



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

City of Bonita Springs City Council Meeting Agenda

March 4, 2026
9:00 a.m.

To address the City Council during this proceeding, please complete a “Public Comment Slip” and submit it to the City Clerk, seated at the left-hand side of the dais. Blank slips are available on the table outside Council Chambers.

To submit a written comment in advance of the meeting, email your name, address, and comment to citymeetings@cityofbonitasprings.org by 1:00 p.m., March 3, 2026.

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. Reasonable accommodations 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. Public Comment on Agenda Items
6. Proclamations and Presentations:
 - A. Proclamation designating the week of March 9-15, 2026 as Flood Awareness Week in the City of Bonita Springs.
7. Consent Agenda Items:
 - A. Approve Minutes from the City Council Regular Meeting held on February 18, 2026.
 - B. Authorize staff to submit a funding application and approve funding agreement with the West Coast Inland Navigation District (WCIND) for funds to promote safe navigation and water-based activities. (Green Sheet 26-03-030)

- C. Approve Joint Project Agreement between the City and Bonita Springs Utilities for stormwater and utility improvements for the East Terry Street Stormwater and Multi-Use Pathway Project. (Green Sheet 26-03-031)
- D. Approve a contract between the City and Kisinger Campo & Associates for Construction, Engineering and Inspection (CEI) Services for the Quinn/Downs/Dean Infrastructure Project. (Green Sheet 26-03-032)
- E. Approve a contract between the City and Infrastructure Consulting and Engineering, LLC for Construction, Engineering and Inspection (CEI) Services for the East Terry Street Stormwater and Multi-Use Pathway Project. (Green Sheet 26-03-033)
- F. Approve proposals submitted by Tech Tronics for lighting and sound for the upcoming Celebrate Bonita Stroll and event. (Green Sheet 26-03-037)
 - Opportunity for City Council Comments on Consent Agenda

8. Public Hearings:

- A. (SECOND READING) AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING DIVISION 2 “PLANNING AND ZONING BOARD” OF ARTICLE II, “ADMINISTRATION,” CHAPTER 4, “ZONING,” DIVISION 2 “HISTORIC PRESERVATION BOARD” OF ARTICLE II “ADMINISTRATION AND ENFORCEMENT,” CHAPTER 5 “HISTORIC PRESERVATION,” AND, DIVISION 6 “OPEN SPACE, BUFFERING AND LANDSCAPING,” ARTICLE III “DESIGN STANDARDS AND REQUIREMENTS,” CHAPTER 3 “DEVELOPMENT STANDARDS” OF THE LAND DEVELOPMENT CODE; EXPANDING THE POWERS, DUTIES, AND PROCEDURES OF THE PLANNING AND ZONING BOARD; PROVIDING FOR OTHER NECESSARY CLARIFICATIONS AND REVISIONS OF CODE; AND, PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Green Sheet 26-03-035)

9. Mayor and Council Member Items:

- A. Discussion of crosswalk placement on Old 41 Road. (Fullick, Green Sheet 26-03-034)

10. City Attorney Items:

11. City Manager Items:

- A. Authorize staff to submit community projects for Congressman Byron Donalds FY2027 Appropriate Requests funding. (Green Sheet 26-03-036)

12. Mayor and Council Member Reports

13. Public Comment

14. Adjournment



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

City of Bonita Springs
City Council
Draft Meeting Minutes
February 18, 2026
9:00 a.m.

1. **Call to Order** - *Deputy Mayor Purdon called the meeting to order at 9:05 a.m. (Mayor Gibson arrived 9:15 a.m.)*
2. **Invocation** - *Provided by Pastor Jeff Chitwood of Anchor Christian Church.*
3. **Pledge of Allegiance**
4. **Roll Call**
 - Present: 7 Council Member Bogacz, Deputy Mayor Purdon, Council Member Carr, Council Member Corrie, Council Member Fullick, Council Member Fitzpatrick, Mayor Gibson (arrived 9:15 a.m.)*
 - Absent: 0*
5. **Public Comment on Agenda Items** - *None*
6. **Consent Agenda Items:** *Council Member Carr motioned to approve the consent agenda; Seconded by Council Member Fitzpatrick. The motion carried 6-0, with Mayor Gibson not in attendance for the vote.*
 - A. Approve Minutes from the City Council Regular Meeting held on February 4, 2026.
 - B. Approve an Interlocal Agreement with the State Attorney for the Twentieth Judicial Circuit for Prosecution Services Related to Criminal Violations of City Ordinances. (Green Sheet 26-02-020)
 - C. Approve the Special Event Permit for the Celebrate Bonita Festival 2026 and the closure of Old US 41 Road from Wilson Street to Ragsdale Street on Sat., March 28, 2026. (Green Sheet 26-02-021)
 - D. Approve amendment #1 to the FEMA Hazard Mitigation Grant Program - COVID (HMGP-COVID) Neighborhood Acquisition/Demolition Project purchase agreement 2025-005, extending the property acquisition closing date from Feb. 27, 2026 to Aug. 31, 2026. (Green Sheet 26-02-022)
 - E. Approve the revised public art lease agreement between the City of Bonita Springs and Lynx Zuckerman @ Bonita Grande, LLC for the display of two (2) art sculptures of "Love of Bonita" and "Blue Water" art pieces by artist Clayton Swartz, which will remain a part of the City's permanent art collection within the Midtown Development project. (Green Sheet 26-02-029)

7. Presentations:

A. Report from the Wonder Gardens on the 90th Anniversary Celebration. (Corrie, Green Sheet 26-02-023)

Council Member Corrie introduced Wonder Gardens Board Chair Wendy Arsenault and board members Alan and Marjo White. Chair Arsenault presented the report, highlighting key aspects of the celebration.

B. Presentation from Eve Haverfield of Turtle Time, Inc., on marine turtle nesting data on Bonita Beach and end-of-season nesting results. (Green Sheet 26-02-024)

Eve Haverfield, Director, Turtle Time, Inc., presented the 2025 data, which included a count of 17,386 marine turtle eggs and 12,979 hatchlings, reflecting a 75.7 percent hatch rate.

8. City Attorney Items:

A. (FIRST READING) AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING DIVISION 2 "PLANNING AND ZONING BOARD" OF ARTICLE II, "ADMINISTRATION," CHAPTER 4, "ZONING," DIVISION 2 "HISTORIC PRESERVATION BOARD" OF ARTICLE II "ADMINISTRATION AND ENFORCEMENT," CHAPTER 5 "HISTORIC PRESERVATION," AND, DIVISION 6 "OPEN SPACE, BUFFERING AND LANDSCAPING," ARTICLE III "DESIGN STANDARDS AND REQUIREMENTS," CHAPTER 3 "DEVELOPMENT STANDARDS" OF THE LAND DEVELOPMENT CODE; EXPANDING THE POWERS, DUTIES, AND PROCEDURES OF THE PLANNING AND ZONING BOARD; PROVIDING FOR OTHER NECESSARY CLARIFICATIONS AND REVISIONS OF CODE; AND, PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Green Sheet 26-02-028)

The City Clerk read the ordinance title block into the record. City Attorney Rooney introduced the item, noting that it is on the agenda at Council's request from December. He summarized the key components of the proposed LDC amendments, including raising the age threshold for mandatory demolition-permit delays for historic review from 50-year-old buildings/structures to those 80 years old or older.

Council Member Fitzpatrick requested that the Planning and Zoning Board receive training to support the expanded responsibilities outlined in the ordinance. Mayor Gibson concluded the discussion by announcing the ordinance will proceed to second reading.

9. City Manager Items:

A. Presentation on Code Enforcement Activity and Update on Emergency Management. (Green Sheet 26-02-025)

Tony Backhurst, Director of the Neighborhood Services Department, presented an update on Code Enforcement activities and Emergency Management operations. (Presentation on file in the Clerk's office).

B. Presentation of the December Financial Report. (Green Sheet 26-02-026)

Lisa Griggs Roth, Director of Finance and Administrative Services, presented the December financial report. She also highlighted the 2026-27 Budget Calendar, which Council approved on February 4, 2026. (Presentation on file in the Clerk's office.)

C. Presentation of the Community Development Monthly Activity Report. (Green Sheet 26-02-027)

John Dulmer, Director of the Community Development Department, presented the January business activity report and reported on the Building Fee Schedule Update. (Presentation on file in the Clerk's office)

City Manager Updates

City Manager Hunter provided a reminder of the Aquatic Facility Concept Plan Public Workshop scheduled for tomorrow, February 19, from 5:00 to 7:00 p.m. at the Bonita Springs Recreation Center. She also provided an update on the City's legislative appropriation requests and informed Council that the Community Policing Unit has now fully relocated to the Pine Avenue location.

10. Mayor and Council Member Reports

Council Member Carr - Reported on the recent Bonita Springs Utilities Board of Directors meeting and the recent Horizon Council meeting.

Council Member Fullick - Reported on the recent Tourist Development Council meeting.

Council Member Fitzpatrick - Encouraged participation in the City-Wide Clean-Up event on February 21, 2026, from 9:00 a.m. to noon.

Mayor Gibson - Reported that the Lee County School Board asked whether City Council would be interested in regularly recognizing the Bonita Springs High School Student of the Month at Council meetings. Council Members expressed support for the proposal, and Mayor Gibson will convey the affirmative response to Principal Jeffrey Estes.

11. Public Comment

Ben Hershenson - Commented in support of the ordinance heard today at first reading that broadens the duties of the Planning and Zoning Board.

12. Adjournment - *There being no further business, the meeting adjourned at 10:21 a.m.*

Prepared and attested by:

Michael J. Sheffield, City Clerk

APPROVED BY CITY COUNCIL

Date: _____

Mike Gibson, Mayor

ITEM TITLE: Authorize staff to submit a funding application and approve funding agreement with the West Coast Inland Navigation District (WCIND) for funds to promote safe navigation and water-based activities.

REQUESTOR: Lisa Griggs Roth, CPA, Director of Financial and Administrative Services

AGENDA SECTION: Consent

STRATEGIC PRIORITY: #5 Stengthen City Finances

BACKGROUND:

The West Coast Inland Navigation District (WCIND) is a multi-county special taxing district pursuant to Rule 66A-2.007, F.A.C., Funding Conditions. Lee County Natural Resources Division administers the WCIND funding applications for waterway projects that promote safe navigation and water-based activities. The WCIND (West Coast Inland Navigation District) Waterway Development Program Proposal Form for Sub-grantees is a Lee County waterway program provided through the Lee County Natural Resources Division, with applications solicited almost one year in advance of funding.

Eligible projects must relate directly to navigation in Lee County and must address one of the following categories: Public Navigation, Boating Safety and Education (Fire/Rescue), or Marine Law Enforcement. The WCIND program has encouraged that the City provide a match amount equal to the amount requested. The City was awarded and is currently administrating a grant of \$40,000 in Fiscal Year 2025-2026 from WCIND, with the City's budgeted match in the amount of \$40,000.

Staff requests approval of the application to WCIND with a total project cost of approximately \$80,000 (30.708.521.3436) for continued Marine Law Enforcement on Lee County waterways of the Imperial River and beach areas. The City will provide a match amount of \$40,000 with the caveat that the match funds will be available in the Fiscal Year 2026-2027 budget; if not included in the budget, the WCIND application will be withdrawn.

STAFF RECOMMENDATION: Authorize staff to submit a funding application and approve funding agreement with the West Coast Inland Navigation District (WCIND) for funds to promote safe navigation and water-based activities

ATTACHMENTS: none

REVIEWERS:

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

ITEM TITLE: Approve Joint Project Agreement between the City and Bonita Springs Utilities for stormwater and utility improvements for the East Terry Street Stormwater and Multi-Use Pathway Project.

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA SECTION: Consent

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

BACKGROUND: The focus of the East Terry Street Stormwater and Multi-Use Pathway Project is to provide much needed stormwater infrastructure improvements along the corridor. The City is using federal U.S. Housing and Urban Development, Community Development Block Grant-Mitigation (HUD CDBG-MIT) funds to upgrade the stormwater improvements and provide an enhanced multi-use pathway, traffic signal at Pinecrest/Southern Pines Drive and a roundabout at Morton Avenue.

The proposed stormwater improvements will create utility conflicts in certain locations of the project between the City's improvements and the Bonita Springs Utilities (BSU) water and wastewater utility lines. In some instances, the utility lines will need to be relocated. The construction of the new improvements will have an impact on the City's project construction timing. Recognizing this, and the opportunity to deliver the most cost-effective and timely projects for both the City and Bonita Springs Utilities have agreed to partner on the project to allow for one General Contractor, working for the City, to construct all the improvements. One General Contractor allows the project to be constructed in the most efficient manner.

The Joint Project Agreement between the City and Bonita Springs Utilities allows the City to oversee the overall construction project, with the utility company inspecting and approving their portions of the work. The project account number is 30.250.541.5416364.54.63.54163.

STAFF RECOMMENDATION: Approve Joint Project Agreement between the City and Bonita Springs Utilities for stormwater and utility improvements for the East Terry Street Stormwater and Multi-Use Pathway Project.

ATTACHMENTS:

1. East Terry Street Joint Project Agreement

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Dept. Director:	Matt Feeny

CITY OF BONITA SPRINGS

and

BONITA SPRINGS UTILITIES, INC.

**JOINT PROJECT AGREEMENT FOR
STORMWATER AND UTILITY**

INSTALLATION

THIS AGREEMENT, made and entered into this _____ day of _____, 2026, by and between **CITY OF BONITA SPRINGS**, a political subdivision of the State of Florida, hereinafter referred to as “City”, and **BONITA SPRINGS UTILITIES, INC.**, a Florida not for profit corporation, hereinafter referred to as “BSU”, each individually a “PARTY” and collectively the “PARTIES”.

WITNESSETH:

WHEREAS, City is improving drainage and pathways along East Terry Street, designated as “*East Terry Street Stormwater & Multi-Use Pathway Project*” and referenced herein as the “E. Terry Project”, and

WHEREAS, the City has received financial assistance from the U.S. Housing and Urban Development Department (HUD) through the Community Development Block Grant – Mitigation (CDBG-MIT) Program administered by Florida Commerce, by which compliance with federal laws and regulations will be required, as described in subrecipient agreement MT119 between FloridaCommerce and the City. The City has also received financial assistance from Federal Highway Administration through the Florida Department of Transportation Local Agency Program. Federal laws include affirmative action clauses, labor standards in accordance with the Davis-Bacon Act and the Copeland Anti- Kick Back Act, record retention clause, among others.

WHEREAS, BSU maintains potable water transmission and wastewater collection infrastructure within the limits of the E. Terry Project, including infrastructure located within and outside previously established and recorded BSU easements, and this infrastructure is referred to collectively herein as “BSU Mains”, and

WHEREAS, construction of the E. Terry Project requires relocation of a portion of the BSU Mains in conflict with the project which are located outside previously established and recorded BSU easements, such utility relocation work designated hereinafter as “BSU Non-Easement Utility Work”, and

WHEREAS, construction of the E. Terry Project also requires relocation of a portion of the BSU Mains in conflict with the project which are located within previously established and recorded BSU easements, such utility relocation work designated

hereinafter as “BSU Easement Utility Work” (the BSU Non-Easement Utility Work and the BSU Easement Utility Work shall be referred to collectively herein as “BSU Utility Work”), and

WHEREAS, BSU is responsible for all costs attributable to Design, Permitting, Construction Engineering and Inspection, and Construction of the BSU Non-Easement Utility Work, referred to hereafter as “Cost of BSU Non-Easement Utility Work”, and

WHEREAS, the City is responsible for all costs attributable to Design, Permitting, Construction Engineering and Inspection, and Construction of the BSU Easement Utility Work, referred to hereafter as “Cost of BSU Easement Utility Work”, and

WHEREAS, the City is responsible for all stormwater, roadway and pathway related costs associated with Design, Permitting, Construction Engineering and Inspection, and Construction of the E. Terry Project, hereinafter referred to as “Cost of the E. Terry Project”, with the exception of the BSU Non-Easement Utility Work;

WHEREAS, BSU has requested the City to include in the City’s construction contract, hereinafter referred to as “Contract”, for the E. Terry Project certain plans and specifications furnished by BSU for the BSU Utility Work; and

WHEREAS, the City has included plans provided and approved by BSU for the BSU Utility Work in its Request for Bid Documents as Bid Alternate A and has requested bids associated with such BSU Utility Work;

WHEREAS, the City and BSU, working jointly with support and authority as the issues relate to BSU Utility Work and stormwater improvements will facilitate the bid document, advertisement, and bid opening and has reserved the right to award a Contract associated with the construction of the E. Terry Project and has further reserved the right to reject all bids associated with the project;

WHEREAS, the City has reserved the right to award a contract associated with Bid Alternate A and has further reserved the right to reject all bids associated with Bid Alternate A;

WHEREAS, the City and BSU have determined that it serves a public purpose and is in the public interest to enter into this JOINT PROJECT AGREEMENT FOR STORMWATER AND UTILITY INSTALLATION (hereafter “JPA”) providing for such work.

NOW, THEREFORE, in consideration of the above premises and other good and valuable consideration, the receipt whereof is hereby acknowledged, and in further consideration of the mutual covenants hereinafter contained, it is agreed by the parties as follows:

1. In the event the City awards a Contract with respect to the BSU Utility Work (subject to the reasonable approval of BSU as set forth below), BSU’s obligations under this JPA shall not arise unless and until the Addendum to City of Bonita Springs Request

for Bid, or other similar agreement relating to the BSU Utility Work, has been fully executed on behalf of the Contractor, the City and BSU.

2. BSU shall be responsible for reimbursing the City for all expenses incurred by the City attributable to the construction, engineering or design work of the BSU Non-Easement Utility Work as set forth in Bid Alternate A.

The City shall coordinate with BSU on the award of the bid alternate to the lowest responsive and responsible bidder, so determined on the sum of the base bid plus additive alternate for BSU Utility Work. The Basis of Award for this bid shall be the lowest responsive, responsible bidder as determined by the Base Bid or any combination thereof. Should BSU object to the pricing of Bid Alternate A (BSU Utility Work) and consider the alternate to be an "unbalanced bid" BSU will be required to document why and how it was determined to be an "unbalanced bid" and submit their objection in writing to the City within 15 days of the bid opening. At that time, the City and BSU shall jointly review the objection and determine if Bid Alternate A to be a balanced or unbalanced bid for the BSU Utility Work. The City and BSU further reserves the right to negotiate the alternate cost(s) with the apparent low bidder and/or consider award to the next apparent responsive and responsible low bidder and/or reject and re-bid the project. The determination of an unbalanced bid and/or any further action shall be at the sole discretion of the City and BSU. BSU shall not unreasonably delay the bid award to the most responsive, responsible contractor as the federal funding for the E. Terry Project has a strict timeliness spending requirement.

4. The coordination of BSU Utility Work with that of the City's work, their contractors, subcontractors, and other utility relocation contractors associated with this project will be the responsibility of the City, and BSU shall cooperate fully in this matter. All information required for Change Orders, Supplemental Agreements or Requests for Information pertaining to BSU Utility Work or otherwise related to subject matter of this Agreement shall be promptly furnished to the City by BSU. BSU shall have the right to approve or reject any and all proposed Change Orders or Supplemental Agreements pertaining to BSU Utility Work in its absolute discretion. All change orders, supplemental agreements or Request for Information shall be communicated in a timely manner that will not cause delay of the work.
5. BSU, at its sole expense, will furnish all inspection services and supervision for the installation of pipe, valves and appurtenances, placement of pipe bedding, backfill and all pipe testing of the BSU Utility Work, and will also furnish City with progress reports and daily records, approved quantities and amounts for periodic and final pay estimates. The provisions of this section shall not be interpreted to mean or suggest that BSU is assuming responsibility for the means and methods of construction, or for implementing safety procedures, with respect to the BSU Utility Work. This provision is solely intended to confirm that, to the extent the City is obligated or permitted to perform inspection or supervision services pursuant to its Contract, BSU shall be assuming responsibility for such services with respect to the BSU Utility Work.

6. All adjustments, relocations, repairs and incidentals required to be performed to the BSU Mains within the project limits and not included in the Contract shall be the sole responsibility of BSU. All such work shall be coordinated with the construction of this project in a manner that will not cause delay to the work. BSU shall have the right to retain its own forces, including outside contractors, in connection with the performance of such adjustments, relocations, repairs and incidental work in order to maintain service to BSU customers.
7. BSU agrees that it will, upon the execution of this Agreement and notification of the final bid cost for BSU Utility Work, set aside in an appropriate account, the Cost of the BSU Non-Easement Utility Work plus a 10% BSU controlled contingency. Every thirty (30) days upon receipt of invoice(s) from the Contractor, the City will submit said invoice(s) to BSU detailing the BSU Utility Work performed. BSU shall have the right to inspect all work associated with any invoice and shall have the right to advise City and Contractor of any appropriate corrective work required with respect to the BSU Utility Work. BSU shall notify the City in writing immediately upon receipt of the contractor's invoice(s) of any disputes for reimbursement of quantities and amounts associated with work outlined in the invoice(s). Upon review and approval of the invoice by BSU, BSU will pay the City within 15 days. BSU's obligation to make payment shall be conditioned upon the City providing BSU with any and all appropriate documentation reasonably required by BSU to confirm the amounts owing, as well as appropriate lien or bond waiver forms and a Final Contractor's Affidavit in connection with the final invoice. BSU's obligation to make payment to the City shall be limited specifically to the amount of the Contractor's invoice specifically associated with the BSU Non-Easement Utility Work. In the absence of change orders, BSU's total payment obligation shall be limited to the pricing attributable to the BSU Utility Work as set forth in the approved Bid Alternate A.
8. The City will notify BSU promptly upon being advised by Contractor that the BSU Utility Work is Substantially Complete. BSU will be afforded a sufficient opportunity to inspect and test all aspects of the BSU Utility Work and advise of any defects or punchlist items to be addressed. Upon completion and acceptance of the work, BSU shall own, control, maintain, and be responsible for all BSU utility facilities (potable water and wastewater infrastructure) associated with the work described herein, in accordance with the Franchise Agreement between the City and BSU created by Ordinance No. 02-14, and as amended. The City shall own, control maintain and be responsible for all conflict structures in the storm water drainage network where BSU infrastructure intersects the storm water drainage network at a conflicting elevation.
9. Upon completion of the work, the City shall, at the earliest date practicable, furnish BSU copies of its final and complete BSU Utility Work billing of all costs incurred in connection with the work performed here under, such statement to follow as closely as possible the order of the items contained in BSU'S portion of the Contract. The final billing shall show the description and site of the project; the date on which the first work was performed; the date on which the earliest item of billed expenses was incurred; the date on which the last work was performed, or the last item of billed expenses was incurred; and the location where the records and accounts bill can be audited. Adequate reference shall be made in the billing to City records, accounts or other

relevant documents. All cost records and accounts shall be subject to audit by a representative of Florida Commerce, Florida Department of Transportation Local Agency Project, the City and/or BSU.

