments to the comprehensive plan and land development code. Reputable organizations such as the Florida Housing Coalition, American Planning Association, and AARP have published literature on the benefits and challenges of expanding ADUs.

STAFF RECOMMENDATION: Receive summary on Accessory Dwelling Units and provide direction to Community Development staff, as applicable.

REVIEWERS:

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

CITY OF BONITA SPRINGS
AGENDA ITEM SUMMARY

Green Sheet No. 24-06-086
June 5, 2024

REQUESTED MOTION: Discuss the City's participation regarding an application for *Active Transportation Infrastructure Investment Program* (ATIIP) grant funding for the Bonita-Estero Rail-Trail (BERT) project, and provide direction to staff.

REQUESTOR: Arleen Hunter, City Manager

AGENDA: City Manager Items

STRATEGIC PRIORITY: 2. Transportation; 8. Economic Development

BACKGROUND:

The Trust for Public Lands has requested that the City participate with Lee County, Village of Estero, and Collier County regarding an application for an Active Transportation Infrastructure Investment Program (ATIIP) grant, for the Bonita-Estero Rail-Trail (BERT) project. Lee County has agreed to be the lead applicant. The Trust for Public Lands wishes to apply for a $20 million grant which requires a non-federal match of $2.4 million. City staff is seeking the direction of Council regarding the request to participate in the required match.

STAFF RECOMMENDATION: Discussion and direction to staff.

REVIEWERS:

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