10. This Agreement, together with the Addendum to City of Bonita Springs Request for Bid agreement (or such other similar agreement as may be executed by the City, Contractor and BSU with respect to the BSU Utility Work) as well as the terms of the Contract between the City and Contractor (along with all design plans, specification, schedules and similar agreements incorporated into any of the foregoing) constitutes the entire understanding between the PARTIES, and any previous Agreements whether written or oral, shall be superseded by the Agreement with the exception of the agreement between BSU and the City known as the Franchise Agreement By, Between and Among Bonita Springs Utilities, Inc., the City of Bonita Springs, Florida, and Lee County, the terms of which shall not be affected by this Agreement.
11. This Agreement may be amended upon the concurrence of both PARTIES and executed with the same formalities as this original Agreement.
12. The PARTIES agree that by execution of this Joint Project Agreement, no PARTY will be deemed to have waived its statutory defense of sovereign immunity or increased its limits of liability as provided for by Section 768.28, Florida Statutes.
13. This Joint Project Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
14. The term of this Agreement shall be effective once all PARTIES have executed the agreement and shall continue until terminated by either PARTY. Either PARTY may terminate this Agreement by giving the other PARTY ninety (90) days written notice of termination.
15. Nothing in the Joint Project Agreement or any of the other Contract Documents shall be interpreted or construed as creating an agency or joint venture relationship between the City and BSU. Rather, this Joint Project Agreement is merely intended to memorialize the rights and obligations of the PARTIES hereto with respect to the BSU Utility Work.

(This section intentionally left blank)

IN WITNESS WHEREOF, the PARTIES hereto have caused these presents to be executed by their duly authorized officers and their official seals hereto affixed, the day and year first above written.

IN WITNESS WHEREOF, the PARTIES hereto, by their duly authorized representatives, have executed this Agreement on the dates shown below to be effective the day and year first shown above.

Bonita Springs Utilities, Inc., a Florida not for profit corporation

By: Richard Garner,
President

Richard Lam, President

Date: 2-17-2026

CITY:

CITY OF BONITA SPRINGS, FLORIDA

ATTEST: Michael J. Sheffield, Clerk

By: _____
Clerk

Michael S. Gibson, Mayor

(Seal)

Date: _____

APPROVED AS TO FORM: _____
City Attorney's Office

ITEM TITLE: Approve a contract between the City and Kisinger Campo & Associates for Construction, Engineering and Inspection (CEI) Services for the Quinn/Downs/Dean Infrastructure Project.

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA SECTION: Consent

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

BACKGROUND: The City advertised for Construction, Engineering and Inspection (CEI) Services through RFQ 25-20 on November 7, 2025 with a closing date of December 11, 2025. Kisinger Campo & Associates was one of three firms selected for a continuing services contract (approved January 21, 2026, BSC 26-02-032) for inspection services.

Based on experience, capacity and capability, Kisinger Campo & Associates was chosen to provide CEI Services for the Quinn/Downs/Dean Infrastructure Project. Staff negotiated a scope of work and fee that is commensurate with the services to be provided. Fees will be paid through U.S. Housing and Urban Development Community Development Block Grant-Mitigation (HUD CDBG-MIT) funding proved by Florida Commerce as a result of the Hurricane Irma disaster in September 2017 (account number 30.250.538.5386810.53.68.53868).

STAFF RECOMMENDATION: Approve a contract between the City and Kisinger Campo & Associates for Construction, Engineering and Inspection (CEI) Services for the Quinn/Downs/Dean Infrastructure Project

ATTACHMENTS:

1. Kisinger Campo & Associates Contract

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Dept. Director:	Matt Feeney

CITY OF BONITA SPRINGS, FLORIDA
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (hereinafter referred to as "Agreement") is made and entered into this _____ day of _____, 2026, between the City of Bonita Springs, a municipality incorporated in the State of Florida (hereinafter referred to as the "City") and Kisinger Campo & Associates, Corp. (hereinafter referred to as the "Consultant").

WITNESSETH

WHEREAS, the City desires to obtain the professional services of said Consultant to provide and perform professional services as further described hereinafter concerning the project to be referred to and identified as: CEI Services for the Quinn/Downs/Dean West of Imperial Parkway Infrastructure Project, and

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

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

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

ARTICLE 1.00-SCOPE OF PROFESSIONAL SERVICES

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

1.01 COMPLIANCE WITH FEDERAL LAW, REGULATIONS AND EXECUTIVE ORDERS

This is an acknowledgement that U.S. Housing and Urban Development (HUD) Community Development Block Grant-Mitigation (CDBG-MIT) financial assistance will be used to fund all or a portion of the contract. The consultant will comply with all applicable federal laws, regulations, executive orders, HUD CDBG-MIT policies, procedures and directives as outlined in Exhibit L.

ARTICLE 2.00-DEFINITIONS

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

2.01 CITY

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

2.02 CONSULTANT

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

2.03 PROFESSIONAL SERVICES

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

2.04 SUB-CONSULTANT

The term "Sub-Consultant" shall refer to any individual or firm offering professional services which is engaged by the Consultant to assist the Consultant in providing and performing the professional services, work and materials for which the

Consultant is contractually obligated, responsible and liable to provide and perform under this Agreement. The City shall not be a party to, responsible or liable for, or assume any obligation whatever for any agreement entered into between the Consultant and any sub-consultant.

2.05 SUBCONTRACTOR

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

2.06 PROJECT

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

2.07 BASIC SERVICES

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

2.08 ADDITIONAL SERVICES

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

2.09 CHANGE ORDER

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

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

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

2.10 SUPPLEMENTAL TASK AUTHORIZATION

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

2.11 CITY MANAGER

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

2.12 PROJECT MANAGER

The term "Project Manager" shall refer to the person employed or retained by the City and designated, in writing, to serve and act on the City's behalf to provide direct contact and communication between the City and Consultant with respect to providing information, assistance, guidance, coordination, review, approval and acceptance of the professional services, work and materials to be provided and performed by the Consultant pursuant to this Agreement and such written change order(s) and supplemental task authorization(s) as are authorized. The Project Manager is not authorized to, and shall not, issue any verbal, or written, request or instruction to the Consultant that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever the: (1) scope of services to be provided and performed by the Consultant; (2) the time the Consultant is obligated to commence and complete all such services; (3) the amount of compensation the City is obligated or committed to pay the Consultant. The Project Manager shall review and make appropriate recommendations on all requests submitted by the Consultant for payment for services and work provided and performed, and reimbursable costs and expense, as provided for in this Agreement and change order(s), supplemental task authorization(s) thereto.

2.13 LUMP SUM FEE(S)

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

2.14 NOT-TO-EXCEED FEE(S)

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

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

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

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

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

ARTICLE 3.00-OBLIGATIONS OF THE CONSULTANT

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

3.01 LICENSES

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

3.02 PERSONNEL

1) QUALIFIED PERSONNEL

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

2) CONSULTANT'S PROJECT DIRECTOR

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

3) CONSULTANT'S STAFF

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

4) REMOVAL OF PERSONNEL

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

5) IMMIGRATION LAW COMPLIANCE

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

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

6) The Consultant shall comply with 2 CFR Part 200 Appendix II and in particular the following information shown in 2 CFR Part 200.321:

Contracting with small and minority businesses, women owned enterprises, and labor surplus area firms. The City of Bonita Springs requires the Prime Contractor to take and document all necessary affirmative steps must include:

- 1) Placing qualified small and minority businesses and women business enterprises on solicitation lists;
- 2) Assuring that small and minority businesses and women business enterprises are solicited whenever they are potential sources;

- 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women business enterprises;
- 4) Establishing delivery schedules, where the requirement permits, which encourages participation by small and minority businesses, and women business enterprises;
- 5) Using the services as assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency

3.03 TIMELY ACCOMPLISHMENT OF SERVICES

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

3.04 STANDARDS OF PROFESSIONAL SERVICE

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

3.05 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

1) RESPONSIBILITY TO CORRECT

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

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

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

3.06 LIABILITY AND HOLD HARMLESS

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

3.07 SCRUTINIZED COMPANIES STATEMENT

Consultant certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to Florida Statute §287.135, the City may immediately terminate this Agreement at its sole option if the Consultant is found to have submitted a false certification; or if the Consultant is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement. As provided in Florida Statute 287.135(8), if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

If this Agreement is for more than one million dollars, the Consultant certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Consultant is found to have submitted a false certification; or if the Consultant is placed on the Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

As provided in Subsection 287.133(2)(a), Florida Statutes, as it relates to the management of an entity that has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate.

As provided in Subsection 287.607.1501(1), Florida Statutes. A foreign corporation may not transact business in the state of Florida until it obtains a certificate of authority from the Department of State.

3.08 NOT TO DIVULGE CERTAIN INFORMATION

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

3.09 CONSULTANT TO REPAIR PROPERTY DAMAGE CAUSED BY THE CONSULTANT

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

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

3.10 RESPONSIBILITY FOR ESTIMATES

- 1) In the event the services required pursuant to this Agreement include the Consultant preparing and submitting to the City cost estimates, the Consultant, by exercise of this experience, effort, knowledge and judgment, shall develop such cost estimates as are set forth in, or as may be required under this Agreement and shall be held accountable, responsible and liable for the accuracy, completeness, and corrections of any and all such cost estimates. For purposes of the liability provisions of this article only, the Consultant's estimate(s) shall be considered valid and effective for a period of six (6) months from the date of the City's acceptance of the estimate(s). Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost.
- 2) The cost estimates of Consultants or sub-consultants engaged by Consultants, for the appraisal or valuation of property or easements, or the estimate of damages or costs associated with the acquisition of property or easements are exempted from the provisions provided in Consultant to Repair Property Damage Caused by the Consultant.

3) COST ESTIMATES

a) ORDER OF MAGNITUDE ESTIMATE

This is an approximate estimate made without detailed architect/engineering data. Examples include, but are not limited to, an estimate from cost-capacity curves, an estimate using scale-up or scale-down factors, and an approximate ratio estimate. This type of estimate shall be accurate within plus twenty percent (20%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the order of magnitude estimate shall be recoverable by the City.

b) BUDGET ESTIMATE

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

c) CONSTRUCTION COST ESTIMATE

A construction cost estimate for purposes of this Agreement is an estimate prepared on the basis of well-defined engineering/architectural data and on detailed information set forth in specifications, designs or drawings which are to be used as a basis for obtaining bids or price proposals for constructing the project. This type of estimate shall be accurate within plus or minus twenty percent (20%) of the cost of the construction of the project. The accuracy and reliability of a construction cost estimate is vital to the City's interests because it may be used for such purposes as, but not limited to the following: budgeting, obtaining, allocating or obligating funds for the project; evaluating and determining the reasonableness and acceptableness of bids or price proposals for construction project.

In the event the City solicits and receives bids or price proposals from contractors on a construction project based on specifications, design, drawings and a construction cost estimate prepared by the Consultant, and the lowest bid or price proposal, submitted by a responsive and responsible bidder or proposer, which bid or price proposal exceeds the amount of the Consultant's construction cost estimate by more than the percent accuracy set forth hereinabove, the Consultant shall, perform the following service with additional compensation.

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

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

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

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

3.11 PERMITS

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

3.12 ADDITIONAL SERVICES

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

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

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

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

3.13 TRUTH-IN-NEGOTIATIONS CERTIFICATE

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

3.14 COMPLETION OF TASKS

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

ARTICLE 4.00-OBLIGATIONS OF THE CITY

4.01 DESIGNATION OF PROJECT MANAGER

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

4.02 AVAILABILITY OF CITY INFORMATION

1) PROJECT GUIDELINES AND CRITERIA

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

2) CITY TO PROVIDE PERTINENT REFERENCE MATERIAL

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

4.03 AVAILABILITY OF CITY'S DESIGNATED REPRESENTATIVES

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

4.04 ACCESS TO CITY PROPERTY

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

ARTICLE 5.00-COMPENSATION AND METHOD OF PAYMENT

5.01 BASIC AND ADDITIONAL SERVICES

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

5.02 METHOD OF PAYMENT

1) MONTHLY STATEMENTS

The Consultant shall be entitled to submit not more than one (1) invoice statement to the City each calendar month covering services rendered during the preceding calendar month. The Consultant's invoice statement(s) shall be itemized to correspond to the basis of compensation as set forth in the Agreement or change order(s) and supplemental task authorization(s) thereunder.

2) PAYMENT FOR SERVICES PERFORMED

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

- a) The City shall pay Consultant on the basis of services completed for tasks set forth in the Scope of Professional Services and the Compensation and Method of Payment, as evidenced by work products such as reports, drawings, specifications, etc., submitted by the Consultant and accepted by the City. No payments shall be made for Consultant's work-in-progress until service items for which payment amounts have been established and set forth in this Agreement have been completed by the Consultant and accepted by the City.
- b) The City shall pay the Consultant for services performed for tasks set forth in the Scope of Professional Services and the Compensation and Method of Payment on the basis of an invoice statement covering Consultant's work-in-progress expressed as a percentage of the total cost of the service and/or work required for each task invoiced in this manner. All such work-in-progress percentages are subject to the review and approval of the City. The decision of the City shall be final as to the work-in-progress percentages paid. Payment by the City for tasks on a work-in-progress percentage basis shall not be deemed or interpreted in any way to constitute an approval or acceptance by the City of any such service or work-in-progress. The Consultant shall be responsible for correcting, re-doing, modifying or otherwise completing the services and work required for each task before receiving final, full payment whether or not previous work-in-progress payments have been made. All tasks to be paid for on a work-in-progress percentage basis shall be agreed to by both parties to the Agreement and each task to be paid in this manner shall be identified in the Compensation and Method of Payment with the notation (WIPP). Only

tasks so identified will be paid on a work-in-progress percentage basis.

3) PAYMENT SCHEDULE

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

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

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

5.04 PAYMENT WHEN SERVICES ARE SUSPENDED

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

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

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

ARTICLE 6.00-TIME AND SCHEDULE OF PERFORMANCE

6.01 NOTICE TO PROCEED

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

6.02 TIME OF PERFORMANCE

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

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

6.03 CONSULTANT WORK SCHEDULE

The Consultant shall be required as a condition of this Agreement to prepare and submit to the City, on a monthly basis, commencing with the issuance of the notice to proceed, a Consultant's work schedule. The work schedule shall set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of

the services and work required completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in the Schedule of Performance, pursuant to this Agreement in such a manner that the Consultant's planned and actual work progress can be readily determined. The Consultant's work schedule of planned and actual work progress shall be updated and submitted by the Consultant to the City on a monthly basis.

6.04 FAILURE TO PERFORM IN A TIMELY MANNER

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

6.05 LIQUIDATED DAMAGES

In accordance with the terms set forth in the Agreement, for each task completion due date shown on Exhibit C, Time and Schedule of Performance, agreed to by City and Consultant, a penalty of \$200.00 per day will be assessed for each business day that the deliverable exceeds the agreed upon due date. Consultant shall not be liable for delays which are beyond its reasonable control, including but not limited to natural disasters, adverse weather, or acts of the City, its contractors or consultants, third parties, or other governmental agencies, but shall submit a request for a Change Order to the City extending the completion date.

ARTICLE 7.00-SECURING AGREEMENT

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

ARTICLE 8.00-CONFLICT OF INTEREST

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

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

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

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

ARTICLE 9.00-ASSIGNMENT, TRANSFER AND SUBCONTRACTS

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

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

ARTICLE 10.00-APPLICABLE LAW

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

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

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

ARTICLE 12.00-WAIVER OF BREACH

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

ARTICLE 13.00-INSURANCE

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

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

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

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

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

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

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

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

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

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

ARTICLE 14.00-DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

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

ARTICLE 15.00-REPRESENTATION OF THE CITY

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

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

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

ARTICLE 16.00-OWNERSHIP OF DOCUMENTS

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

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

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

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

ARTICLE 17.00-MAINTENANCE OF RECORDS

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

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

17.01 COMPLIANCE WITH PUBLIC RECORDS LAW

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

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

ARTICLE 18.00-HEADINGS

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

ARTICLE 19.00-ENTIRE AGREEMENT

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

The following listed documents, which are referred to hereinbefore, are attached to and are acknowledged, understood and agreed to be an integral part of this Agreement:

Exhibit A entitled Scope of Professional Services

Exhibit B entitled Compensation and Method of Payment

Exhibit C entitled Time and Schedule of Performance

Exhibit D entitled Consultant's Associated Sub-Consultant(s) and Subcontractor(s)

Exhibit E entitled Project Guidelines and Criteria

Exhibit F entitled Truth in Negotiation Certificate

Exhibit G entitled Insurance and Bonding Requirements

Exhibit G-1 entitled Vendor's Insurance Statement

Exhibit H entitled Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Exhibit I entitled Drug-Free Workplace Certification

Exhibit J entitled Scrutinized Companies & Foreign Countries of Concern Statement

Exhibit K entitled Affidavit of Compliance Florida Statutes Section 287.138 and 787.06

Exhibit L entitled Certifications CDBG-MIT Compliance Provisions

Exhibit M entitled Affidavit Certification Immigration Laws

ARTICLE 20.00-NOTICES AND ADDRESS OF RECORD

20.01 NOTICES BY CONSULTANT TO CITY

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

Matt Feeney, Assistant City Manager
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

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

20.02 NOTICES BY CITY TO CONSULTANT

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

Kisinger Campo & Associates, Corp.

13461 Parker Commons Boulevard, Suite 104

Fort Myers, FL 33912

Telephone Number: (239) 278-5999

ATTENTION: Kellie Loper, Project Director

20.03 CHANGE OF ADDRESS OF RECORD

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

ARTICLE 21.00-TERM

This Agreement is effective as of the date that the last party signs the contract.

ARTICLE 22.00-TERMINATION

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

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

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

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

22.01 CONSULTANT TO DELIVER MATERIAL

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

ARTICLE 23.00-AMENDMENTS

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

ARTICLE 24.00-MODIFICATIONS

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

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

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

ARTICLE 25.00-ACCEPTANCE

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

ARTICLE 26.00-CONTRACT PROVISIONS

All contracts shall contain the following provisions as applicable.

26.01 TERMINATION FOR CAUSE AND/OR CONVENIENCE:

The City, by written notice to the Consultant, may terminate this Agreement with or without cause, in whole or in part, when the City determines in its sole discretion that it is in the City’s best interest to do so. In the event of termination, the Consultant will not incur any new obligations for the terminated portion of the Agreement after the Consultant has received notification of termination.

If the Agreement is terminated before performance is completed, the Consultant shall be paid only for that work

satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount that is the same percentage of the Agreement price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress shall become the property of the City and shall be turned over promptly by the Consultant.

26.02 EQUAL EMPLOYMENT OPPORTUNITY:

During the performance of this Contract, the Consultant agrees as follows:

- a. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- b. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.
- c. The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.
- d. The Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Consultant's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- g. In the event of the Consultant's non-compliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended, in whole or in part, and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed as remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of labor or as otherwise provided by law.
- h. The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 4, 1965, so that such provisions will be binding upon each subconsultant or vendor. The Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

26.03 CONTRACT WORK HOURS & SAFETY STANDARDS (40 U.S.C. 3701-3708):

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each Contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that not laborer or mechanic

must be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous. These requirements does not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

26.04 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT:

Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

26.05 ENERGY POLICY AND CONSERVATION ACT:

Consultant must follow any mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

26.06 SUSPENSION AND DEBARMENT:

This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Consultant is required to verify that none of the Consultant, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction into which it enters.

This certification is a material representation of fact relied upon by City of Bonita Springs. If it is later determined that the Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City of Bonita Springs, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

26.07 BYRD ANTI-LOBBYING AMENDMENT:

Consultants who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay and 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 shall also disclose any lobbying with nonfederal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

26.08 RECORDS:

Consultant shall provide, when requested, access by the City, Federal granting agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Consultant which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts and transcriptions.

26.09 RECOVERED MATERIALS:

Consultant 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 C.F.R. 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. [78 FR 78608, De. 26, 2013, as amended at 79 FR 75855, De. 19, 2014].

26.10 REMEDIES:

In the event the Consultant fails to satisfactorily perform or has failed to adhere to the terms and conditions under this Agreement, the City may, upon fifteen (15) calendar days, exercise any one of more of the following remedies, either concurrently or consecutively:

- Withhold or suspend payment of all or any part of a request for payment.

- Require that the Consultant refund to the City any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.
- Requesting additional information from the Consultant to determine the reasons for or the extent of non-compliance or lack of performance;
- Issuing a written warning to advise that more serious measures may be taken if the situation is not corrected;
- Advising the Consultant to suspend, discontinue or refrain from incurring costs for any activities in question; or
- Requiring the Consultant to reimburse the City for the amount for costs incurred for any items determined to be ineligible.

Pursuing any of the above remedies will not keep the City from pursuing any other rights or remedies that may be otherwise available under law or inequity. If the City waives any right or remedy in this Agreement or fails to insist on strict performance by the Consultant, it will not affect, extend or waive any other right or remedy of the City, or affect the later exercise of the same right or remedy by the City for any other default by the Consultant.

26.11 HUD REIMBURSEMENT

Work completed under this Agreement may be reimbursed by HUD. The Vendor agrees to abide by and comply with all Federal terms, conditions, provisions, certifications, affidavits, or otherwise as applicable and stated within this solicitation package. Vendors are required to comply in accordance with Federal Grant Requirements, 2 CFR part 200, terms, conditions and specifications.

26.12 FEDERAL FUNDING

When property or services are procured using funds derived from a Federal grant or Agreement whether direct to the City or “pass-through” from another entity, the City is required to and will follow the Federal procurement standards in the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, 2 C.F.R. Part 200, Sections 200.318 through 200.327.

Consultant, further referred to as Consultant within this section, shall work with the City under this Agreement to assure that it will comply with the following statutes and regulations to the extent applicable:

- (1) 2 CFR, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Appendix II.
- (2) 24 CFR Part 570 – Community Development Block Grants as amended by the CDBG-DR Consolidated Waivers and applicable Alternative Requirements Notices.
- (3) The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities.

Contract Cost and Price: The City shall perform a cost or price analysis in connection with every procurement subject to Federal procurement guidelines, which shall include an independent estimate of cost prior to issuing bids or proposals. For proposals where price is not considered in the award, profit shall be negotiated as a separate element of the price. In determining whether profit is fair and reasonable, the City shall consider the complexity of work, the risk to be borne by the contractor, the contractor’s investment, the amount of subcontracting necessary, the quality of the contractor’s record and past performance, and industry profit rates for the surrounding geographical area. “Cost Plus Percentage” methods for determining profit may not be used.

26.13 DOMESTIC PREFERENCE FOR PROCUREMENT (2 CFR §200.322)

As appropriate and to the greatest extent consistent with law, state and non-state entities should, to the greatest extent practicable under its GRANT AGENCY award, provide a preference for the purchase 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. 2 CFR §200.322 also provides specific definitions for “Produced in the United States” and “manufactured products” that states should review.

Pursuing any of the above remedies will not keep the City from pursuing any other rights or remedies that may be otherwise available under law or inequity. If the City waives any right or remedy in this Agreement or fails to insist on strict performance by the Consultant, it will not affect, extend or waive any other right or remedy of the City, or affect the later exercise of the same right or remedy by the City for any other default by the Consultant.

26.14 BUSINESS RELATIONSHIP DISCLOSURE REQUIREMENT (If applicable)

Florida Statutes 112.313(2) and 112.313(7) prohibit certain business relationships on the part of public officers and employees, their spouses, and their children. It is the responsibility of the Consultant to disclose this relationship and failure to do so may result in being declared non-responsive.

Under the provisions of Florida Statutes 112.317, a failure to make any required disclosures constitutes grounds for,

and may be punished by, one or more of the following: impeachment, removal or suspension from office or employment, demotion, reduction in salary, reprimand, or a civil penalty not to exceed \$10,000.00.

26.15 BACKGROUND SCREENING COMPLIANCE

As applicable, the Consultant is responsible for ensuring that any required background screening is conducted in accordance with Florida Statutes 435. Florida Statutes 435 governs required background screenings for any employees, contractors, subcontractors, or agents of the Consultant who will have contact with any vulnerable person, as defined in the statute, or who otherwise are required to undergo a Level 1 or Level 2 background screening in accordance with Florida Law. Such requirements shall flow down to sub-contractors of the prime Consultant and Consultant shall ensure compliance with Chapter 435 of such parties.

26.16 MONITORING AND REPORTING PROGRAM PERFORMANCE

The City is responsible for the oversight of the federal funding ensuring compliance with all requirements and meeting performance expectations. The City may request information from the Consultant to provide quarterly reports to the City as the funder. The City reserves the right to request the Consultant disclose and certify and requested activities in accordance with reporting requirements noted within the Agreement Any reporting obligations or requirements shall comply with 2 CFR 200.329 (Notice of the awarding agency requirements and regulation pertaining to reporting).

26.17 PROHIBITION AGAINST CONSIDERING SOCIAL, POLITICAL, OR IDEOLOGICAL INTERESTS IN GOVERNMENT CONTRACTING

The City and Consultant agree that through the procurement process for the CEI Services for the Quinn/Downs/Dean West of Imperial Parkway Infrastructure Project that the City followed the requirements outlined in Florida Statutes 287.05701.

(1) As used in the referenced Florida Statute the term “awarding body” means

- a. For state contracts, an agency or the department
- b. For local government contracts, the governing body of a county, a municipality, a special district, or any other political subdivision of the state

(2.a) An awarding body may not request documentation of or consider a vendor’s social, political, or ideological interests when determining if the vendor is a responsible vendor.

(b) An awarding body may not give preference to a vendor based on the vendor’s social, political, or ideological interests

(3) Beginning July 1, 2023, any solicitation for the procurement of commodities or contractual services by an awarding body must include a provision notifying vendors of the provisions of this section.

ARTICLE 27.00-DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

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

The Consultant, in support of the City, will cooperate with Florida Statutes 20.055(5) that includes every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to the Florida Statutes.

(This section intentionally left blank)

This Contract may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Agreement, and, in making proof of this Contract, it shall not be necessary to produce or account for more than one such counterpart.

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

ATTEST:

CITY OF BONITA SPRINGS:

CITY CLERK

AUTHORIZED SIGNATURE

DATE

DATE

APPROVED AS TO FORM:

CITY ATTORNEY

DATE

ATTEST:

CONSULTANT:

Witness

AUTHORIZED SIGNATURE

Witness

TITLE

DATE

CORPORATE SEAL

EXHIBIT A

Scope of Professional Services
CEI Services for Quinn/Downs/Dean West of Imperial Parkway
Infrastructure Project

Date: March 4, 2026

Basic Services

Section 1 General Scope Statement

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

Section 2 Tasks

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

As per the attached Scope of Services, Manhour Estimate, and Community Outreach Services

EXHIBIT B

Compensation and Method of Payment
 CEI Services for Quinn/Downs/Dean West of Imperial Parkway
 Infrastructure Project

Date: March 4, 2026

Section 1 Basic Services/Task(s)

The City shall compensate the Consultant for providing and performing the task(s) set forth and enumerated in the Scope of Professional Services, as follows:

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

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (WIPP)
1	CEI Services, Community Outreach and Resident Compliance	\$649,866.11	NTE	
TOTAL		\$649,866.11		

(Unless list is continued on next page.)

EXHIBIT D

Consultant's Associated Sub-Consultant(s) and Subcontractor(s)
 CEI Services for Quinn/Downs/Dean West of Imperial Parkway
 Infrastructure Project

Date: March 4, 2026

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

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

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage (Yes or No)
Community Outreach	CMA Outreach, Inc. 3860 Colonial Boulevard Suite 201 Fort Myers, FL 33966	Yes
Resident Compliance	Covalt Group, Inc. 653 Hunters Run Boulevard Lakeland, FL 33809	

EXHIBIT E

Project Guidelines and Criteria
CEI Services for Quinn/Downs/Dean West of Imperial Parkway
Infrastructure Project

Date: March 4, 2026

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

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

Item No. 1

None

EXHIBIT F

Truth in Negotiation Certificate
CEI Services for Quinn/Downs/Dean West of Imperial Parkway
Infrastructure Project

Date: March 4, 2026

This Certificate is executed and given by the undersigned as a condition precedent to entering into a Professional Services Agreement with the City Council of the City of Bonita Springs for the project known as CEI Services for Quinn/Downs/Dean West of Imperial Parkway Infrastructure Project.

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

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

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

Company Name: _____

By: _____

Title: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was signed and acknowledged before me this _____ day
of _____, 20____, by _____,
who is personally known to me, or has produced _____ as
identification and who did (did not) take an oath.

Notary Public Seal

Signature of Notary Public

Printed Name of Notary Public

EXHIBIT G

Insurance and Bonding Requirements

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

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

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

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

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

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

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

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

EXHIBIT H

**Certification Regarding Debarment, Suspension,
Ineligibility and Voluntary Exclusion**

Vendor Covered Transactions

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

VENDOR:

Company Name

Unique Entity ID # (from SAM.gov)

Signature

Date

Print Name

Street Address

City State Zip Code

For City of Bonita Springs use only

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

Company: is debarred is not debarred

Verified by: _____
Name

Date: _____

EXHIBIT I

Drug-Free Workplace Certification

The undersigned will provide drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensations, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of the prohibition;
2. Establishing a drug-free awareness program to inform employees about:
 - a. The dangers of drug abuse in a workplace;
 - b. The person's 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 violation;
3. Making it a requirement that each employee to be engaged in the performance of the agreement be given a copy of the statement required by item 1;
4. Notifying the employee in the statement required by item 1 that, as a condition of employment of this agreement, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after the conviction;
5. Notifying the City within ten days after receiving notice under item 4b from an employee or otherwise receiving actual notice of the conviction;
6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance, or rehabilitation program by, any employee convicted as required in Section 44-107-50; and
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of items 1,2,3,4,5, and 6.

Vendor Signature

Date

Vendor Name

Company Name

Exhibit J

Scrutinized Companies & Foreign Countries of Concern Statement

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

1. This sworn statement is submitted with Bid, Proposal, Quote, or Contract Number **CEI Services for Quinn/Downs/Dean West of Imperial Parkway Infrastructure Project.**

2. This sworn statement is submitted by _____ whose business
[Name of entity submitting sworn statement]

address is _____ and (if applicable) its Federal Employer Identification Number (FEIN) is _____ (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____).

3. My name is _____ and my relationship to the above is
[Please print name of individual signing]

4. I understand that "awarding body" as defined in section 287.135(1) (a), Florida Statutes, means, for purposes of state contracts, an agency or the department, and for purposes of local contracts, the governing body of the local governmental entity.

5. I understand that "Boycott of Israel" as defined in section 287.135(1) (b), Florida Statutes, has the same meaning as defined in s. 215.4725.

6. I understand that "business operations" as defined in section 287.135(1) (c), Florida Statutes, means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.

7. I understand that "local governmental entity" as defined in section 287.135(1) (d) means a county, municipality, special district, or other political subdivision of the state.

8. Based on information and belief, the statement, which I have marked below, is true in relation to the entity submitting this sworn statement. **[Please indicate which statements apply].**

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

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

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

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

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

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

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

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

Foreign Country of Concern (bid, proposal or contract renewal for any amount)

- The entity submitting this sworn statement does not have a "controlling interest" regarding any of the countries on the Foreign Country of Concern list.

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

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

AFFIANT Typed Name of AFFIANT

Title

STATE OF _____ COUNTY OF _____

The foregoing instrument was executed before me this _____ day of _____, 20____,

by _____ as _____ of

_____, who personally swore or affirmed that he/she is authorized to

execute this document and thereby bind the Corporation, and who is personally known to me OR has

produced _____ as identification.

NOTARY PUBLIC, State of _____

(stamp)

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For City of Bonita Springs use only

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

Scrutinized Companies that Boycott Israel List:

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

Scrutinized Companies with Activities in Sudan List:

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

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

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

Business Operations in Cuba or Syria:

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

Verified by: _____
Print Name

Date: _____

EXHIBIT K
AFFIDAVIT OF COMPLIANCE
FLORIDA STATUTES
SECTION 287.138 and 787.06

PROPOSAL NO.: RFQ 25-20 PROJECT NAME: CEI Services for Quinn/Downs/Dean West of Imperial Parkway Infrastructure Project

Before me, the undersigned authority, personally appeared (Name of Affiant) _____ who, after being duly sworn, deposes and

1. Affiant is the **(Title)** _____ of **(Business Name)** _____ which does business in the State of Florida, hereinafter called the "Vendor."
2. Vendor, pursuant to Section 287.138, Florida Statutes, certifies that (1) Vendor is not owned by a government of a foreign country of concern; (2) a government of a foreign country of concern does not have a "controlling interest" in Vendor, as defined by Section 287.138(1)(a), Florida Statutes; and (3) Vendor is not organized under the law of nor has its principal place of business in a foreign country of concern. For the purposes of this affidavit, foreign country of concern means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern, as defined in Section 287.138(1)(c), Florida Statutes, as amended from time to time.
3. Vendor, pursuant to Section 787.06, Florida Statutes, certifies that Vendor does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, as amended from time to time.
4. This Affidavit is executed by the Vendor in accordance with Section 287.138, Florida Statutes, for the purposes of preventing the City from entering contracts with foreign entities of concern which would provide Vendor access to an individual's personal identifying information.
5. This Affidavit is executed by the Vendor in accordance with Section 787.06, Florida Statutes

(Signature)

(Date)

STATE OF _____

COUNTY OF _____

The foregoing instrument was executed before me this _____ day of _____, 20____, by

_____ as _____ of

_____, who personally swore or affirmed that he/she is authorized to execute this

document and thereby bind the Corporation, and who is personally known to me OR has produced

_____ as identification.

(stamp)

NOTARY PUBLIC, State of _____

EXHIBIT L
CERTIFICATIONS
CDBG-MIT COMPLIANCE PROVISIONS
Infrastructure

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.

By signing this Exhibit, the Subrecipient and Contractors certifies they understand that all the below compliance provisions will apply to all projects that are awarded CDBG-MIT 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)

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 City 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 City's responsibility to ensure that CDBG-MIT 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 City, immediately upon demand, any assistance later received for the same purpose as the CDBG-MIT 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.

- o. **Florida Civil Rights Act of 1992, Title XLIV, Florida Statutes Chapter 760, Attachment R - Discrimination in the Treatment of Persons; Minority Representation:** This Statute was passed to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals with the state. The Florida Civil Rights Act of 1992 shall be construed according to the fair import of its terms and shall be liberally construed to further the general purposes stated in the statute and the special purposes of the particular provision involved.

4. **CERTIFICATION OF NONSEGREGATED FACILITIES:**

(Applicable to contracts and subcontracts over \$10,000)

The Subrecipient or Contractor and its sub-contractor(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, 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, if a subrecipient is a state agency or an agency of a political subdivision of a state, it and its consultants, 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. **CONSTRUCTION STANDARDS:**

While the following Construction Standards requirements are called out below, the Subrecipient also certifies and acknowledges that it has read and complies with all requirements as noted within the *CDBG-MIT Construction Standards Procedure* for Housing Programs and applicable program guidelines.

- a. **Green and Resilient Building Standards in Housing:** All new construction or rehabilitation of residential structures must meet an industry-recognized standard that has achieved certification under (i) Enterprise Green Communities; (ii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); (iii) ICC-700 National Green Building Standard Green+ Resilience; (iv) Living Building Challenge; or (v) any other equivalent comprehensive green building program acceptable to HUD. Additionally, all such covered construction must achieve a minimum energy efficiency standard, such as (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) DOE Zero Energy Ready Home; (iii) EarthCraft House, EarthCraft Multifamily; (iv) Passive House Institute Passive Building or EnerPHit certification from the Passive House Institute US (PHIUS), International Passive House Association; (v) Greenpoint Rated New Home, Greenpoint Rated Existing Home (Whole House or Whole Building label); (vi) Earth Advantage New Homes; or (vii) any other equivalent energy efficiency standard acceptable to HUD
- b. **Rehabilitation of Non-Substantially Damaged Residential Buildings (Housing):** Per Federal Register Notice 88 FR 32046, for rehabilitation other than the rehabilitation of substantially damaged residential buildings described in 6.a. above, the Subrecipient must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist.

Subrecipients must apply these guidelines to the extent applicable for the rehabilitation work undertaken, for example, the use of mold resistant products when replacing surfaces such as drywall. Products and appliances replaced as part of the rehabilitation work must be ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)-designated products or appliances.

- c. **Broadband Infrastructure in Housing:** Per Federal Register Notice 88 FR 32046, any substantial rehabilitation, as defined by 24 CFR 5.100, reconstruction, or new construction of a building with more than four units must include installation of broadband infrastructure.
- d. Elevation Standards (Housing and Infrastructure):
- i. ***Housing:*** All new construction or rehabilitation of residential structures and located in the one percent annual chance (or 100-year) floodplain must be elevated at least two feet above the base flood elevation.
- ii. ***Mixed-use and Non Residential:*** Non-residential structures and infrastructure must be elevated or floodproofed, in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above base flood elevation.
- iii. ***Critical Actions:*** Structures and services defined at 24 CFR 55.2(b)(3) and
- within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(2-3) or successor standard) to the higher of the 500-year floodplain elevation or three feet above the 100-year floodplain elevation.
- e. **Planning and Design (Infrastructure):** All newly constructed infrastructure that is assisted with CDBG-MIT funds must be designed and constructed to withstand extreme weather events and the impacts of climate change. To satisfy this requirement, the Subrecipient is required to provide resilience performance metrics as identified by the City.
- f. **Flood Control Structures (Infrastructure and Non-Residential Structures):**

Subrecipients that use CDBG-MIT funds to assist flood control structures (i.e., dams and levees) are prohibited from

using CDBG-MIT funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event, without obtaining approval from the City, HUD, and any Federal agencies that HUD determines are necessary based on their involvement or potential involvement with the levee or dam. Additional requirements and approval steps are outlined under Federal Register Notice guidance at 88 FR 32046.

7. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, VETERAN OWNED BUSINESSES, AND LABOR SURPLUS AREA FIRMS:

The Subrecipient or Contractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, veteran owned businesses, and labor surplus area firms are used in subcontracting when possible. Steps include:

- a. Placing qualified small and minority businesses, veteran owned businesses, and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's and veteran'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, veteran owned, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, veteran owned businesses, 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.

8. 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.

9. 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, county or municipal agencies.

Additionally and in accordance with 24 CFR 87, the Subrecipient certifies that it will not use CDBG-MIT funds received from the City to directly or indirectly influence legislation or any other official action by the Florida legislature, any state agency, or other local government and city (City Council) 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 City and/or the Subrecipient suspects such action of occurring, the City 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 3-1 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.

10. DEBARMENT AND SUSPENSION:

A contract award ([2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235).

By executing this Agreement or contract, the Subrecipient or Contractor verifies and affirms that it has not been suspended or debarred from participating in or receiving federal government contracts, subcontracts, loans, grants or other assistance programs and will not enter into contracts with any entity that has been suspended or debarred from federal contract work.

11. CONFLICT OF INTEREST:

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, 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.

12. DOMESTIC PREFERENCES FOR PROCUREMENTS:

Per [2 CFR 200.322](#), as appropriate and to the extent consistent with law, the subrecipient 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.

14. DAVIS-BACON AND RELATED LABOR STANDARD ACTS:

- a. **Davis Bacon Act:** Subrecipient or Contractor shall comply with the Davis Bacon Act (40 U.S.C. §§ 31413148) and 29 CFR Subtitle A, Parts 1, 3 and 5, as applicable, to construction, alteration, and repair contracts over \$2,000.00.
- b. **Anti-Kickback Act of 1986:** Subrecipient or Contractor shall ensure that all contracts comply with the Anti-Kickback Act of 1986 (41 U.S.C. §§ 5158) that prohibits attempted as well as completed "kickbacks," which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind.
- c. **Contract Work Hours and Safety Standards Act of 1962:** Subrecipient or Contractor shall ensure all contracts comply with the Contract Work Hours and Safety Standards Act of 1962 (40 U.S.C. § 3702) which requires that workers receive overtime compensation at a rate of one and one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.
- d. For the purposes of this requirement "construction work" includes, but is not limited to, rehabilitation, alteration,

demolition, installation or repair done under contract and paid for, in whole or in part, through this agreement or contract. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract").

- e. Subrecipient or Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

15. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968:

The work to be performed under this contract may be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3), and implementing regulation at [24 CFR, Part 75](#). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The responsibilities outlined in 24 CFR Part 75.19 include:

- a. Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
- b. Notifying potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts in excess of \$100,000 as required at 24 CFR 75.27.

Section 3 Clause

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, which implements Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract

for default, and debarment or suspension from future HUD assisted contracts.

The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.

- c. Facilitating the training and employment of Section 3 workers and the award of contracts to Section 3 business concerns by undertaking activities such as described in Section 75.25(b), as appropriate, to reach the goals set forth in Section 75.23 and in Federal Register Vol. 85, No. 189, page 60909, until superseded by HUD in a subsequent publication. As of September 29, 2020, the minimum Section 3 benchmark is twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.
- d. Documenting actions taken to comply with the foregoing requirements, the results of those actions taken and impediments, if any.

16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED (42 U.S.C. 4601 et. seq.)- "URA":

The Subrecipient understands that activities and projects it undertakes with CDBG-MIT funds may be subject to the URA at 49 CFR Part 24, section 104(d) of the HCDA (42 U.S.C. 5304(d)), and CDBG program requirements related to displacement, relocation, acquisition, and replacement of housing, except as modified by waivers and alternative requirements provided in Federal Register Notices 88 FR 3198 and 88 FR 32046. In such Notices, HUD waived or provided alternative requirements for the purpose of promoting the availability of decent, safe, and sanitary housing with respect to the use of CDBG-MIT funds allocated under the Consolidated Notice.

In the event of displacement because of a federally funded award, Subrecipients must comply with the URA, for any household, regardless of income, which is involuntarily and permanently displaced, and to comply with Section 104(d). The City also provides notice to Subrecipients that any demolition or disposition of public housing is subject to Section 18 of United States Housing Act of 1937, as amended, and 24 CFR Part 970.

17. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

Per [2 CFR 200.2-10](#), 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.

18. 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.

19. 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.

20. 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 copyrighted 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.

21. 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.

22. DRUG-FREE WORKPLACE AGT 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 drug-free workplace by meeting the requirements of the act.

23. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-VERIFY):

Subrecipients must certify that they will 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.
- a. E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form 1-9, 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/>.
- b. 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 the Subrecipient Agreement.

24. 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.

25. 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 City's approval of the Application for such assistance; or,
- b. Any other approval or concurrence of the City 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.

26. 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.

27. ACCESS TO RECORDS - MAINTENANCE OF RECORDS:

The City of Bonita Springs, 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 City's final closeout of the grant.

28. INSPECTION:

The authorized representative and agents of Bonita Springs 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.

29. 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.

Signed by: _____

Date: _____

Title: _____

EXHIBIT M
AFFIDAVIT CERTIFICATION
IMMIGRATION LAWS

SOLICITATION NO.: RFQ 25-20 **PROJECT NAME:** CEI Services for Quinn/Downs/Dean West of Imperial Parkway Infrastructure Project

IMMIGRATION LAW COMPLIANCE

Consistent with Bonita Springs Code §36.22 effective June 1, 2009, and Chapter 448.095, Florida Statutes, Consultant providing services to the City, as a condition of each contract, must use E-Verify to verify the employment of: any person hired during the contract term by the Contractor/Consultant and assigned by the Contractor/Consultant to perform work for the City. **Before any contract with the City is signed, proof of enrollment with E-Verify must be provided.** To register with E-Verify, go to www.uscis.gov/e-verify for information and instructions.

The Contractor/Consultant acknowledges that he is independently responsible for his own employment decisions, including hiring, disciplinary and termination decisions. The Consultant acknowledges that he will comply with the Immigration Reform and Control Act of 1986 and is committed to employing only those individuals who are authorized to work in the United States, by hiring employees who properly complete, sign and date the first section of the Immigration and Naturalization Services (INS) Form I-9 and presenting to the Contractor/Consultant the original necessary document(s) to prove identity and employment eligibility.

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

(This space intentionally left blank)

COMPANY NAME: Kisinger Campo & Associates, Corp.

Signature

Title

Date

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was signed and acknowledged before me this _____ day
of _____, 20____, by _____,
who is personally known to me, or has produced _____ as
identification and who did (did not) take an oath.

Notary Public Seal

Signature of Notary Public

Printed Name of Notary Public

CONSTRUCTION ENGINEERING AND INSPECTION

SCOPE OF SERVICES

FOR

Quinn/Downs/Dean West of Imperial Parkway Infrastructure Project

RFB 25-20

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SCOPE OF SERVICES
CONSTRUCTION ENGINEERING AND INSPECTION

1.0 PURPOSE:

This scope of services describes and defines the Construction Engineering and Inspection (CEI) services which are required for contract administration, inspection, and materials sampling and testing for the construction projects listed below.

2.0 SCOPE:

Provide services as defined in this Scope of Services, the referenced City and Florida Department of Transportation (FDOT) manuals, and procedures as applicable to this project.

The projects for which the services are required are:

Description: **Quinn/Downs/Dean West of Imperial Parkway Infrastructure Project**
County: **Lee**

Serve as the City's representative on the project and faithfully represent the City's interest in all matters, with special emphasis given to issues involving public safety, quality, timely completion of the work, and financial responsibility. Exercise independent professional judgment in performing obligations and responsibilities under this Agreement. Pursuant to Section 4.1.5 of the Construction Project Administration Manual (CPAM), the authority of the Consultant's lead person, such as the Senior Project Engineer, and the Consultant's Project Administrator shall be identical to City's Project Manager respectively and shall be interpreted as such.

The primary scope of services is as detailed in the Professional Services Agreement (hereinafter referred to as "Agreement") between the City of Bonita Springs, a municipality incorporated in the State of Florida (hereinafter referred to as the "City") and Kisinger Campo & Associates Corp. (hereinafter referred to as the "Consultant")

In addition to and in conjunction with the scope of services provided in the Agreement, the following additional scope of services will be performed as necessary:

2.1 CEI Services:

Coordinate the Construction Contract administration activities of all parties other than the Contractor involved in completing the construction project. Notwithstanding the above, the Consultant is not liable to the City for failure of such parties to follow written direction issued by the Consultant.

CEI Services shall include maintaining the required level of surveillance of Contractor activities and interpreting the Contract Documents for the Construction Contract. Maintain complete, accurate records of all activities and events relating to the project and properly document all project changes. The following services shall be performed:

- (1) Schedule and conduct a pre-service meeting with City staff. This meeting will be used to clarify the consultant's role on the project, establish expectations, and allow clarification on City administrative policies, procedures, and preferences.
- (2) Schedule and conduct the pre-construction meeting with project stake holders.

Prepare the agenda and document the meeting with minutes which will be sent to attendees.

- (3) Set-up and maintain a Microsoft Teams SharePoint site to allow access to project files which will include shop drawings and submittals. The City may elect to not utilize the SharePoint if file sizes allow email transfer.
- (4) Establish a shop drawing/submittal tracking spreadsheet. Spreadsheet is to include sections for Requests for Information (RFIs), Requests for Modifications (RFMs), and Requests for Corrections (RFCs) in accordance with FDOT's CPAM.
- (5) Record and respond to RFIs, RFMs, and RFCs from the Contractor during construction and provide recommendations for resolution. Coordinate with the EOR as appropriate. All RFIs shall be responded to in writing within seven (7) calendar days of receipt of electronic submission; however, the Consultant will expedite this process to the maximum extent practical especially when the RFI pertains to a critical task item. All responses shall be submitted electronically.
- (6) Provide initial/cursory reviews of shop drawings/submittals. Coordinate the review between the Consultant, the City, and the Engineer-of-Record (EOR). Response to shop drawings/submittals shall be within seven (7) calendar days from the receipt of the electronic submission. Approvals and rejections shall be submitted in writing, electronically. If a submittal is rejected, the reasons for the rejection shall be clearly noted.
- (7) Attend Progress Meetings during the construction phase. These are anticipated to take place weekly.
- (8) Verify that the Contractor is conducting inspections, preparing reports and monitoring all storm water pollution prevention measures associated with the project. For each project that requires the use of the NPDES General Permit, provide at least one (1) inspector who has successfully completed the "Florida Stormwater, Erosion, and Sedimentation Control Training and Certification Program for Inspectors and Contractors.". The Consultant's inspector shall be familiar with the requirements set forth in the FEDERAL REGISTER, Vol. 57, No. 187, Friday, September 5, 1992, pages 4412 to 4435 "Final NPDES General Permits for Storm Water Discharges from Construction Sites" and the applicable guidelines.
- (9) Analyze the Contractor's schedule(s) (i.e. baseline(s), revised baseline(s), updates, as-built, etc.) for compliance with the Contract Documents. Elements including, but not limited to, completeness, logic, durations, activity, flow, milestone dates, concurrency, resource allotment, and delays will be reviewed. Verify the schedule conforms with the construction phasing and MOT sequences, including all contract modifications. Provide a written review of the schedule identifying significant omissions, improbable or unreasonable activity durations, errors in logic, and any other concerns as detailed in CPAM.
- (10) Identify and track weather and holiday delays and any schedule impacts.
- (11) Analyze problems that arise on a project and proposals submitted by the Contractor, work to resolve such issues, and process the necessary documentation.
- (12) Monitor Contractor's Quality Control (QC) Program to assure proper

documentation and testing of materials is occurring as defined in the Contract Documents.

- (13) Monitor MOT daily, at a minimum, and notify Contractor of deficiencies immediately. Monitor site for general safety, pedestrian and public access through the site and ADA requirements.
- (14) Produce reports, verify quantity calculations, and field measure for payment purposes as needed to prevent delays in Contractor operations and to facilitate prompt processing of such information in order for the City to make timely payment to the Contractor.
- (15) Review applications for payment from the Contractor. Respond in writing regarding any deficiencies preventing a pay application from being deemed complete or accurate within seven (7) calendar days of receipt of the signed pay application from the Contractor.
- (16) The Consultant will provide the Resident Compliance Specialist (RCS) to perform Grant Compliance Services (see Section 2.2). The Consultant shall perform the field interviews, provide workspace and supplies for project compliance files.
- (17) The Consultant will provide Community Outreach Services (see Section 2.3).
- (18) Prepare and submit to the Construction Project Manager a monthly status report, in a format to be specified by the City.

2.2 Grant Compliance Services:

- (1) Attend Preconstruction Meeting and conduct the compliance portion.
- (2) Provide Bulletin Board posters to Contractor. Complete Bulletin Board inspections will be conducted monthly.
- (3) Provide project documentation for any compliance audits.
- (4) Verify E-Verify, Equal Employment requirements, and designate an EEO Officer.
- (5) Approve Certification of Sublets verifying subcontractors are not suspended/debarred, and active to work in the State of Florida through Sunbiz. Ensure the prime contractor performs with their own workforce the minimum percentage stated in the contract.
- (6) Review all subcontracts, including any lower tiers, to verify that the subcontracts have the required clauses included. The prime contractor and subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (11), Wage Rate Table, and such other provisions as City of Bonita Springs appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts.
- (7) Davis Bacon Wage Rate Review:
 - Identify the beginning/end day of each contractor's pay period as well as the regular pay date.
 - Verify that total deductions/authorizations for all nonfederal tax deductions

- are approved by the US Department of Labor (cell phone, uniforms).
 - Verify that all active workers are listed on the payroll each week. Review inspector's daily work reports and updating activity log.
 - Take immediate action against non-compliance when identified whether Non-Receipt of Payroll, Incorrect or Incomplete Statement of Compliance, and/or Payroll Violation.
 - Verify all Statements of Compliance for accuracy.
 - Identify when additional classifications are needed. Prime Contractor will submit SF-1444 form. RCS to review and forward to City of Bonita Springs for review and signature. Once received back, forward to USDOL for review and approval.
 - Ensure that all required information is listed on the payroll.
- (8) Employee Interviews - RCS to have a template labor interview form and provide it to field inspector(s) to perform the interviews. RCS reviews each interview, completes Section D and compares it against payroll, and acts on the information submitted as necessary. Sending friendly reminders to inspectors and staff required labor interviews to be conducted monthly.

2.3 Community Outreach Services:

- (1) **Coordination with Project Team**
- Project planning & review and coordination with Contractor, CEI, and City
 - Attendance at progress meetings to determine necessity of neighborhood notices, press releases, and other forms of public notifications.
- (2) **Public Involvement Activities**
- Develop and maintain mailing list of property owners/tenants in project area
 - Develop and maintain email database with property owners/tenants, elected officials, agencies, and interested parties
 - Development, preparation & mailing of project kick-off newsletters - 2 pages 11" x 17" (color double-sided) (1)
 - Prepare and distribute of project contact cards
 - Prepare Roadwatch/project updates/email blast
 - Communicate & coordinate onsite visits with affected parties
 - Distribute advance notification of construction activities
 - Distribute advance notification of access/driveway changes
 - Notifications to EMS/Fire Station/Law Enforcement Services
 - Prepare materials, maps, flyer and notices
- (3) **Public Meeting (1) – If Needed**
- Secure public meeting site (1)
 - Development, preparation & mailing of newsletters - 2 pages 11" x 17" (color double-sided) (1)
 - Preparation of press release (1)
 - Development of meeting materials (sign-in sheets, name tags, handouts, display boards, etc.)
 - Attendance at Public Meetings (set up/clean up) (1)
- (4) **Project Webpage**
- Develop project webpage
 - Maintenance of project webpage
- (5) **Public Inquiries**
- Respond to and record requests/concerns from public

3.0 LENGTH OF SERVICE:

The services for each Construction Contract shall begin upon written notification to proceed by the City.

Track the execution of the Construction Contract such that the Consultant is given timely authorization to begin work. While no personnel shall be assigned until written notification by the City has been issued, the Consultant shall be ready to assign personnel within 14 calendar days or sooner of notification. For the duration of the project, coordinate closely with the City and Contractor to minimize rescheduling of Consultant activities due to construction delays or changes in scheduling of Contractor activities.

For estimating purposes, the Consultant will be allowed an accumulation of 30 calendar days to perform preliminary administrative services prior to the issuance of the Contractor's notice to proceed on the first project and 30 calendar days to demobilize after Final Completion of the last Construction Contract.

The anticipated letting schedules and construction times for the projects are tabulated below:

<u>Construction Contract Estimate</u>		
<u>Project ID</u>	<u>Start Date</u> <u>(Mo/Day/Yr)</u>	<u>Duration</u> <u>(Days)</u>
RFB 25-24	3/4/2026	548

City of Bonita Springs Quinn Street, Dean Street, Downs Drive and West of Imperial Pkwy Neighborhood Drainage Improvements

CMA Outreach, Inc.
January 2026

CMA OUTREACH, INC. PUBLIC INVOLVEMENT TASKS		PIO PROJECT MANAGER \$159.81	COMMUNITY OUTREACH SPECIALIST SENIOR \$115.50	COMMUNITY OUTREACH SPECIALIST \$95.67	TOTAL	TOTAL DOLLARS
1.00 COORDINATION WITH PROJECT TEAM						
1.01	Project planning & review and coordination with team		16.0	32.0	48.0	\$4,909.44
1.02	Attendance at progress meetings		2.0	52.0	54.0	\$5,205.84
					102.0	\$10,115.28
2.00 PUBLIC INVOLVEMENT ACTIVITIES						
2.01	Develop and maintain mailing list of property owners/tenants in project area		2.0	4.0	6.0	\$613.68
2.02	Develop and maintain email database with property owners/tenants, elected officials, agencies, and interested parties		2.0	8.0	10.0	\$996.36
2.03	Development, preparation & mailing of project kick-off newsletters - 2 pages 11" x 17" (color double-sided) (1)	2.0	8.0	18.0	28.0	\$2,965.68
2.04	Prepare and distribute of project contact cards	1.0	2.0	3.0	6.0	\$677.82
2.05	Prepare Roadwatch/project updates/email blast		26.0	26.0	52.0	\$5,490.42
2.07	Communicate & coordinate onsite visits with affected parties		4.0	4.0	8.0	\$844.68
2.08	Distribute advance notification of construction activities	2.0	16.0	16.0	34.0	\$3,698.34
2.09	Distribute advance notification of access/driveway changes		8.0	10.0	18.0	\$1,880.70
2.10	Notifications to EMS/Fire Station & Services			6.0	6.0	\$574.02
2.11	Prepare materials, maps, flyer and notices	1.0	6.0	8.0	15.0	\$1,618.17
					183.0	\$19,359.87
3.00 PUBLIC MEETING (1) - Public Meeting (If Needed)						
3.01	Secure public meeting site (1)					\$0.00
3.02	Development, preparation & mailing of newsletters - 2 pages 11" x 17" (color double-sided) (1)					\$0.00
3.03	Preparation of press release (1)					\$0.00
3.04	Development of meeting materials (sign-in sheets, name tags, handouts, display boards, etc.)					\$0.00
3.05	Attendance at Public Meetings (set up/clean up) (1)					\$0.00
					0.0	\$0.00
4.00 PROJECT WEBPAGE						
4.01	Develop project webpage	2.0	8.0	10.0	20.0	\$2,200.32
4.02	Maintenance of project webpage			12.0	12.0	\$1,148.04
					32.0	\$3,348.36
5.00 PUBLIC INQUIRIES						
5.01	Respond & record requests/concerns from public		30.0	30.0	60.0	\$6,335.10
					60.0	\$6,335.10
	Labor Total	8.0	130.0	239.0	377.0	\$39,158.61
	Expenses					\$3,196.50
	Grand Total					\$42,355.11

OUT - OF POCKET EXPENSES (REIMBURSABLE)
CMA OUTREACH, INC.

Description of Project: City of Bonita Springs Quinn Street, Dean Street, Downs Drive and West of Imperial Pkwy Neighborhood Drainage Improvements

Community Awareness Program

	Qty						
<u>Project Kick-off Newsletter (1)</u>							
Newsletter printing for property owners & site address - 11"x17" (color) double-sided	500	x	\$	2.00	each	=	\$ 1,000.00
Postage for mailing newsletters to property owners and tenants	500	x	\$	0.78	each	=	\$ 390.00
<u>PreConstruction Public Meeting (1)</u>							
Meeting site rental (varies on location- NTE \$500.00)		x	\$	500.00		=	\$ -
Handouts (11"x17" (color) double-sided)		x	\$	2.00	each	=	\$ -
Sign-in Sheets (11" x 17" copies)		x	\$	1.00	each	=	\$ -
Display Boards		x	\$	65.00	each	=	\$ -
<u>Public Meeting Invite (1)</u>							
Invite printing for property owners & site address - 11"x17" (color) double-sided	500	x	\$	2.00	each	=	\$ 1,000.00
Postage for mailing invite to property owners and tenants	500	x	\$	0.78	each	=	\$ 390.00
Project Contact Cards	1		x \$	56.50			\$ 56.50
Miscellaneous Expense (Print of flyers, notices, and etc.)	600		x \$	0.60			\$ 360.00
Total Expenses							\$3,196.50

ITEM TITLE: Approve a contract between the City and Infrastructure Consulting and Engineering, LLC for Construction, Engineering and Inspection (CEI) Services for the East Terry Street Stormwater and Multi-Use Pathway Project.

REQUESTOR: Elly Soto McKuen, Senior Project Manager

AGENDA SECTION: Consent

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

BACKGROUND: The City advertised for Construction, Engineering and Inspection (CEI) Services through RFQ 25-20 on November 7, 2025 with a closing date of December 11, 2025. Infrastructure Engineering and Inspection, LLC was one of three firms selected for a continuing services contract (approved January 21, 2026, BSC 26-02-031) for inspection services.

Based on experience, capacity and capability, Infrastructure Consulting and Inspection, LLC was chosen to provide CEI Services for the East Terry Street Stormwater and Multi-Use Pathway Project. Staff negotiated a scope of work and fee that is commensurate with the services to be provided. Fees will be paid through a U.S. Housing and Urban Development Community Development Block Grant-Mitigation (HUD CDBG-MIT) funding provided by Florida Commerce as a result of the Hurricane Irma disaster in September 2017 (account #30.250.541.5416364.54.63.54163).

STAFF RECOMMENDATION: Approve a contract between the City and Infrastructure Consulting and Engineering, LLC for Construction, Engineering and Inspection (CEI) Services for the East Terry Street Stormwater and Multi-Use Pathway Project

ATTACHMENTS:

1. Infrastructure Consulting and Engineering, LLC Contract

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Dept. Director:	Matt Feeney

CITY OF BONITA SPRINGS, FLORIDA
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (hereinafter referred to as "Agreement") is made and entered into this _____ day of _____, 2026, between the City of Bonita Springs, a municipality incorporated in the State of Florida (hereinafter referred to as the "City") and Infrastructure Consulting & Engineering, LLC (hereinafter referred to as the "Consultant").

WITNESSETH

WHEREAS, the City desires to obtain the professional services of said Consultant to provide and perform professional services as further described hereinafter concerning the project to be referred to and identified as: CEI Services for East Terry Street Stormwater and Multi-Use Pathway Project, and

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

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

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

ARTICLE 1.00-SCOPE OF PROFESSIONAL SERVICES

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

1.01 COMPLIANCE WITH FEDERAL LAW, REGULATIONS AND EXECUTIVE ORDERS

This is an acknowledgement that U.S. Housing and Urban Development (HUD) Community Development Block Grant-Mitigation (CDBG-MIT) financial assistance will be used to fund all or a portion of the contract. The consultant will comply with all applicable federal laws, regulations, executive orders, HUD CDBG-MIT policies, procedures and directives as outlined in Exhibit L.

ARTICLE 2.00-DEFINITIONS

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

2.01 CITY

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

2.02 CONSULTANT

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

2.03 PROFESSIONAL SERVICES

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

2.04 SUB-CONSULTANT

The term "Sub-Consultant" shall refer to any individual or firm offering professional services which is engaged by the Consultant to assist the Consultant in providing and performing the professional services, work and materials for which the

Consultant is contractually obligated, responsible and liable to provide and perform under this Agreement. The City shall not be a party to, responsible or liable for, or assume any obligation whatever for any agreement entered into between the Consultant and any sub-consultant.

2.05 SUBCONTRACTOR

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

2.06 PROJECT

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

2.07 BASIC SERVICES

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

2.08 ADDITIONAL SERVICES

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

2.09 CHANGE ORDER

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

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

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

2.10 SUPPLEMENTAL TASK AUTHORIZATION

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

2.11 CITY MANAGER

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

2.12 PROJECT MANAGER

The term "Project Manager" shall refer to the person employed or retained by the City and designated, in writing, to serve and act on the City's behalf to provide direct contact and communication between the City and Consultant with respect to providing information, assistance, guidance, coordination, review, approval and acceptance of the professional services, work and materials to be provided and performed by the Consultant pursuant to this Agreement and such written change order(s) and supplemental task authorization(s) as are authorized. The Project Manager is not authorized to, and shall not, issue any verbal, or written, request or instruction to the Consultant that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever the: (1) scope of services to be provided and performed by the Consultant; (2) the time the Consultant is obligated to commence and complete all such services; (3) the amount of compensation the City is obligated or committed to pay the Consultant. The Project Manager shall review and make appropriate recommendations on all requests submitted by the Consultant for payment for services and work provided and performed, and reimbursable costs and expense, as provided for in this Agreement and change order(s), supplemental task authorization(s) thereto.

2.13 LUMP SUM FEE(S)

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

2.14 NOT-TO-EXCEED FEE(S)

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

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

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

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

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

ARTICLE 3.00-OBLIGATIONS OF THE CONSULTANT

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

3.01 LICENSES

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

3.02 PERSONNEL

1) QUALIFIED PERSONNEL

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

2) CONSULTANT'S PROJECT DIRECTOR

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

3) CONSULTANT'S STAFF

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

4) REMOVAL OF PERSONNEL

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

5) IMMIGRATION LAW COMPLIANCE

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

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

6) The Consultant shall comply with 2 CFR Part 200 Appendix II and in particular the following information shown in 2 CFR Part 200.321:

Contracting with small and minority businesses, women owned enterprises, and labor surplus area firms. The City of Bonita Springs requires the Prime Contractor to take and document all necessary affirmative steps must include:

- 1) Placing qualified small and minority businesses and women business enterprises on solicitation lists;
- 2) Assuring that small and minority businesses and women business enterprises are solicited whenever they are potential sources;

- 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women business enterprises;
- 4) Establishing delivery schedules, where the requirement permits, which encourages participation by small and minority businesses, and women business enterprises;
- 5) Using the services as assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency

3.03 TIMELY ACCOMPLISHMENT OF SERVICES

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

3.04 STANDARDS OF PROFESSIONAL SERVICE

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

3.05 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

1) RESPONSIBILITY TO CORRECT

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

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

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

3.06 LIABILITY AND HOLD HARMLESS

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

3.07 SCRUTINIZED COMPANIES STATEMENT

Consultant certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to Florida Statute §287.135, the City may immediately terminate this Agreement at its sole option if the Consultant is found to have submitted a false certification; or if the Consultant is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement. As provided in Florida Statute 287.135(8), if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

If this Agreement is for more than one million dollars, the Consultant certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Consultant is found to have submitted a false certification; or if the Consultant is placed on the Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

As provided in Subsection 287.133(2)(a), Florida Statutes, as it relates to the management of an entity that has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate.

As provided in Subsection 287.607.1501(1), Florida Statutes. A foreign corporation may not transact business in the state of Florida until it obtains a certificate of authority from the Department of State.

3.08 NOT TO DIVULGE CERTAIN INFORMATION

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

3.09 CONSULTANT TO REPAIR PROPERTY DAMAGE CAUSED BY THE CONSULTANT

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

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

3.10 RESPONSIBILITY FOR ESTIMATES

- 1) In the event the services required pursuant to this Agreement include the Consultant preparing and submitting to the City cost estimates, the Consultant, by exercise of this experience, effort, knowledge and judgment, shall develop such cost estimates as are set forth in, or as may be required under this Agreement and shall be held accountable, responsible and liable for the accuracy, completeness, and corrections of any and all such cost estimates. For purposes of the liability provisions of this article only, the Consultant's estimate(s) shall be considered valid and effective for a period of six (6) months from the date of the City's acceptance of the estimate(s). Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost.
- 2) The cost estimates of Consultants or sub-consultants engaged by Consultants, for the appraisal or valuation of property or easements, or the estimate of damages or costs associated with the acquisition of property or easements are exempted from the provisions provided in Consultant to Repair Property Damage Caused by the Consultant.

3) COST ESTIMATES

a) ORDER OF MAGNITUDE ESTIMATE

This is an approximate estimate made without detailed architect/engineering data. Examples include, but are not limited to, an estimate from cost-capacity curves, an estimate using scale-up or scale-down factors, and an approximate ratio estimate. This type of estimate shall be accurate within plus twenty percent (20%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the order of magnitude estimate shall be recoverable by the City.

b) BUDGET ESTIMATE

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

c) CONSTRUCTION COST ESTIMATE

A construction cost estimate for purposes of this Agreement is an estimate prepared on the basis of well-defined engineering/architectural data and on detailed information set forth in specifications, designs or drawings which are to be used as a basis for obtaining bids or price proposals for constructing the project. This type of estimate shall be accurate within plus or minus twenty percent (20%) of the cost of the construction of the project. The accuracy and reliability of a construction cost estimate is vital to the City's interests because it may be used for such purposes as, but not limited to the following: budgeting, obtaining, allocating or obligating funds for the project; evaluating and determining the reasonableness and acceptableness of bids or price proposals for construction project.

In the event the City solicits and receives bids or price proposals from contractors on a construction project based on specifications, design, drawings and a construction cost estimate prepared by the Consultant, and the lowest bid or price proposal, submitted by a responsive and responsible bidder or proposer, which bid or price proposal exceeds the amount of the Consultant's construction cost estimate by more than the percent accuracy set forth hereinabove, the Consultant shall, perform the following service with additional compensation.

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

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

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

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

3.11 PERMITS

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

3.12 ADDITIONAL SERVICES

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

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

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

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

3.13 TRUTH-IN-NEGOTIATIONS CERTIFICATE

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

3.14 COMPLETION OF TASKS

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

ARTICLE 4.00-OBLIGATIONS OF THE CITY

4.01 DESIGNATION OF PROJECT MANAGER

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

4.02 AVAILABILITY OF CITY INFORMATION

1) PROJECT GUIDELINES AND CRITERIA

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

2) CITY TO PROVIDE PERTINENT REFERENCE MATERIAL

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

4.03 AVAILABILITY OF CITY'S DESIGNATED REPRESENTATIVES

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

4.04 ACCESS TO CITY PROPERTY

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

ARTICLE 5.00-COMPENSATION AND METHOD OF PAYMENT

5.01 BASIC AND ADDITIONAL SERVICES

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

5.02 METHOD OF PAYMENT

1) MONTHLY STATEMENTS

The Consultant shall be entitled to submit not more than one (1) invoice statement to the City each calendar month covering services rendered during the preceding calendar month. The Consultant's invoice statement(s) shall be itemized to correspond to the basis of compensation as set forth in the Agreement or change order(s) and supplemental task authorization(s) thereunder.

2) PAYMENT FOR SERVICES PERFORMED

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

- a) The City shall pay Consultant on the basis of services completed for tasks set forth in the Scope of Professional Services and the Compensation and Method of Payment, as evidenced by work products such as reports, drawings, specifications, etc., submitted by the Consultant and accepted by the City. No payments shall be made for Consultant's work-in-progress until service items for which payment amounts have been established and set forth in this Agreement have been completed by the Consultant and accepted by the City.
- b) The City shall pay the Consultant for services performed for tasks set forth in the Scope of Professional Services and the Compensation and Method of Payment on the basis of an invoice statement covering Consultant's work-in-progress expressed as a percentage of the total cost of the service and/or work required for each task invoiced in this manner. All such work-in-progress percentages are subject to the review and approval of the City. The decision of the City shall be final as to the work-in-progress percentages paid. Payment by the City for tasks on a work-in-progress percentage basis shall not be deemed or interpreted in any way to constitute an approval or acceptance by the City of any such service or work-in-progress. The Consultant shall be responsible for correcting, re-doing, modifying or otherwise completing the services and work required for each task before receiving final, full payment whether or not previous work-in-progress payments have been made. All tasks to be paid for on a work-in-progress percentage basis shall be agreed to by both parties to the Agreement and each task to be paid in this manner shall be identified in the Compensation and Method of Payment with the notation (WIPP). Only

tasks so identified will be paid on a work-in-progress percentage basis.

3) PAYMENT SCHEDULE

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

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

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

5.04 PAYMENT WHEN SERVICES ARE SUSPENDED

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

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

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

ARTICLE 6.00-TIME AND SCHEDULE OF PERFORMANCE

6.01 NOTICE TO PROCEED

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

6.02 TIME OF PERFORMANCE

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

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

6.03 CONSULTANT WORK SCHEDULE

The Consultant shall be required as a condition of this Agreement to prepare and submit to the City, on a monthly basis, commencing with the issuance of the notice to proceed, a Consultant's work schedule. The work schedule shall set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of

the services and work required completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in the Schedule of Performance, pursuant to this Agreement in such a manner that the Consultant's planned and actual work progress can be readily determined. The Consultant's work schedule of planned and actual work progress shall be updated and submitted by the Consultant to the City on a monthly basis.

6.04 FAILURE TO PERFORM IN A TIMELY MANNER

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

6.05 LIQUIDATED DAMAGES

In accordance with the terms set forth in the Agreement, for each task completion due date shown on Exhibit C, Time and Schedule of Performance, agreed to by City and Consultant, a penalty of \$200.00 per day will be assessed for each business day that the deliverable exceeds the agreed upon due date. Consultant shall not be liable for delays which are beyond its reasonable control, including but not limited to natural disasters, adverse weather, or acts of the City, its contractors or consultants, third parties, or other governmental agencies, but shall submit a request for a Change Order to the City extending the completion date.

ARTICLE 7.00-SECURING AGREEMENT

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

ARTICLE 8.00-CONFLICT OF INTEREST

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

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

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

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

ARTICLE 9.00-ASSIGNMENT, TRANSFER AND SUBCONTRACTS

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

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

ARTICLE 10.00-APPLICABLE LAW

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

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

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

ARTICLE 12.00-WAIVER OF BREACH

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

ARTICLE 13.00-INSURANCE

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

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

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

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

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

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

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

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

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

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

ARTICLE 14.00-DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

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

ARTICLE 15.00-REPRESENTATION OF THE CITY

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

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

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

ARTICLE 16.00-OWNERSHIP OF DOCUMENTS

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

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

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

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

ARTICLE 17.00-MAINTENANCE OF RECORDS

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

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

17.01 COMPLIANCE WITH PUBLIC RECORDS LAW

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

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

ARTICLE 18.00-HEADINGS

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

ARTICLE 19.00-ENTIRE AGREEMENT

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

The following listed documents, which are referred to hereinbefore, are attached to and are acknowledged, understood and agreed to be an integral part of this Agreement:

Exhibit A entitled Scope of Professional Services

Exhibit B entitled Compensation and Method of Payment

Exhibit C entitled Time and Schedule of Performance

Exhibit D entitled Consultant's Associated Sub-Consultant(s) and Subcontractor(s)

Exhibit E entitled Project Guidelines and Criteria

Exhibit F entitled Truth in Negotiation Certificate

Exhibit G entitled Insurance and Bonding Requirements

Exhibit G-1 entitled Vendor's Insurance Statement

Exhibit H entitled Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Exhibit I entitled Drug-Free Workplace Certification

Exhibit J entitled Scrutinized Companies & Foreign Countries of Concern Statement

Exhibit K entitled Affidavit of Compliance Florida Statutes Section 287.138 and 787.06

Exhibit L entitled Certifications CDBG-MIT Compliance Provisions

Exhibit M entitled Affidavit Certification Immigration Laws

ARTICLE 20.00-NOTICES AND ADDRESS OF RECORD

20.01 NOTICES BY CONSULTANT TO CITY

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

Matt Feeney, Assistant City Manager
City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs, FL 34135

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

20.02 NOTICES BY CITY TO CONSULTANT

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

Infrastructure Consulting and Engineering, LLC.

13451 McGregor Boulevard, Unit 33

Fort Myers, FL 33919

Telephone Number: (863) 532-9885

ATTENTION: Jennifer Perry, Project Director

20.03 CHANGE OF ADDRESS OF RECORD

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

ARTICLE 21.00-TERM

This Agreement is effective as of the date that the last party signs the contract.

ARTICLE 22.00-TERMINATION

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

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

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

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

22.01 CONSULTANT TO DELIVER MATERIAL

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

ARTICLE 23.00-AMENDMENTS

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

ARTICLE 24.00-MODIFICATIONS

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

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

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

ARTICLE 25.00-ACCEPTANCE

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

ARTICLE 26.00-CONTRACT PROVISIONS

All contracts shall contain the following provisions as applicable.

26.01 TERMINATION FOR CAUSE AND/OR CONVENIENCE:

The City, by written notice to the Consultant, may terminate this Agreement with or without cause, in whole or in part, when the City determines in its sole discretion that it is in the City's best interest to do so. In the event of termination, the Consultant will not incur any new obligations for the terminated portion of the Agreement after the Consultant has received notification of termination.

If the Agreement is terminated before performance is completed, the Consultant shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount

that is the same percentage of the Agreement price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress shall become the property of the City and shall be turned over promptly by the Consultant.

26.02 EQUAL EMPLOYMENT OPPORTUNITY:

During the performance of this Contract, the Consultant agrees as follows:

- a. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- b. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.
- c. The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.
- d. The Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Consultant's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- g. In the event of the Consultant's non-compliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended, in whole or in part, and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of labor or as otherwise provided by law.
- h. The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 4, 1965, so that such provisions will be binding upon each subconsultant or vendor. The Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

26.03 CONTRACT WORK HOURS & SAFETY STANDARDS (40 U.S.C. 3701-3708):

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each Contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that not laborer or mechanic must be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous.

These requirements does not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

26.04 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT:

Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

26.05 ENERGY POLICY AND CONSERVATION ACT:

Consultant must follow any mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

26.06 SUSPENSION AND DEBARMENT:

This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Consultant is required to verify that none of the Consultant, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction into which it enters.

This certification is a material representation of fact relied upon by City of Bonita Springs. If it is later determined that the Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City of Bonita Springs, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

26.07 BYRD ANTI-LOBBYING AMENDMENT:

Consultants who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay and 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 shall also disclose any lobbying with nonfederal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

26.08 RECORDS:

Consultant shall provide, when requested, access by the City, Federal granting agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Consultant which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts and transcriptions.

26.09 RECOVERED MATERIALS:

Consultant 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 C.F.R. 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. [78 FR 78608, De. 26, 2013, as amended at 79 FR 75855, De. 19, 2014].

26.10 REMEDIES:

In the event the Consultant fails to satisfactorily perform or has failed to adhere to the terms and conditions under this Agreement, the City may, upon fifteen (15) calendar days, exercise any one of more of the following remedies, either concurrently or consecutively:

- Withhold or suspend payment of all or any part of a request for payment.
- Require that the Consultant refund to the City any monies used for ineligible purposes under the laws, rules and

regulations governing the use of these funds.

- Requesting additional information from the Consultant to determine the reasons for or the extent of non-compliance or lack of performance;
- Issuing a written warning to advise that more serious measures may be taken if the situation is not corrected;
- Advising the Consultant to suspend, discontinue or refrain from incurring costs for any activities in question; or
- Requiring the Consultant to reimburse the City for the amount for costs incurred for any items determined to be ineligible.

Pursuing any of the above remedies will not keep the City from pursuing any other rights or remedies that may be otherwise available under law or inequity. If the City waives any right or remedy in this Agreement or fails to insist on strict performance by the Consultant, it will not affect, extend or waive any other right or remedy of the City, or affect the later exercise of the same right or remedy by the City for any other default by the Consultant.

26.11 HUD REIMBURSEMENT

Work completed under this Agreement may be reimbursed by HUD. The Vendor agrees to abide by and comply with all Federal terms, conditions, provisions, certifications, affidavits, or otherwise as applicable and stated within this solicitation package. Vendors are required to comply in accordance with Federal Grant Requirements, 2 CFR part 200, terms, conditions and specifications

26.12 FEDERAL FUNDING

When property or services are procured using funds derived from a Federal grant or Agreement whether direct to the City or “pass-through” from another entity, the City is required to and will follow the Federal procurement standards in the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, 2 C.F.R. Part 200, Sections 200.318 through 200.327.

Consultant, further referred to as Consultant within this section, shall work with the City under this Agreement to assure that it will comply with the following statutes and regulations to the extent applicable:

- (1) 2 CFR, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Appendix II.
- (2) 24 CFR Part 570 – Community Development Block Grants as amended by the CDBG-DR Consolidated Waivers and applicable Alternative Requirements Notices.
- (3) The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities.

Contract Cost and Price: The City shall perform a cost or price analysis in connection with every procurement subject to Federal procurement guidelines, which shall include an independent estimate of cost prior to issuing bids or proposals. For proposals where price is not considered in the award, profit shall be negotiated as a separate element of the price. In determining whether profit is fair and reasonable, the City shall consider the complexity of work, the risk to be borne by the contractor, the contractor’s investment, the amount of subcontracting necessary, the quality of the contractor’s record and past performance, and industry profit rates for the surrounding geographical area. “Cost Plus Percentage” methods for determining profit may not be used.

26.13 DOMESTIC PREFERENCE FOR PROCUREMENT (2 CFR §200.322)

As appropriate and to the greatest extent consistent with law, state and non-state entities should, to the greatest extent practicable under its GRANT AGENCY award, provide a preference for the purchase 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. 2 CFR §200.322 also provides specific definitions for “Produced in the United States” and “manufactured products” that states should review.

Pursuing any of the above remedies will not keep the City from pursuing any other rights or remedies that may be otherwise available under law or inequity. If the City waives any right or remedy in this Agreement or fails to insist on strict performance by the Consultant, it will not affect, extend or waive any other right or remedy of the City, or affect the later exercise of the same right or remedy by the City for any other default by the Consultant.

26.14 BUSINESS RELATIONSHIP DISCLOSURE REQUIREMENT (If applicable)

Florida Statutes 112.313(2) and 112.313(7) prohibit certain business relationships on the part of public officers and employees, their spouses, and their children. It is the responsibility of the Consultant to disclose this relationship and failure to do so may result in being declared non-responsive.

Under the provisions of Florida Statutes 112.317, a failure to make any required disclosures constitutes grounds for,

and may be punished by, one or more of the following: impeachment, removal or suspension from office or employment, demotion, reduction in salary, reprimand, or a civil penalty not to exceed \$10,000.00.

26.15 BACKGROUND SCREENING COMPLIANCE

As applicable, the Consultant is responsible for ensuring that any required background screening is conducted in accordance with Florida Statutes 435. Florida Statutes 435 governs required background screenings for any employees, contractors, subcontractors, or agents of the Consultant who will have contact with any vulnerable person, as defined in the statute, or who otherwise are required to undergo a Level 1 or Level 2 background screening in accordance with Florida Law. Such requirements shall flow down to sub-contractors of the prime Consultant and Consultant shall ensure compliance with Chapter 435 of such parties.

26.16 MONITORING AND REPORTING PROGRAM PERFORMANCE

The City is responsible for the oversight of the federal funding ensuring compliance with all requirements and meeting performance expectations. The City may request information from the Consultant to provide quarterly reports to the City as the funder. The City reserves the right to request the Consultant disclose and certify and requested activities in accordance with reporting requirements noted within the Agreement Any reporting obligations or requirements shall comply with 2 CFR 200.329 (Notice of the awarding agency requirements and regulation pertaining to reporting).

26.17 PROHIBITION AGAINST CONSIDERING SOCIAL, POLITICAL, OR IDEOLOGICAL INTERESTS IN GOVERNMENT CONTRACTING

The City and Consultant agree that through the procurement process for the CEI Services for the East Terry Street Stormwater and Multi-Use Pathway Project that the City followed the requirements outlined in Florida Statutes 287.05701.

- (1) As used in the referenced Florida Statute the term “awarding body” means
 - a. For state contracts, an agency or the department
 - b. For local government contracts, the governing body of a county, a municipality, a special district, or any other political subdivision of the state
- (2.a) An awarding body may not request documentation of or consider a vendor’s social, political, or ideological interests when determining if the vendor is a responsible vendor.
- (b) An awarding body may not give preference to a vendor based on the vendor’s social, political, or ideological interests
- (3) Beginning July 1, 2023, any solicitation for the procurement of commodities or contractual services by an awarding body must include a provision notifying vendors of the provisions of this section.

ARTICLE 27.00-DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

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

The Consultant, in support of the City, will cooperate with Florida Statutes 20.055(5) that includes every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to the Florida Statutes.

(This section intentionally left blank)

This Contract may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Agreement, and, in making proof of this Contract, it shall not be necessary to produce or account for more than one such counterpart.

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

ATTEST:

CITY OF BONITA SPRINGS:

CITY CLERK

AUTHORIZED SIGNATURE

DATE

DATE

APPROVED AS TO FORM:

CITY ATTORNEY

DATE

ATTEST:

CONSULTANT:

Witness

AUTHORIZED SIGNATURE

Witness

TITLE

DATE

CORPORATE SEAL

EXHIBIT A

Scope of Professional Services
CEI Services for East Terry Street Stormwater and
Multi-Use Pathway Project

Date: March 4, 2026

Basic Services

Section 1 General Scope Statement

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

Section 2 Tasks

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

As per the attached Scope of Services, Manhour Estimate, and Community Outreach Services

EXHIBIT D

Consultant's Associated Sub-Consultant(s) and Subcontractor(s)
CEI Services for East Terry Street Stormwater and
Multi-Use Pathway Project

Date: March 4, 2026

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

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

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage (Yes or No)
Community Outreach	Quest 17220 Camelot Court Land O' Lakes, FL 34638	Yes

EXHIBIT E

Project Guidelines and Criteria
CEI Services for East Terry Street Stormwater and
Multi-Use Pathway Project

Date: March 4, 2026

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

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

Item No. 1

None

EXHIBIT F

Truth in Negotiation Certificate
CEI Services for East Terry Street Stormwater and
Multi-Use Pathway Project

Date: March 4, 2026

This Certificate is executed and given by the undersigned as a condition precedent to entering into a Professional Services Agreement with the City Council of the City of Bonita Springs for the project known as CEI Services for East Terry Street Stormwater and Multi-Use Pathway Project.

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

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

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

Company Name: _____

By: _____

Title: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was signed and acknowledged before me this _____ day
of _____, 20____, by _____,
who is personally known to me, or has produced _____ as
identification and who did (did not) take an oath.

Notary Public Seal

Signature of Notary Public

Printed Name of Notary Public

EXHIBIT G

Insurance and Bonding Requirements

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

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

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

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

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

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

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

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

EXHIBIT H

**Certification Regarding Debarment, Suspension,
Ineligibility and Voluntary Exclusion**

Vendor Covered Transactions

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

VENDOR:

Company Name

Unique Entity ID # (from SAM.gov)

Signature

Date

Print Name

Street Address

City State Zip Code

For City of Bonita Springs use only

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

Company: is debarred is not debarred

Verified by: _____
Name

Date: _____

EXHIBIT I

Drug-Free Workplace Certification

The undersigned will provide drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensations, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of the prohibition;
2. Establishing a drug-free awareness program to inform employees about:
 - a. The dangers of drug abuse in a workplace;
 - b. The person's 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 violation;
3. Making it a requirement that each employee to be engaged in the performance of the agreement be given a copy of the statement required by item 1;
4. Notifying the employee in the statement required by item 1 that, as a condition of employment of this agreement, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after the conviction;
5. Notifying the City within ten days after receiving notice under item 4b from an employee or otherwise receiving actual notice of the conviction;
6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance, or rehabilitation program by, any employee convicted as required in Section 44-107-50; and
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of items 1,2,3,4,5, and 6.

Vendor Signature

Date

Vendor Name

Company Name

Exhibit J

Scrutinized Companies & Foreign Countries of Concern Statement

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

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

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

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

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

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

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

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

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

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

Foreign Country of Concern (bid, proposal or contract renewal for any amount)

- The entity submitting this sworn statement does not have a "controlling interest" regarding any of the countries on the Foreign Country of Concern list.

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

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

AFFIANT Typed Name of AFFIANT

Title

STATE OF _____ COUNTY OF _____

The foregoing instrument was executed before me this _____ day of _____, 20____,

by _____ as _____ of

_____, who personally swore or affirmed that he/she is authorized to

execute this document and thereby bind the Corporation, and who is personally known to me OR has

produced _____ as identification.

NOTARY PUBLIC, State of _____

(stamp)

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For City of Bonita Springs use only

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

Scrutinized Companies that Boycott Israel List:

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

Scrutinized Companies with Activities in Sudan List:

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

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

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

Business Operations in Cuba or Syria:

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

Verified by: _____
 Print Name

Date: _____

EXHIBIT K
AFFIDAVIT OF COMPLIANCE
FLORIDA STATUTES
SECTION 287.138 and 787.06

PROPOSAL NO.: RFQ 25-20 PROJECT NAME: CEI Services for East Terry Street Stormwater and Multi-Use Pathway Project

Before me, the undersigned authority, personally appeared (Name of Affiant) _____ who, after being duly sworn, deposes and

1. Affiant is the **(Title)** _____ of **(Business Name)** _____ which does business in the State of Florida, hereinafter called the "Vendor."
2. Vendor, pursuant to Section 287.138, Florida Statutes, certifies that (1) Vendor is not owned by a government of a foreign country of concern; (2) a government of a foreign country of concern does not have a "controlling interest" in Vendor, as defined by Section 287.138(1)(a), Florida Statutes; and (3) Vendor is not organized under the law of nor has its principal place of business in a foreign country of concern. For the purposes of this affidavit, foreign country of concern means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern, as defined in Section 287.138(1)(c), Florida Statutes, as amended from time to time.
3. Vendor, pursuant to Section 787.06, Florida Statutes, certifies that Vendor does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, as amended from time to time.
4. This Affidavit is executed by the Vendor in accordance with Section 287.138, Florida Statutes, for the purposes of preventing the City from entering contracts with foreign entities of concern which would provide Vendor access to an individual's personal identifying information.
5. This Affidavit is executed by the Vendor in accordance with Section 787.06, Florida Statutes

(Signature)

(Date)

STATE OF _____

COUNTY OF _____

The foregoing instrument was executed before me this _____ day of _____, 20____, by

_____ as _____ of

_____, who personally swore or affirmed that he/she is authorized to execute this

document and thereby bind the Corporation, and who is personally known to me OR has produced

_____ as identification.

(stamp)

NOTARY PUBLIC, State of _____

EXHIBIT L
CERTIFICATIONS
CDBG-MIT COMPLIANCE PROVISIONS
Infrastructure

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.

By signing this Exhibit, the Subrecipient and Contractors certifies they understand that all the below compliance provisions will apply to all projects that are awarded CDBG-MIT 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)

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 City 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 City's responsibility to ensure that CDBG-MIT 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 City, immediately upon demand, any assistance later received for the same purpose as the CDBG-MIT 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.

- o. Florida Civil Rights Act of 1992, Title XLIV, Florida Statutes Chapter 760, Attachment R - Discrimination in the Treatment of Persons; Minority Representation:** This Statute was passed to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals with the state. The Florida Civil Rights Act of 1992 shall be construed according to the fair import of its terms and shall be liberally construed to further the general purposes stated in the statute and the special purposes of the particular provision involved.

4. CERTIFICATION OF NONSEGREGATED FACILITIES:

(Applicable to contracts and subcontracts over \$10,000)

The Subrecipient or Contractor and its sub-contractor(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, 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, if a subrecipient is a state agency or an agency of a political subdivision of a state, it and its consultants, 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. **CONSTRUCTION STANDARDS:**

While the following Construction Standards requirements are called out below, the Subrecipient also certifies and acknowledges that it has read and complies with all requirements as noted within the *CDBG-MIT Construction Standards Procedure* for Housing Programs and applicable program guidelines.

- a. **Green and Resilient Building Standards in Housing:** All new construction or rehabilitation of residential structures must meet an industry-recognized standard that has achieved certification under (i) Enterprise Green Communities; (ii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); (iii) ICC-700 National Green Building Standard Green+ Resilience; (iv) Living Building Challenge; or (v) any other equivalent comprehensive green building program acceptable to HUD. Additionally, all such covered construction must achieve a minimum energy efficiency standard, such as (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) DOE Zero Energy Ready Home; (iii) EarthCraft House, EarthCraft Multifamily; (iv) Passive House Institute Passive Building or EnerPHit certification from the Passive House Institute US (PHIUS), International Passive House Association; (v) Greenpoint Rated New Home, Greenpoint Rated Existing Home (Whole House or Whole Building label); (vi) Earth Advantage New Homes; or (vii) any other equivalent energy efficiency standard acceptable to HUD
- b. **Rehabilitation of Non-Substantially Damaged Residential Buildings (Housing):** Per Federal Register Notice 88 FR 32046, for rehabilitation other than the rehabilitation of substantially damaged residential buildings described in 6.a. above, the Subrecipient must follow the guidelines specified in the HUD CPD Green Building Retrofit Checklist.

Subrecipients must apply these guidelines to the extent applicable for the rehabilitation work undertaken, for example, the use of mold resistant products when replacing surfaces such as drywall. Products and appliances replaced as part of the rehabilitation work must be ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)-designated products or appliances.

- c. **Broadband Infrastructure in Housing:** Per Federal Register Notice 88 FR 32046, any substantial rehabilitation, as defined by 24 CFR 5.100, reconstruction, or new construction of a building with more than four units must include installation of broadband infrastructure.
- d. Elevation Standards (Housing and Infrastructure):
- i. ***Housing:*** All new construction or rehabilitation of residential structures and located in the one percent annual chance (or 100-year) floodplain must be elevated at least two feet above the base flood elevation.
- ii. ***Mixed-use and Non Residential:*** Non-residential structures and infrastructure must be elevated or floodproofed, in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above base flood elevation.
- iii. ***Critical Actions:*** Structures and services defined at 24 CFR 55.2(b)(3) and within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(2-3) or successor standard) to the higher of the 500-year floodplain elevation or three feet above the 100-year floodplain elevation.
- e. **Planning and Design (Infrastructure):** All newly constructed infrastructure that is assisted with CDBG-MIT funds must be designed and constructed to withstand extreme weather events and the impacts of climate change. To satisfy this requirement, the Subrecipient is required to provide resilience performance metrics as identified by the City.
- f. **Flood Control Structures (Infrastructure and Non-Residential Structures):**

Subrecipients that use CDBG-MIT funds to assist flood control structures (i.e., dams and levees) are prohibited from

using CDBG-MIT funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event, without obtaining approval from the City, HUD, and any Federal agencies that HUD determines are necessary based on their involvement or potential involvement with the levee or dam. Additional requirements and approval steps are outlined under Federal Register Notice guidance at 88 FR 32046.

7. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, VETERAN OWNED BUSINESSES, AND LABOR SURPLUS AREA FIRMS:

The Subrecipient or Contractor will take necessary affirmative steps to assure that minority firms, women's business enterprises, veteran owned businesses, and labor surplus area firms are used in subcontracting when possible. Steps include:

- a. Placing qualified small and minority businesses, veteran owned businesses, and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's and veteran'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, veteran owned, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, veteran owned businesses, 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.

8. 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.

9. 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, county or municipal agencies.

Additionally and in accordance with 24 CFR 87, the Subrecipient certifies that it will not use CDBG-MIT funds received from the City to directly or indirectly influence legislation or any other official action by the Florida legislature, any state agency, or other local government and city (City Council) 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 City and/or the Subrecipient suspects such action of occurring, the City 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 3-1 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.

10. DEBARMENT AND SUSPENSION:

A contract award ([2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235).

By executing this Agreement or contract, the Subrecipient or Contractor verifies and affirms that it has not been suspended or debarred from participating in or receiving federal government contracts, subcontracts, loans, grants or other assistance programs and will not enter into contracts with any entity that has been suspended or debarred from federal contract work.

11. CONFLICT OF INTEREST:

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, 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.

12. DOMESTIC PREFERENCES FOR PROCUREMENTS:

Per [2 CFR 200.322](#), as appropriate and to the extent consistent with law, the subrecipient 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.

14. DAVIS-BACON AND RELATED LABOR STANDARD ACTS:

- a. **Davis Bacon Act:** Subrecipient or Contractor shall comply with the Davis Bacon Act (40 U.S.C. §§ 3141-3148) and 29 CFR Subtitle A, Parts 1, 3 and 5, as applicable, to construction, alteration, and repair contracts over \$2,000.00.
- b. **Anti-Kickback Act of 1986:** Subrecipient or Contractor shall ensure that all contracts comply with the Anti-Kickback Act of 1986 (41 U.S.C. §§ 5158) that prohibits attempted as well as completed "kickbacks," which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind.
- c. **Contract Work Hours and Safety Standards Act of 1962:** Subrecipient or Contractor shall ensure all contracts comply with the Contract Work Hours and Safety Standards Act of 1962 (40 U.S.C. § 3702) which requires that workers receive overtime compensation at a rate of one and one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.
- d. For the purposes of this requirement "construction work" includes, but is not limited to, rehabilitation, alteration,

demolition, installation or repair done under contract and paid for, in whole or in part, through this agreement or contract. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract").

- e. Subrecipient or Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

15. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968:

The work to be performed under this contract may be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3), and implementing regulation at [24 CFR, Part 75](#). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The responsibilities outlined in 24 CFR Part 75.19 include:

- a. Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
- b. Notifying potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts in excess of \$100,000 as required at 24 CFR 75.27.

Section 3 Clause

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, which implements Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract

for default, and debarment or suspension from future HUD assisted contracts.

The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.

- c. Facilitating the training and employment of Section 3 workers and the award of contracts to Section 3 business concerns by undertaking activities such as described in Section 75.25(b), as appropriate, to reach the goals set forth in Section 75.23 and in Federal Register Vol. 85, No. 189, page 60909, until superseded by HUD in a subsequent publication. As of September 29, 2020, the minimum Section 3 benchmark is twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.
- d. Documenting actions taken to comply with the foregoing requirements, the results of those actions taken and impediments, if any.

16. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED (42 U.S.C. 4601 et. seq.)- "URA":

The Subrecipient understands that activities and projects it undertakes with CDBG-MIT funds may be subject to the URA at 49 CFR Part 24, section 104(d) of the HCDA (42 U.S.C. 5304(d)), and CDBG program requirements related to displacement, relocation, acquisition, and replacement of housing, except as modified by waivers and alternative requirements provided in Federal Register Notices 88 FR 3198 and 88 FR 32046. In such Notices, HUD waived or provided alternative requirements for the purpose of promoting the availability of decent, safe, and sanitary housing with respect to the use of CDBG-MIT funds allocated under the Consolidated Notice.

In the event of displacement because of a federally funded award, Subrecipients must comply with the URA, for any household, regardless of income, which is involuntarily and permanently displaced, and to comply with Section 104(d). The City also provides notice to Subrecipients that any demolition or disposition of public housing is subject to Section 18 of United States Housing Act of 1937, as amended, and 24 CFR Part 970.

17. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

Per [2 CFR 200.2-10](#), 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.

18. 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.

19. 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.

20. 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 copyrighted 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.

21. 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.

22. DRUG-FREE WORKPLACE AGT 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 drug-free workplace by meeting the requirements of the act.

23. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-VERIFY):

Subrecipients must certify that they will 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.
- a. E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form 1-9, 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/>.
- b. 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 the Subrecipient Agreement.

24. 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.

25. 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 City's approval of the Application for such assistance; or,
- b. Any other approval or concurrence of the City 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.

26. 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.

27. ACCESS TO RECORDS - MAINTENANCE OF RECORDS:

The City of Bonita Springs, 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 City's final closeout of the grant.

28. INSPECTION:

The authorized representative and agents of Bonita Springs 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.

29. 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.

Signed by: _____

Date: _____

Title: _____

EXHIBIT M

Affidavit Certification Immigration Laws

AFFIDAVIT CERTIFICATION

IMMIGRATION LAWS

SOLICITATION NO.: RFQ 25-20 **PROJECT NAME:** CEI Services for East Terry Street Stormwater and Multi-Use Pathway Project

IMMIGRATION LAW COMPLIANCE

Consistent with Bonita Springs Code §36.22 effective June 1, 2009, and Chapter 448.095, Florida Statutes, Consultant providing services to the City, as a condition of each contract, must use E-Verify to verify the employment of: any person hired during the contract term by the Contractor/Consultant and assigned by the Contractor/Consultant to perform work for the City. **Before any contract with the City is signed, proof of enrollment with E-Verify must be provided.** To register with E-Verify, go to www.uscis.gov/e-verify for information and instructions.

The Contractor/Consultant acknowledges that he is independently responsible for his own employment decisions, including hiring, disciplinary and termination decisions. The Consultant acknowledges that he will comply with the Immigration Reform and Control Act of 1986 and is committed to employing only those individuals who are authorized to work in the United States, by hiring employees who properly complete, sign and date the first section of the Immigration and Naturalization Services (INS) Form I-9 and presenting to the Contractor/Consultant the original necessary document(s) to prove identity and employment eligibility.

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

(This space intentionally left blank)

COMPANY NAME: Infrastructure Consulting and Engineering, LLC

Signature

Title

Date

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was signed and acknowledged before me this _____ day
of _____, 20____, by _____,
who is personally known to me, or has produced _____ as
identification and who did (did not) take an oath.

Notary Public Seal

Signature of Notary Public

Printed Name of Notary Public

SCOPE OF SERVICES

This scope of services describes and defines the Construction Engineering and Inspection (CEI) services which are required for contract administration, inspection, and materials sampling and testing for the construction project listed below.

**Project Title: East Terry Street Stormwater and Multi-Use Pathway Project
(CDBG-MIT and FHWA)
City of Bonita Springs**

Project Description: This project is to improve stormwater management conditions along the corridor and provide improved multi-use pathway connectivity. Project components included but are not limited to enclosed stormwater systems, utility relocations, traffic signal installation, roundabout construction, curb and gutter, intersection improvements, multi-use path, sidewalks, bike lanes, pavement and signage improvements, street lighting, and landscaping and irrigation.

Project Limits: The Project limits for East Terry Street are from Old 41 Road east to Bonita Grande Drive. The roadway has been divided into segments. Segment 1 is from Old 41 Road east to Imperial Parkway; Segment 2 is from Imperial Parkway east to the Interstate 75 Overpass and Segment 3 is from Interstate 75 Overpass east to Bonita Grande Drive. LAP funding will encompass sidewalk installation from Imperial Parkway to the Interstate 75 Overpass.

CEI SERVICES TO INCLUDE

Task A — Procurement/Pre-Construction Task:

1. Schedule and conduct a pre-service meeting with the City of Bonita Springs (the City) staff. This meeting will be used to clarify the consultant's role on the project, establish expectations, and allow clarification on the City administrative policies, procedures, and preferences. Infrastructure Consulting & Engineering (ICE) will prepare the agenda and document the meeting with minutes which will be sent to attendees.
2. Review existing plans and special provisions.
3. Set-up and maintain a SharePoint site to allow the City's staff access to project files which will include all related project documentation and submittals. The City may elect to not utilize the SharePoint site if file sizes

allow email transfer.

4. If required, establish a shop drawing/submittal tracking spreadsheet. Requests for Information (RFIs), Requests for Modifications (RFMs), and Requests for Corrections and project deficiency tracking spreadsheets in accordance with FDOT's Construction Project Administrator's Manual (CPAM).
5. Provide initial/cursory reviews of shop drawings/submittals. Submit all shop drawings to the design engineer (EOR) for review and comments. City will coordinate any necessary meetings between the Contractor, CEI, and the EOR to resolve comments. All comments shall be submitted in writing, electronically. If a submittal is rejected, the reasons for the rejection shall be clearly noted. ICE will also ensure that documents of compliance with Buy America requirements (for LAP portion of the project) is obtained from the Contractor prior to the approval of the submittal when required.
6. Assist the City with baseline schedule review submitted by the Contractor for:
 - a. Completion within contract time
 - b. Appropriate durations utilizing published production rates,
 - c. Correct logic, sequencing of activities in conjunction with MOT phasing
 - d. Appropriate milestones
 - e. Adequate breakdown of activities
 - f. and critical activities.
7. Photo/Video site documentation, physical verification surveys to establish quantity baseline for progress estimates. If requested by the City project coordinator, verify construction control points and perform a cross section and bench loop to verify existing conditions and establish a baseline for earthwork quantities.
8. Attend the pre-construction meeting with project stake holders. Schedule, conduct, and document the prework utility coordination, pre-erosion control and pre-earthwork meetings. City and Contractor will prepare the agenda and document all the pre-meetings with minutes and will send them to all attendees.

Task B—Construction Task:

1. Attend regular progress meetings—Progress meetings during the construction phase are anticipated to take place weekly. At the City's discretion, progress meeting schedule may be amended. A representative from the City, the Contractor, and ICE shall be present at all progress meetings.

2. Prepare for and attend any FDOT or FHWA inspections or audits.
3. Maintain project records and respond to public inquiries and complaints. Distribute copies of correspondence to the City and other project stakeholders as applicable.
4. Assist the City with monthly schedule updates submitted by the Contractor for:
 - a. Completion within contract time
 - b. Accuracy of actual begin/completion as-built dates
 - c. Unacceptable logic changes
 - d. Changes to the critical path
 - e. Changes in float
5. Identify and track weather and holiday delays and any schedule impacts.
6. Record, maintain and respond to RFIs, RFCs, and RFMs from the Contractor during construction and provide recommendations for resolution. Coordinate with the Engineer of Record as appropriate. All RFIs shall be responded in writing within seven (7) calendar days of receipt of electronic submission; however ICE will expedite this process to the maximum extent practical especially when the RFI pertains to a critical task item. All responses shall be submitted electronically.
7. Monitor Contractor's quality control program to assure proper documentation and testing of materials is occurring as defined in the contract documents and per Section 105 of FDOT's Standard Specifications. Prepare a Final Materials and Tests Certification to be submitted to the City with Final Records.
8. Track field changes to the plans and/or revisions and obtain approval from the City prior to any changes to the plans. All changes will be documented and incorporated into the final As-Builts plans and will be provided to the City at the project closeout.
9. Manage project permits including submitting construction commencement notifications and certifications when required.
10. Perform periodic field visits by the project administrator as needed to resolve RFIs from the Contractor or other project issues.
11. Complete daily inspection reports with associated photos, construction progress, quantity tracking, material tickets, material verification daily. These documents will be uploaded to the SharePoint site daily and made available to the City's project coordinator.

12. Assist the City with Change Order Requests supplied by the Contractor and provide recommendation to the City if needed. ICE shall sign all approved Change Orders and will facilitate approval of all Change Orders by the City's representative.
13. Review applications for payment from the Contractor. ICE shall respond in writing regarding any deficiencies preventing a pay application from being deemed complete or accurate within seven (7) calendar days of receipt of the signed pay application from the Contractor. ICE shall gather the required documents (density reports, schedule updates, material delivery tickets, lien releases, etc.) from the Contractor. Once all information has been obtained and all quantities have been verified, ICE shall sign the application recommending payment and submit to the City.
14. ICE will perform duties as required to comply with the CDBG-MIT and FHWA funding source.
15. ICE shall provide effective and qualified inspectors to perform construction inspection.
16. Material testing is required under this contract. ICE shall obtain and test and review construction material and certifications of material submitted by the Contractor.
17. ICE shall observe, measure, and record all quantities for payment.
18. ICE shall prepare accurate daily reports of construction, material reports, and logbooks to document the project progress according to the contract requirements. Records shall be kept on allowable FDOT formats.
19. Daily reports shall include the following information:
 - a. Record of the contractors on site
 - b. Their personnel (number and classification)
 - c. Equipment (number, type/size)
 - d. Location and work performed by each contractor
 - e. Quantities delivered to the site (stockpile material)
 - f. Quantities installed by the contractor
 - g. Orders given to contractor
 - h. Notable events
 - i. Accidents
 - j. Weather and temperature
 - k. Days charged
 - l. Equipment arriving or leaving, idle equipment
 - m. Other relevant details

20. Monitor MOT daily, at a minimum, and notify the contractor of deficiencies immediately. Document project traffic control on FDOT approved forms and distribute as required.
21. Monitor project detours to ensure detour signs are installed properly prior to detour implementation.
22. Monitor site for general safety, pedestrian and public access through the site and ADA requirements.
23. Inspect daily erosion control items for conformance to the plans as well as effectiveness in the field.
24. ICE shall perform Quality Control/Quality Assurance monitoring during the lifetime of the construction project at 30%, 60% and 90% contract duration. Report will be shared with the City and any deficiency findings shall be corrected immediately.
25. Attend walkthroughs with the City for Substantial and Final Completions and generate and track a punch-list of outstanding items to be resolved.
26. ICE will furnish the services necessary to administer and coordinate QUEST funding tasks to ensure compliance with the City, Florida Department of Transportation, Federal and Community Development Block Grant – Mitigation through Florida Commerce requirements. These tasks shall include the following, but are not limited to:
 - a) EEO Administration
 - b) Record keeping and contract status reporting
 - c) Notify prior to withholding any monthly payments
 - d) Complete monthly wage verification interviews for Contractor's staff and EEO project bulletin board inspection
 - e) Review Contractor monthly reports (compliance with contract plans, EEO compliance, previous disbursement to subs)
 - f) Review and approve certified payrolls for the prime contractor and subcontractors on a weekly basis. Notify Contractor of late payrolls.
 - g) ON-Job Training (OJT) administration, documentation, and verification of training progress
 - h) Provide public outreach services
 - i) Comply with the attached Quest scope of services

Task C -Post-Construction Task:

1. Upon satisfactory completion of the project, submit written certification of

compliance to the City.

2. Process final estimate, provide all records, and submit all closeout forms.
3. Process permit closeout documentation if applicable.
4. Prepare final warranty documentation for the City's records and tracking.

Task D – Optional Services Task:

1. Geotechnical Services: If required the geotechnical engineer will observe and record the progress and quality of foundation work to determine that the foundations are constructed at the correct location and elevation, identify discrepancies, submit monthly progress reports to the Consultant project manager, and direct the Contractor to correct such observed discrepancies. Attend any required special geotechnical meetings for the Construction Contract. All services under this task will be performed in accordance with the FDOT Standard Specification Section 455. **Estimated cost \$20,000**
2. Surveying: If required the surveying team will establish the survey control baseline along with sufficient baseline control points and benchmarks at appropriate intervals along the project in order to make and record measurements necessary to calculate and document quantities for pay items, make and record pre-construction and final cross section surveys of the project site in those areas where earthwork (i.e., embankment, excavation, subsoil excavation, etc.) is part of the construction project, and perform incidental engineering surveys as needed. **Estimated cost \$20,000**
3. Enhanced construction inspections and reporting by providing Drone Services (still photos and videos) to be performed once a month. **Estimated cost \$21,600**
4. LiDAR services to be performed at final pavement inspection. LiDAR is an advanced non-contact sensing method capable of capturing 3D data with up to millimeter-level precision to detect pavement defects. **Estimated cost \$11,730 per occurrence.**

CEI Team Fee Estimate – Based on:

Duration: 26 Months (24 months construction + 2 months Pre and Post Construction)

Please see attach CEI Manhour Estimate

Personnel Classifications			Billing Rate With OM	M1	M2	M3	M4	M5	M6	M7	M8	M9	M10	M11	M12	M13	M14	M15	M16	M17	M18	M19	M20	M21	M22	M23	M24	M25	M26	Total Man-Hour	Total Costs	Straight OT @ 10%	Premium OT	Total Compensation	
				P	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C						C
CEI Senior Project Engineer	JOHN/JANE	ICE	\$301.48		0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	206.250	\$62,181.25			\$62,181.25
CEI Project Administrator	JOHN/JANE	ICE	\$208.25	0.25	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	2103.750	\$438,111.90			\$438,111.90
CEI Contract Support Specialist	JOHN/JANE	ICE	\$128.69	0.25	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.25	2062.500	\$265,414.92			\$265,414.92	
CEI Senior Inspector - Roadway	JOHN/JANE	ICE	\$131.30	0.50	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.50	4125.000	\$541,610.08			\$541,610.08	
CEI Inspector - Roadway	JOHN/JANE	ICE	\$98.77				1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.50	3300.000	\$325,953.16			\$325,953.16	
Total Man Months				1.00	2.05	2.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	3.05	2.05	2.05	1.30	11797.500	\$1,633,271.31	\$0.00	\$0.00	\$1,633,271.31		

Legend L = Letting P = Preconstruction C = Construction T = Post Construction M = Month

670 Construction Days	Field Office (months)	71.500	Field Survey	\$0.00
30 Pre Construction		165	Field Office	\$0.00
30 Post Construction		11,797.500	Third Party Other Services (Quest)	\$61,096.00
67 10% Weather			Total Estimate	\$1,694,367.31
797				
26 Months				
2.2 Years				



COMMUNITY OUTREACH, RESIDENT COMPLIANCE SERVICES SCOPE AND FEE ESTIMATE

Construction Engineering and Inspection Services (CEI) for Grant-Funded Projects City of Bonita Springs, RFQ 25-20

Submitted February 19, 2026

Quest Corporation of America, Inc. (Quest) welcomes the opportunity to support the community outreach and resident compliance efforts for the Construction Engineering and Inspection Services (CEI) for Grant-Funded Projects for the City of Bonita Springs in Lee County, Florida.

- **East Terry Street Stormwater and Multi-Use Pathway Project (CDBG-MIT and FHWA).**

The services to be provided by Quest during construction include the following:

Community Outreach

- **Community outreach services** – Develop and maintain stakeholder list, provide regular updates to stakeholders through various communications methods as needed (emails, advisories); attend progress meetings as needed; Collect and track comments and responses via a comment matrix. Assist Project Manager in providing timely responses, and maintain a resolution log.
- **Assist CEI, City of Bonita Springs staff and Communications Department with agency outreach** – Assist the CEI with coordination with the City PIO, Fire Department, EMS, Lee County Schools, U.S. Postal Service in a timely manner through defined methods.
- **Stakeholder correspondence** - Work closely with Project Manager to resolve public concerns. Draft and coordinate responses. Document all public correspondence. Meet with Stakeholders onsite as needed with Project Manager.
- **Coordinate communications with media** – Support the City with local and regional media outlets to provide timely information about the project for print, broadcast, and online placements. Gather photos, develop fact sheet, and other requested information as requested by the City Communications Department.
- **Website** – Develop web content, notices, traffic impacts, project updates and maintain a contact form. Provide photos as needed. Coordinate with the Project Manager and City Communications Department for posting.
- **Social media outreach** – Coordinate with City communications staff on creation of a social media posts for Facebook, X, Instagram for project update posts or public notifications related to traffic



- **Provide QA/QC Project Management** – All project communication materials will include a quality assurance/quality control review.
- **Resident Compliance** – Provide compliance services in accordance with federal, state and local regulations, including Davis-Bacon wage requirements to ensure compliance meets grant requirements. Services include monitoring, payroll verification and documentation as required by federal law.

East Terry Street Stormwater and Multi-Use Pathway Project (CDBG-MIT and FHWA)

Fee Estimate – 20 Months

	Avg Monthly Hours	@ 20 months	Loaded Rate	Total
Community Outreach	20	400	\$111.10	\$44,440.00
Resident Compliance	8	160	\$104.10	\$16,656.00
			Total	\$61,096.00

ITEM TITLE: Approve proposals submitted by Tech Tronics for lighting and sound for the upcoming Celebrate Bonita Stroll and event.

REQUESTOR: Lora Taylor, Director of Communications & Facilities

AGENDA: Consent

STRATEGIC PRIORITY: 3) Enhance Community Aesthetics, Parks, and Facilities

BACKGROUND:

Tech Tronics was awarded a contract under the City's Special Event Services bid (CN 25-23) and has provided the attached estimate for the Celebrate Bonita Stroll and Concert to celebrate the City's incorporation. This year, the Celebrate Bonita stroll is March 24 - March 28, 2026. Beginning on Tuesday, March 24, portions of the Old 41 Corridor, including the bridge, Riverside Park, Liles Hotel Plaza, and greenspace in-between Liles Hotel Plaza and Riverside Park will be lit to Celebrate Bonita Springs. The sidewalk in front of the Banyan Lot will be lit with local artists designing glow chalk designs to celebrate Bonita Springs. The chalk designs will glow with enhanced lighting. The sidewalk in front of Riverside Park will glow with fluid art designs that change throughout the event. Art projections will be showcased on the Liles Hotel building, and glowing columns will showcase photos of Bonita Springs' history, along with artistic displays.

The free nightly stroll will begin at dusk and close at 10 pm. Local schools' art exhibits will glow and be placed throughout the stroll. Additional lighting will enhance art displays. Each art piece celebrates Bonita Springs. The local businesses will be open for food and beverages. Downtown Businesses will also be lighting and decorating their buildings.

The cost is \$89,177.50. Funding is available in the current fiscal budget in line items 00.430.574.4803 and 00.431.559.3460.

STAFF RECOMMENDATION: Approve proposals submitted by Tech Tronics for lighting and sound for the upcoming Celebrate Bonita Stroll and event.

ATTACHMENTS:

Estimate

REVIEWERS:

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

TECH-TRONICS PRODUCTIONS, INC.
 4224 FOWLER ST #1
 FT MYERS FL 33901
 239-939-7747 fax 239-939-2069
 www.tech-tronicsinc.com

Estimate

Date	Estimate #
1/27/2026	10050

Name / Address
CITY OF BONITA SPRINGS 9101 BONITA BEACH ROAD BONITA SPRINGS, FL. 34135 ATTN: ACCOUNTS PAYABLE

Rep	PROJECT
DM	RIVERSIDE PARK

Item	Description	Qty	Cost	Total
PRODUCTION	LIGHTING PRODUCTION IN RIVERSIDE PARK FROM 3/24/26 TO 3/28/26		0.00	0.00
PRODUCTION	PANEL LIGHTS	100	70.00	7,000.00
PRODUCTION	LED PAR FOR ROYAL PALMS AND TOP OF TREES	20	135.00	2,700.00
PRODUCTION	EX CORD PACKAGE	1	500.00	500.00
PRODUCTION	INSTALL MATERIAL	1	150.00	150.00
PRODUCTION	LADDERS	4	75.00	300.00
PRODUCTION	RIGGING	2	1,200.00	2,400.00
PRODUCTION	LIGHTING STANDS	2	100.00	200.00
SETUP	EQUIPMENT SETUP / TEAR DOWN CHARGE	2	2,500.00	5,000.00
DELIVERY	DELIVERY, PICKUP CHARGE (CHARGED EACH DIRECTION)	2	375.00	750.00

Subtotal	\$19,000.00
Sales Tax (6.5%)	\$0.00
Total	\$19,000.00

Signature _____

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 4224 FOWLER ST #1
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 239-939-7747 fax 239-939-2069
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Estimate

Date	Estimate #
2/10/2026	10076

Name / Address
CITY OF BONITA SPRINGS 9101 BONITA BEACH ROAD BONITA SPRINGS, FL. 34135 ATTN: ACCOUNTS PAYABLE

Rep	PROJECT
DM	SOUND STAGE ROOF

Item	Description	Qty	Cost	Total
PRODUCTION	SOUND SYSTEM HUNG FROM BAND SHELL ROOF WITH SPEAKERS AIMED FRONT AND SIDES FOR 9 DAYS SPEAKERS AIMED AT AREA BEHIND BAND SHELL AUTOMATIC MUSIC TURN ON (4:30PM) AND TURN OFF (9:00PM) CLIENT TO SUPPLY MUSIC PLAY LIST FROM 3/24/26 TO 3/28/26	1	6,182.50	6,182.50

ON ACCEPTANCE PLEASE SIGN AND RETURN.

Subtotal	\$6,182.50
Sales Tax (6.5%)	\$0.00
Total	\$6,182.50

Signature _____

TECH-TRONICS PRODUCTIONS, INC.
 4224 FOWLER ST #1
 FT MYERS FL 33901
 239-939-7747 fax 239-939-2069
 www.tech-tronicsinc.com

Estimate

Date	Estimate #
1/27/2026	10048

Name / Address
CITY OF BONITA SPRINGS 9101 BONITA BEACH ROAD BONITA SPRINGS, FL. 34135 ATTN: ACCOUNTS PAYABLE

Rep	PROJECT
DM	GREEN SPACE BEHIND ...

Item	Description	Qty	Cost	Total
PRODUCTION	LIGHTING PRODUCTION IN THE GREEN SPACE BEHIND THE STAGE TO FRONT OF LILES HOTEL FROM 3/24/26 TO 3/28/26		0.00	0.00
PRODUCTION	PANEL LIGHTS	75	70.00	5,250.00
PRODUCTION	LED PAR FOR ROYAL PALMS	36	135.00	4,860.00
PRODUCTION	MULTI COLORED MARKET LIGHTS	1,000	5.00	5,000.00
PRODUCTION	CEMENT BLOCK AND PIPE FOR MARKET LIGHTS	3	250.00	750.00
PRODUCTION	LIGHT STANDS FOR LED PAR TO LIGHT UP TOPS OF OAK TREES	2	150.00	300.00
PRODUCTION	LIFT	1	2,500.00	2,500.00
PRODUCTION	EX CORD CABLE PACKAGE	1	500.00	500.00
PRODUCTION	INSTALL MATERIAL	1	100.00	100.00
PRODUCTION	RIGGING	2	1,000.00	2,000.00
SETUP	EQUIPMENT SETUP / TEAR DOWN CHARGE	2	2,500.00	5,000.00
DELIVERY	DELIVERY, PICKUP CHARGE (CHARGED EACH DIRECTION)	2	650.00	1,300.00

Subtotal		\$27,560.00
Sales Tax (6.5%)		\$0.00
Total		\$27,560.00

Signature _____

TECH-TRONICS PRODUCTIONS, INC.
 4224 FOWLER ST #1
 FT MYERS FL 33901
 239-939-7747 fax 239-939-2069
 www.tech-tronicsinc.com

Estimate

Date	Estimate #
1/27/2026	10049

Name / Address
CITY OF BONITA SPRINGS 9101 BONITA BEACH ROAD BONITA SPRINGS, FL. 34135 ATTN: ACCOUNTS PAYABLE

Rep	PROJECT
DM	LILES HOTEL

Item	Description	Qty	Cost	Total
PRODUCTION	LIGHTING PRODUCTION FOR LILES HOTEL FROM 3/24/26 TO 3/28/26		0.00	0.00
PRODUCTION	PANEL LIGHTS	75	70.00	5,250.00
PRODUCTION	LED PAR FOR ROYAL PALMS	35	135.00	4,725.00
PRODUCTION	EX CORD PACKAGE	1	500.00	500.00
PRODUCTION	INSTALL MATERIAL	1	100.00	100.00
SETUP	EQUIPMENT SETUP / TEAR DOWN CHARGE	2	1,750.00	3,500.00
DELIVERY	DELIVERY, PICKUP CHARGE (CHARGED EACH DIRECTION)	2	225.00	450.00

Subtotal	\$14,525.00
Sales Tax (6.5%)	\$0.00
Total	\$14,525.00

Signature _____

TECH-TRONICS PRODUCTIONS, INC.
 4224 FOWLER ST #1
 FT MYERS FL 33901
 239-939-5463 fax 239-939-2069
 www.tech-tronicsinc.com

Invoice

See Estimate. No.	DATE	INVOICE NO.
	2/2/2026	59431

BILL TO
CITY OF BONITA SPRINGS 9101 BONITA BEACH ROAD BONITA SPRINGS, FL. 34135 ATTN: ACCOUNTS PAYABLE

SHIP TO
CITY OF BONITA SPRINGS 9101 BONITA BEACH ROAD BONITA SPRINGS, FL. 34135 ATTN: ACCOUNTS PAYABLE

P.O. NO.	TERMS	DUE DATE	REP	SHIP DATE	BAL DUE
	Due on receipt	2/2/2026	DM	2/2/2026	CELEBRATE BONITA 20...
ITEM	DESCRIPTION	QTY	RATE	AMOUNT	
PRODUCTION	LIGHTING PRODUCTION FOR CELEBRATE BONITA ON 3/28/26.		0.00	0.00	
PRODUCTION	DOWNSTAGE LIGHTING TRUSS ON GROUND SUPPORTED LIFTS WITH LED LIGHTING FIXTURES	1	2,000.00	2,000.00	
PRODUCTION	UP STAGE LIGHTING TRUSS GROUND SUPPORTED WITH LED FIXTURES.	1	2,000.00	2,000.00	
PRODUCTION	LIGHTING CONSOLE	1	150.00	150.00	
PRODUCTION	LIGHTING DIRECTOR	1	750.00	750.00	
PRODUCTION	LIGHTING TECH	1	750.00	750.00	
PRODUCTION	HAZER	2	50.00	100.00	
PRODUCTION	SET UP AND TEAR DOWN	2	425.00	850.00	
DELIVERY	DELIVERY, PICKUP CHARGE (CHARGED EACH DIRECTION)	2	175.00	350.00	
	SET UP ON 3/27/26				

ON ACCEPTANCE PLEASE SIGN AND RETURN.

A FINANCE CHARGE OF 1.5% PER MONTH (18% PER YEAR) WILL BE ASSESSED TO ALL ACCOUNTS BEYOND TERMS.

Subtotal	\$6,950.00
Sales Tax (6.5%)	\$0.00
Total	\$6,950.00
Payments/Credits	\$0.00
Balance Due	\$6,950.00

TECH-TRONICS PRODUCTIONS, INC.
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 239-939-5463 fax 239-939-2069
 www.tech-tronicsinc.com

Invoice

See Estimate. No.	DATE	INVOICE NO.
	2/2/2026	59430

BILL TO
CITY OF BONITA SPRINGS 9101 BONITA BEACH ROAD BONITA SPRINGS, FL. 34135 ATTN: ACCOUNTS PAYABLE

SHIP TO
CITY OF BONITA SPRINGS 9101 BONITA BEACH ROAD BONITA SPRINGS, FL. 34135 ATTN: ACCOUNTS PAYABLE

P.O. NO.	TERMS	DUE DATE	REP	SHIP DATE	BAL DUE
	Due on receipt	2/2/2026	DM	2/2/2026	CELEBRATE BONITA 2...

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
PRODUCTION	SOUND PRODUCTION ON MARCH 28, 2026 FOR CELEBRATE BONITA. SOUND SYSTEM TO INCLUDE LINE SOURCE ARRAY SPEAKERS FLOWN FROM LINE ARRAY TOWERS, 8 SUBS (4 PER SIDE) GROUND STACKED UNDER FLOWN SPEAKERS, 2 SPEAKERS FOR FRONT FILLS. 32 CHANNEL DIGITAL MIXING CONSOLE FOR FRONT OF THE HOUSE. 250' SPLIT SNAKE. POWER DISTRIBUTION. SPEAKERS FOR OUT FILL STAGE LEFT TECH-TRONICS WILL USE THE 200 AMP AND 400 AMP THREE PHASE PANEL FOR SOUND SYSTEM, LIGHTING AND SPEAKER TOWERS.	1	8,500.00	8,500.00
PRODUCTION	10'x10' FRONT OF HOUSE TENT FOR ARTISTS AND TECH-TRONICS FOH EQUIPMENT. ****CITY RESPONSIBLE FOR PERMIT IF REQUIRED**** *****TECH-TRONICS REQUIRES 2 HOURS BEFORE EVENT START FOR OPENING ACT SET-UP.	1	200.00	200.00
PRODUCTION	MONITOR SYSTEM TO INCLUDE: DIGITAL MIXING CONSOLE. MIC'S, MIC CABLES, MIC STANDS. STAGE MONITORS FOR LOCAL ACTS, POWER DROPS FOR BAND EQUIPMENT	1	2,000.00	2,000.00
PRODUCTION	SHURE D SERIES WIRELESS MIC	4	175.00	700.00

ON ACCEPTANCE PLEASE SIGN AND RETURN.

Subtotal
Sales Tax (0.0%)
Total
Payments/Credits
Balance Due

TECH-TRONICS PRODUCTIONS, INC.
 4224 FOWLER ST #1
 FT MYERS FL 33901
 239-939-5463 fax 239-939-2069
 www.tech-tronicsinc.com

Invoice

See Estimate. No.	DATE	INVOICE NO.
	2/2/2026	59430

BILL TO
CITY OF BONITA SPRINGS 9101 BONITA BEACH ROAD BONITA SPRINGS, FL. 34135 ATTN: ACCOUNTS PAYABLE

SHIP TO
CITY OF BONITA SPRINGS 9101 BONITA BEACH ROAD BONITA SPRINGS, FL. 34135 ATTN: ACCOUNTS PAYABLE

P.O. NO.	TERMS	DUE DATE	REP	SHIP DATE	BAL DUE
	Due on receipt	2/2/2026	DM	2/2/2026	CELEBRATE BONITA 2...
ITEM	DESCRIPTION	QTY	RATE	AMOUNT	
PRODUCTION	3' CABLE BRIDGE FROM STAGE TO FRONT OF HOUSE TENT.	30	7.00	210.00	
PRODUCTION	AUDIO ENGINEERS	2	750.00	1,500.00	
SETUP	EQUIPMENT SETUP / TEAR DOWN CHARGE	2	700.00	1,400.00	
DELIVERY	DELIVERY, PICKUP CHARGE (CHARGED EACH DIRECTION)	2	225.00	450.00	
	SET-UP ON MARCH 27, 2026 CITY OF BONITA SPRINGS TO PROVIDE OVERNIGHT SECURITY FROM 6PM ON 3/27/26 UNTIL TECH-TRONICS RETURNS ON 3/28/26				

ON ACCEPTANCE PLEASE SIGN AND RETURN.

A FINANCE CHARGE OF 1.5% PER MONTH (18% PER YEAR) WILL BE ASSESSED TO ALL ACCOUNTS BEYOND TERMS.

Subtotal	\$14,960.00
Sales Tax (0.0%)	\$0.00
Total	\$14,960.00
Payments/Credits	\$0.00
Balance Due	\$14,960.00

ITEM TITLE: (SECOND READING) AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING DIVISION 2 "PLANNING AND ZONING BOARD" OF ARTICLE II, "ADMINISTRATION," CHAPTER 4, "ZONING," DIVISION 2 "HISTORIC PRESERVATION BOARD" OF ARTICLE II "ADMINISTRATION AND ENFORCEMENT," CHAPTER 5 "HISTORIC PRESERVATION," AND, DIVISION 6 "OPEN SPACE, BUFFERING AND LANDSCAPING," ARTICLE III "DESIGN STANDARDS AND REQUIREMENTS," CHAPTER 3 "DEVELOPMENT STANDARDS" OF THE LAND DEVELOPMENT CODE; EXPANDING THE POWERS, DUTIES, AND PROCEDURES OF THE PLANNING AND ZONING BOARD; PROVIDING FOR OTHER NECESSARY CLARIFICATIONS AND REVISIONS OF CODE; AND, PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

REQUESTOR: Derek Rooney, City Attorney

AGENDA SECTION: Public Hearings

STRATEGIC PRIORITY: 6) Government Transparency and Efficiency

BACKGROUND:

The City Council has made recent efforts to consolidate advisory boards including its land use boards combining both the City's Local Planning Agency and Zoning Board into a single Planning and Zoning Board. Following recent issues relating to the processing of various land use petitions due to scheduling and conflict as well as lack of quorums, the City Council has requested that additional land use authorizations be transferred from both the Historic Preservation Board and Tree Advisory Board to the newly formed Planning and Zoning Board.

The proposed ordinance amends applicable provisions of the City's Land Development Code to allow the Planning and Zoning Board to serve as the Historic Preservation Board as well as for the heritage tree preservation review of the Tree Advisory Board to be considered by the Planning and Zoning Board during the regular land use and zoning process.

In addition, at direction of Council the mandatory demolition delay period has been extended beyond the 50-year timeline to a proposed 80-year review criteria.

City Council held the First Reading of this Ordinance on February 18, 2026.

STAFF RECOMMENDATION:

ATTACHMENTS:

1. Draft Ordinance

REVIEWERS:

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

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 26 – ___

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING DIVISION 2 “PLANNING AND ZONING BOARD” OF ARTICLE II, “ADMINISTRATION,” CHAPTER 4, “ZONING,” DIVISION 2 “HISTORIC PRESERVATION BOARD” OF ARTICLE II “ADMINISTRATION AND ENFORCEMENT,” CHAPTER 5 “HISTORIC PRESERVATION,” AND, DIVISION 6 “OPEN SPACE, BUFFERING AND LANDSCAPING,” ARTICLE III “DESIGN STANDARDS AND REQUIREMENTS,” CHAPTER 3 “DEVELOPMENT STANDARDS” OF THE LAND DEVELOPMENT CODE; EXPANDING THE POWERS, DUTIES, AND PROCEDURES OF THE PLANNING AND ZONING BOARD; PROVIDING FOR OTHER NECESSARY CLARIFICATIONS AND REVISIONS OF CODE; AND, PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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

WHEREAS, the City of Bonita Springs desires to streamline, clarify, and otherwise update provisions of the City’s Land Development Code; and

WHEREAS, the City of Bonita Springs previously provided for the consolidation of the City’s Local Planning Agency and Zoning Board into a single Planning and Zoning Board; and

WHEREAS, the City Council also finds it more efficient and consistent with sound public administration to consolidate additional land use functions into the Planning and Zoning Board to provide a more comprehensive review of such petitions; and

WHEREAS, the City Council of the City of Bonita Springs desires to amend its Land Development Code to promotes efficiency, transparency, and improved coordination of planning and zoning review for the City and its residents; and

WHEREAS, the City Council hereby desires to transfer certain advisory functions to the Planning and Zoning Board including those of the City’s Historical Preservation and Tree Advisory Boards; and

WHEREAS, pursuant to Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

WHEREAS, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted as legislative findings of the City Council and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Amending Land Development Code

The Bonita Springs City Code is hereby amending the pertinent provisions of the City's Land Development Code, with deletions depicted with ~~strikethroughs~~ and underlined language as additions, as provided and further depicted in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Severability

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any part of this Ordinance is found to be invalid, preempted, or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such invalid, preempted, or superseded part as if adopted with such part had not been included herein.

Section 4. Conflicts of Law

This Ordinance shall supersede any ordinances in conflict herewith to the extent that such conflict exists. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of the requirements of state or federal law, the more restrictive shall apply.

Section 5. Codification and Scrivener's Errors

It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.

Section 6. Effective Date

This Ordinance shall be effective immediately upon its adoption.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL of the City of Bonita Springs, Florida this 4th day of March, 2026.

Attest:

CITY OF BONITA SPRINGS, FLORIDA

By: _____
City Clerk

By: _____
Mayor

Reviewed for legal sufficiency:

By: _____
City Attorney

Vote:

Carr
Purdon
Fitzpatrick
Gibson

Corrie
Fullick
Bogacz

Date filed with City Clerk: _____

EXHIBIT A

Sec. 4-53. Powers and Duties.

- (a) *As Local Planning Agency:*
 - (1) Prepare, review, and recommend the City's Comprehensive Plan and any amendments or updates.
 - (2) Monitor and evaluate plan effectiveness and prepare the Evaluation and Appraisal Reports required by law.
 - (3) Review proposed land development regulations and amendments for consistency with the Comprehensive Plan.
 - (4) Perform any additional planning functions assigned by the City Council or by general or special law.
- (b) *As Zoning Board:*
 - (1) Conduct hearings and make recommendations to the City Council on rezoning applications, special exceptions, variances, and other zoning matters assigned by the Land Development Code or City Council.
 - (2) Make findings and recommendations consistent with the Comprehensive Plan, Land Development Code, and all applicable regulations.
 - (3) Developments of regional impact and Florida Quality Developments approval, which may or may not include a request for rezoning.
 - (4) Requests to use transfer of development rights or affordable housing bonus density.
- (c) As Historic Preservation Board:
 - (1) The Planning and Zoning Board shall serve as the City's Historic Preservation Board as provided in sections 5-49 thru 5-52 of the Land Development Code.
 - (2) Conduct hearings and make recommendations to the City Council regarding preservation of historic and archaeological resources pursuant to Chapter 5 Historic Preservation of the Land Development Code.
- (d) Landscaping:
 - (1) The Board shall review and provide recommendations consistent with section 3-417 of the City of Bonita Springs Landscaping Code.
- (e) *Authority.*
 - (1) Except as provided in the Land Development Code, ~~the Board~~ serves in an advisory capacity to the city council with respect to planning and zoning matters, and in such capacity, may not make final determinations.
 - (2) Variances and special exceptions may be reviewed by themselves or as part of a rezoning.
 - (3) Recommend conditions or requirements reasonably related to any land-use, variance, special exception, or zoning request to protect public health, safety, comfort, convenience, and welfare.
- (f) *Other Duties:*

The Board shall perform such additional duties as the City Council may assign to implement the City's development regulations and planning policies.

Sec. 4-54. Standard for Review.

- (a) Local Planning Agency.

- (1) *Considerations.* In preparing its recommendation on any matter, the Board as local planning agency shall consider the following, whenever applicable:
 - a. Whether there exists an error or ambiguity which must be corrected.
 - b. Whether there exist changed or changing conditions which make approval of the matter appropriate.
 - c. The testimony of any applicant.
 - d. The recommendation of staff.
 - e. The testimony of the public.
 - f. Whether a proposed matter is consistent with the goals, objectives, policies and intent of the Bonita Plan.
- (b) *Variances.*
 - (1) *Considerations.* In reaching their decision, the Board must consider the following criteria, recommendations and testimony:
 - a. Whether exceptional or extraordinary conditions or circumstances exist which are inherent in the land, structure or building involved and whether those exceptional or extraordinary conditions or circumstances create a hardship on the property owner;
 - b. Whether the exceptional or extraordinary conditions or circumstances do not result from the actions of the applicant;
 - c. Granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare;
 - d. Staff recommendations;
 - e. Testimony from the applicant; and
 - f. Testimony from the public.
 - (2) *Findings.* Before making a recommendation to grant any variance, the Board must find that all of the following exist:
 - a. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;
 - b. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of the ordinance (any action taken by an applicant pursuant to lawfully adopted regulations preceding the adoption of the ordinance from which this chapter is derived will not be considered self-created);
 - c. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to their property;
 - d. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
 - e. The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of a general or recurrent nature so as to make it more reasonable and practical to amend the code.
- (c) *Special exceptions.*
 - (1) *Function.* The Board will hear all applications for special exceptions permitted by the district use regulations.
 - (2) *Considerations.* In reaching their decision, the Board must consider the following, whenever applicable:
 - a. Whether there exist changed or changing conditions that make approval of the request appropriate.

- b. The testimony of any applicant.
 - c. The recommendation of staff.
 - d. The testimony of the public.
 - e. Whether the request is consistent with the goals, objectives, policies and intent of the Bonita Plan.
 - f. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
 - g. Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.
 - h. Whether the request will be compatible with existing or planned uses.
 - i. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.
 - j. Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.
- (3) *Findings.* Before making a recommendation to the city council to grant any special exceptions, the Board must find that the applicant has proved entitlement to the special exception by demonstrating compliance with:
- a. The Bonita Plan;
 - b. This chapter; and
 - c. Any other applicable ordinances or codes.
- (d) *Zoning matters.*
- (1) *Considerations.* In preparing their recommendation on a rezoning, the Board must consider the following, if applicable:
- a. Whether there exist changed or changing conditions that make approval of the request appropriate.
 - b. The testimony of any applicant.
 - c. The recommendation of staff.
 - d. The testimony of the public.
 - e. Whether the request is consistent with the goals, objectives, policies and intent of the Bonita Plan.
 - f. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
 - g. Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.
 - h. Whether the request will be compatible with existing or planned uses.
 - i. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.
 - j. Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.
 - k. Whether there exists an error or ambiguity which must be corrected;
 - l. Whether public facilities will be available and adequate to serve a proposed land use change when reviewing a proposed change to a future urban area category; and
 - m. Whether a proposed change is intended to rectify errors on the official zoning map.
- (2) *Findings.* Before preparing their recommendation to the city council on a rezoning, the Board must find that:
- a. The applicant has proved entitlement to the rezoning by demonstrating compliance with the Bonita Plan, this Land Development Code, and any other applicable code or regulation;
 - b. The request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request;

- c. The request, including the use of transfer of development rights or affordable housing bonus density units, is consistent with the densities, intensities and general uses set forth in the Bonita Plan;
- d. The request is compatible with existing or planned uses in the surrounding area;
- 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;
- f. Where applicable, the request will not adversely affect environmentally critical areas and natural resources;
- g. In the case of a planned development rezoning, the decision of the board must also be supported by the formal findings required by section 4-299(a)(2) and (4);
- h. The Board must also find that public facilities are, or will be, available and adequate to serve the proposed land use.

Sec. 4-32. Functions and authority of city council.

(a) *Land use ordinance amendments or adoption.*

- (1) *Function.* The city council must hold public hearings on all proposed land use ordinance amendments or adoptions.
- (2) *Considerations.* When deciding whether to adopt a proposed land use ordinance or amendment, the city council must consider the same criteria, recommendations and issues as set forth in section 4-88(b), as well as the recommendation of the local planning agency, but are not required to accept these recommendations.
- (3) *Decisions and authority.* The decision of the city council on any proposed land use ordinance amendment or adoption is final.
- (4) *Appeals.* Appeals of any decision concerning land use ordinance amendments or adoption may be taken in accordance with applicable state law.
- (5) *Voting.* Any decision by city council to amend its comprehensive plan, whether by a text or map amendment, which will allow a structure to be built at a height greater than 75 feet, will require the affirmative vote of five or more council members, provided that this requirement shall be subject to, and not contravene, the provisions of the City Charter, including, but not limited to Charter § 26 thereof. ~~This enhanced voting requirement will not be applicable to the processing of any comprehensive plan amendment applications that were filed before December 1, 2016.~~

(b) *Zoning actions.*

- (1) *Function.*
 - a. City council must hold public hearings (see sections 4-224 through 4-229) on all zoning applications, including variances and special exceptions, unless administrative decisions are authorized elsewhere in this Code.
 - b. All requests for variances, use of TDR or affordable housing bonus density units, and special exceptions which are part of an application for a rezoning must be considered by the city council with the application for rezoning and heard together with and at the same time as the rezoning.
- (2) *Considerations.* In rendering its decision, the city council must consider the following:
 - a. The considerations set forth in section 4-124 which are applicable to the case.
 - b. The substantive recommendation of the zoning board when applicable.
- (3) *Findings.* Before granting any rezoning, special exception, or variance, the city council 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;
 - b. The request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request;
 - c. The request is consistent with the densities, intensities and general uses set forth in the Bonita Plan;
 - d. The request is compatible with existing or planned uses in the surrounding area;
 - e. Approval of the request will not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development;
 - f. Where applicable, the request will not adversely affect environmentally critical areas and natural resources;
 - g. In the case of a planned development rezoning, the decision of the city council must also be supported by the formal findings required by section 4-299(a)(2) and (4);
 - h. The city council must also find that public facilities and services, as defined in the Bonita Plan, are, or will be, available and adequate to serve the proposed land use; and
 - i. In the case of a recommendation pertaining to wireless communication facilities, the decision of the city council must also be supported by the formal findings set forth in sections 4-1219(b) and 4-1225, as applicable.
- (4) *Decisions and authority.*
- a. In exercising its authority, the city council:
 - 1. Must consider the recommendation of the zoning board, but may, in conformity with the provisions of this chapter, reverse, affirm or modify the recommendation of the zoning board, or remand the recommendation to afford due process.
 - 2. May not approve a rezoning other than the rezoning published in the newspaper unless the change is more restrictive than the proposed rezoning published.
 - 3. Has the authority to attach such conditions and requirements to any approval of a request for a special exception, development of regional impact, planned development, use of TDR or affordable housing bonus density units in conjunction with a rezoning request, or variance within their purview, deemed necessary for the protection of the health, safety, comfort, convenience or welfare of the general public. These conditions and requirements must be reasonably related to the action requested.
 - 4. In the case of a recommendation pertaining to wireless communication facilities, the city council must consider the decision as a recommendation only and may, in conformity with the provisions of this chapter, reverse, affirm or modify the decision of the zoning board, or remand the case to the zoning board.
 - b. The decision of the city council on any matter listed in this subsection (4) is final. If there is a tie vote, the matter considered will be continued until the next regularly scheduled meeting for decisions on zoning matters by the city council, unless four of the members present and voting agree by motion, before the next agenda item is called, to take some other action. Such other action may be moved or seconded by any member, regardless of his vote on any earlier motion.
 - c. Any denial by the city council is denial with prejudice, unless otherwise specified by the city council (see section 4-200).

- (5) *Judicial review.* Judicial review of final decisions under this section must be in accordance with section 4-34.
 - (6) *Special master.* Final decisions under this section may be the subject of a request for relief under F.S. § 70.51, within 30 days after the decision has been rendered. For the purposes of computing the 30-day period, the date the decision has been rendered is the date of the public hearing at which the city council made such decision by oral motion. The request for relief must allege that a decision of the city council is unreasonable or unfairly burdens the use of the subject property. A request for relief will be heard by an impartial special master in accordance with the procedure set forth in the administrative code.
- (c) *Appeals resulting from acts of administration or city boards*
- (1) The city council will consider appeals resulting from decisions or acts of its community development department or city boards who have been delegated with final decision making powers, including the Planning and Zoning Board~~historic preservation board, tree advisory board, etc.~~, where that board's decision has the right to appeal to the city council. Subject to this section, the city council will conduct hearings and make final decisions concerning appeals from administrative actions where it is claimed that there is an error in any order, requirement, decision, interpretation, determination or action of any administrative official (or board with final decision making powers) charged with the administration and enforcement of the provisions of the Land Development Code or any other ordinance that provides for a similar review.
 - (2) No appeal to the city council may lie from any act by an administrative official pursuant to:
 - a. An ordinance, resolution or directive of the city council directing the department of community development to perform such act;
 - b. Any ordinance or other regulation or provision in this Land Development Code which provides a different appellate procedure;
 - c. Zoning verification letters;
 - d. An administrative official's determinations of state or federal statutes, state or federal codes, rules, or regulations. If the city council must interpret or apply state or federal statutes, state or federal codes, rules or regulations in reaching a decision on an appeal, the city council is not authorized to hear the appeal and the case must be dismissed; or
 - e. Appeals of administrative interpretations of the comprehensive plan will be processed in accordance with the administrative section of the comprehensive plan. Likewise, interpretations of the state building code and other technical codes will be processed in accordance with the rights to appeal in those specific codes.
 - (3) No appeal may be considered by city council where it appears to be a circumvention of an established or required procedure. Specifically, in no case may an appeal be heard when the city council determines that the case should more appropriately be heard on a request for a special exception or variance.
 - (4) Unless there is a specific time limit specified in a controlling ordinance, applicants will have 30 days from the date of the specific decision or act of the community development department to appeal the decision, otherwise the use of an appeal is time-barred from consideration. The request must be filed with the city clerk, who will date stamp when filed in that office and transmit the appeal to the director of community development and the city attorney's office.
 - (5) Notices of hearings on appeals will be provided for in the agenda for regular city council meetings. No additional notices will be prepared to affected property owners or the public. Placement of appeals will be on the appeals portion of the agenda. The city attorney will schedule the item at a city council meeting, with the record consisting of the greensheet, application for the appeal, the actual record of the staff decision or act, and a staff response.

- (6) The city council will not consider appeals for challenges to a development order controlled by F.S. § 163.3215. In cases of challenges to development orders controlled by F.S. § 163.3215, no suit may be brought or filed or accepted for filing until the development order giving rise to the complaint has become final by virtue of its having been issued by the director, or by virtue of its having been ordered by the city council on an appeal reversing the director's denial of the development permit or denial of a development order extension, or by the city council in cases where the city council has granted planned development zoning. Once a development order has been granted, the provisions of F.S. § 163.3215 will be the sole means of challenging the approval of a development order, as that term is defined in F.S. § 163.3164(6), when the approval of the development order is alleged to be inconsistent with the Bonita Plan, in which case an action brought pursuant to F.S. § 163.3215 will be limited exclusively to the issue of comprehensive plan consistency.
- (7) Except as may be required by F.S. § 163.3215, and then only pursuant to that statute, a third party will not have standing to appeal an administrative decision. Only the applicant or their agent will be permitted to appeal such administrative action as set forth in this section.
- (8) Considerations.
 - a. In reaching a decision, city council must consider the following criteria, as well as any other issues that are pertinent and reasonable:
 1. Whether appeal is of a nature properly brought before the city council for a decision.
 2. The plain and ordinary meaning of all applicable ordinance or code provisions, unless the language is unclear or ambiguous; then the intent of the ordinance or code provision applied or interpreted may be considered.
 - b. Staff recommendations, the testimony of the parties and witnesses and testimony of the general public must also be considered.
 - c. All parties may present evidence and testimony as to laws or facts supporting their position in the case.
- (9) Findings. Before granting an appeal, the city council must determine if an error was made by the administrative official or advisory board.
- (10) Authority. The city council has the authority to reverse, affirm or modify the decisions or actions of the administrative official.

Sec. 4-33. Rehearing of decisions.

- (a) Any person who may be aggrieved by a decision the city council made pursuant to an application for rezoning, development of regional impact, special exception that meets the criteria of a development of city impact, or special exceptions or variances adopted on their own as a resolution or heard as part of a rezoning, may file a written request for a public rehearing by the city council for a modification or rescission of the decision. The request must be filed with the director of community development and the city attorney's office within 15 calendar days after the decision. For purposes of computing the 15-day period, the date of the decision is the date of the public hearing at which the city council made its decision by oral motion.
- (b) All requests for a public rehearing must state with particularity any new evidence or the points of law or fact which the aggrieved person argues the city council has overlooked or misunderstood, and must include all documentation offered to support the request for a rehearing. The city council will decide whether to grant or deny the request for a rehearing based exclusively upon the aggrieved person's written request and supporting documentation and the administrator's written analysis thereof. In addition, if the request is made by one other than the original applicant, the city must notify the applicant of the filing of the request for a rehearing and the applicant must be allowed to submit his independent written analysis. The deliberations of the city council with respect to the question of whether to grant a rehearing do not

constitute a public hearing, and no oral testimony will be allowed or considered by the city council in the course of these deliberations. An aggrieved person need not request a rehearing in order to exhaust his administrative remedies as a condition precedent to filing an appeal to the circuit court.

- (c) Judicial review. The proper filing of a petition for rehearing will toll the 30-day time limit set forth for judicial review of final decisions in section 4-3455. If a rehearing request is refused, or if the request is granted but modification or rescission of the original motion of the city council is denied, any aggrieved person may, within 30 calendar days after such refusal or denial, apply for judicial review of the original motion in accordance with section 4-3455. No judicial review is available to review the city council decision to refuse a rehearing request.
- (d) There is no right to apply to court for relief on account of any determination or recommendation of the zoning board in those actions listed in section 4-532(b)(1) which require public hearing before the city council.

Sec. 5-3. Definitions.

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

Archaeological site means an individual historic resource recognized for its prehistoric or historic artifacts and features.

Archaeologist means a person who is qualified under the professional standards of the Florida Archaeological Council or the Society of Professional Archaeologists to conduct archaeological surveys, assessments or excavations, or is recognized as qualified to perform those tasks by the city.

Area of archaeological sensitivity means an area identified in the survey entitled "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" (Piper Archaeological Research, Inc., 1987), as known or being likely to yield information on the history and prehistory of the county based on prehistoric settlement patterns and existing topographical features. Areas of archaeological sensitivity are divided into the following categories:

- (1) *Sensitivity Level 1.* Those areas containing known archaeological sites that are considered to be significant or potentially significant historic resources. These areas include sites listed on the National Register of Historic Places and those considered eligible or potentially eligible for listing on the National Register of Historic Places or local historic resource designation.
- (2) *Sensitivity Level 2.* Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present.

Building means any structure, either temporary or permanent, having a roof intended to be impervious to weather, and used or built for the shelter or enclosure of persons or property of any kind, excluding animal cages.

Building official means the officer charged with the administration and enforcement of the city construction code as set out in chapter 10 of the general laws.

Certificate of appropriateness means a written authorization by the historic preservation board or city staff to the owners of a designated property or any building, structure or site within a designated historic district, allowing a proposed alteration, relocation, or the demolition of a building, structure or site. Certificates of appropriateness are divided into the following two classes:

- (1) *Regular certificate of appropriateness* means a certificate of appropriateness issued by the city staff allowing activities which require the issuance of a building permit but which are classified as ordinary maintenance and repair under the provisions of this chapter and the criteria listed in the U.S. Secretary of the Interior's Standard for Rehabilitation, 36 CFR 67.

- (2) *Special certificate of appropriateness* means a certificate of appropriateness issued directly by the historic preservation board and required for any proposed work that will result in the alteration, demolition, relocation, reconstruction, new construction or excavation of a designated historic resource, based upon the criteria listed in the U.S. Secretary of the Interior's Standard for Rehabilitation, 36 CFR 67.

Certificate to dig means a certificate issued by the city staff or the historic preservation board, authorizing certain clearing, digging, archaeological investigation or archaeological development projects that may involve the exploration of documented or suspected archaeological sites in areas of archaeological sensitivity level 1 or 2.

Certified local government means a designated local government meeting the requirements of the National Historic Preservation Act of 1966, as amended, 454 USC 300101, which extends some aspects of the federal and state responsibilities for historic preservation to qualified local governments. Under the program, local governments are certified to review and make recommendations to the Florida National Register Review Board concerning nominations to the National Register of Historic Places of properties located within the confines of their local jurisdictions.

Contributing property means any building, structure or site which contributes to the overall historic significance of a designated historic district and was present during the period of historic significance and possesses historic integrity reflecting the character of that time or is capable of yielding important information about the historically significant period or independently meets the criteria for designation as a historic resource.

Demolition means the complete removal of a building or structure, or portions thereof, from a site.

Demolition by neglect means the willful abandonment of a building or structure by the owner resulting in such a state of deterioration that its self-destruction is inevitable or where demolition of the building or structure to remove a health and safety hazard is a likely result.

Demolition delay means the six-month waiting period set forth in section 5-85(c) applicable to designated historic resources or contributing properties, as well as the waiting period of time after the filing of an application for a permit to demolish a recognized historic resource, as defined herein, during which the historic preservation board may pursue alternatives to demolition and/or to assemble and document information with the property owner or owners of the recognized historic resource pertaining to the appearance and history of the building or structure prior to a permit for its demolition being issued, as set forth in section 5-88.

Designation certificate means a certificate issued by the historic preservation board declaring a building, structure, site or district to be a historic resource.

Designation report means a written document indicating the basis for the findings of the historic preservation board concerning the proposed designation of a historic resource pursuant to this chapter.

Exterior means all outside surfaces of a building or structure visible from a public right-of-way or the street easement of the building or structure.

Florida Master Site File means the central inventory of historic properties established and maintained for the state, consisting of such properties reported to and recorded with the division of historical resources, pursuant to F.S. § 267.031(5)(m), as may be amended, renumbered or replaced.

Historic district means a geographically definable area designated pursuant to this chapter possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also be comprised of individual elements separated geographically but linked by association or history. To qualify as a historic district, an area may contain both contributing and noncontributing properties.

Historic preservation board or board means a board of citizens appointed by the city council to administer the provisions of this chapter.

Historic resource means any prehistoric or historic district, site, building, structure, object or other real or personal property of historical, architectural or archaeological value. Historic resources may include, but are not

limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government or culture of the city, county, the state or the United States.

Historic resource database means the compilation of data gathered on historical and archaeological sites in the city, based on the findings of the Florida Master Site File and the surveys entitled "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" (1987), "Historic Resources Survey of Bonita Springs, Final Report" (also known as "The Janus Report") (October, 2004), and any subsequent historic or archaeological survey.

National Register of Historic Places means a federal listing maintained by the U.S. Department of the Interior of buildings, sites, structures and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966 as amended, 54 USC 300101, as such act may be amended, renumbered or replaced, and its implementing regulation, 36 CFR 60, "National Register of Historic Places," as such regulations may be amended, renumbered or replaced.

Noncontributing property means any building, structure or site which does not contribute to the overall historic significance of a designated historic district due to alterations, disturbances or other changes and therefore no longer possesses historic integrity, or was not present during the period of historic significance or is incapable of yielding important information about that period.

Ordinary maintenance and repairs means work done to prevent deterioration, decay or damage to a building or structure, or any part thereof, by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay or damage.

Owner means those individuals, partnerships, corporations or public agencies holding fee simple title to real property. The term "owner" does not include individuals, partnerships, corporations or public agencies holding easements or less than a fee simple interest (including leaseholds) in real property.

Recognized historic resource means any building or structure not presently designated as a historic resource or as a contributing property, which has a Florida Master Site File record, and/or is 50 years of age or older, and has been recognized by the historic preservation board as possessing substantial historic significance and value, based upon the criteria for historic designation of a building or structure as set forth in section 5-176 of this chapter, as it may be amended from time to time. The historic preservation board shall keep and maintain, and make available to the public, a listing of such recognized historic resources, which listing may be amended from time to time. A copy of such list shall be filed with the city clerk's office.

Staff means the city staff persons, including persons within the community development department, designated by the city manager to serve as staff for the historic preservation board and to administer the provisions of this chapter in cooperation with the building official and the zoning director.

Structure means that which is built or constructed. The term "structure" shall be construed as if followed by the words "or part thereof."

Undue economic hardship means an onerous and excessive financial burden that would be placed upon a property owner by the failure to issue a special certificate of appropriateness for demolition, or arising from a demolition delay, thereby amounting to the taking of the owner's property without just compensation.

Zoning director means the director of the zoning and development review division, or his successor or designee as the person responsible for administering the provisions of chapter 4.

Sec. 5-30. Appeals.

- (a) Any owner of a building, structure or site affected by the operation of this chapter may appeal a decision of the historic preservation board by filing a written notice of appeal within 15 days of the date the written decision of the historic preservation board was rendered. The notice of appeal shall be filed in accordance with the Bonita Springs Land Development Code ("LDC"), section 4-83 and a copy provided to the historic

preservation board, which shall state the decision being appealed, the grounds for the appeal and a summary of the relief sought.

- (b) Appeals shall otherwise be pursued using the procedure set forth in section 4-532, pertaining to appeals from administrative matters.
- (c) Except as may be required by F.S. § 163.3215, and then only pursuant to that statute, a third party shall not have standing to appeal a decision rendered under the provisions of this chapter.

Sec. 5-50. Membership; compensation of members; removal of members.

- (a) The historic preservation board shall consist of the seven members appointed by the city council, ~~at least five of whom shall be residents of the city. The remaining members need not be residents of the city. Appointments of all of the members of the historic preservation board shall be made on the basis of a potential member's civic pride, involvement in community issues, integrity, experience and interest in the field of historic preservation.~~ If possible, one member of the historic preservation board shall be an architect registered to practice in the state. The city council shall strive to appoint one member of the historic preservation board from each of the following categories:

- (1) History or archaeology.
- (2) Real estate land development or finance.
- (3) Law or urban planning.
- (4) Engineering, architecture, building construction or landscape architecture.
- (5) In the event a matter requires evaluation by a profession not represented on the historic preservation board, such board may seek out such expertise.

~~All members of the historic preservation board must comply with the financial disclosure laws of the state.~~

- ~~(b) Members shall serve overlapping terms of three years. Initially, two members shall be appointed to one year terms, two members shall be appointed to two year terms, and three members shall be appointed to full three year terms. After the initial appointments, all appointments shall be made for three years. A member of the historic preservation board shall be eligible for reappointment. Members of the historic preservation board shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their official duties, as shall be determined and approved by the city council. Prior to the expiration of his term, a member of the historic preservation board may be removed from office only by a majority vote of the entire membership of the city council. If, however, a member of the historic preservation board fails to attend three consecutive meetings, or four meetings in any one calendar year, the chairman shall certify such fact to the city council. Upon such certification, that member shall be deemed to have been removed from the historic preservation board and the city council shall fill the vacancy, within 60 days, by appointment in accordance with its administrative code for advisory boards.~~

Sec. 5-51. Organization; meetings.

~~The mayor shall appoint the chair and the historic preservation board shall elect a vice chair from among its membership. The chair shall preside at all meetings and shall have the right to vote. The vice chair shall preside in the absence of the chair. The city shall provide adequate staff to allow the historic preservation board to perform its duties. Staff shall consist of at least one historic preservation planner, and one clerical person, who shall be responsible for recording and transcribing the minutes of all meetings of the historic preservation board. The city attorney shall be present at all historic preservation board meetings to represent the city, except that such presence shall not be necessary when the historic preservation board is discussing matters that would not impact individual property rights. All meetings of the historic preservation board shall be open to the public. A public record of the minutes and resolutions of the historic preservation board shall be maintained and made available for inspection by the public. The historic preservation board shall meet at least once per month, at a date and time to be decided by the historic preservation board, unless there is no business pending before the historic~~

~~preservation board. Meetings shall be announced publicly, and the agenda for each meeting shall be previously published. Decisions of the historic preservation board shall be delivered in a public forum. All rules of procedure for the historic preservation board shall be available for inspection by the public. Regardless of the lack of pending business, the historic preservation board shall meet at least four times during any calendar year.~~

Sec. 5-84. Special certificate of appropriateness.

- (a) *Required.* A special certificate of appropriateness shall be issued by the historic preservation board prior to initiation of any work involving alteration, demolition, relocation, reconstruction, excavation or new construction which will result in a change to the original appearance of a designated historic resource or a contributing property within a designated historic district. A special certificate of appropriateness is also required prior to any new construction, reconstruction or alteration of a noncontributing property within a designated historic district. A special certificate of appropriateness may also be issued to reverse or modify a staff decision regarding an application for a regular certificate of appropriateness or a conditional certificate to dig.
- (b) *Application.* An applicant for a special certificate of appropriateness shall submit an application to the community development department, accompanied by two sets of full plans and specifications, a site plan and, in the case of sites involving buildings or structures, samples of materials as may be deemed appropriate and requested by the historic preservation board to fully describe the proposed appearance, color, texture, materials or design of the building or structure and any outbuilding, wall, courtyard, fence, landscape feature, paving, signage or exterior lighting. The applicant shall provide adequate information to enable the historic preservation board to visualize the effect of the proposed action on the historic resource and on adjacent buildings and streetscapes within a historic district. Alterations shall achieve the purpose of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings.
- (c) *Public hearing.* The historic preservation board shall hold a public hearing upon an application for a special certificate of appropriateness affecting designated historic resources or districts. Notice of the public hearing shall be given to the property owners by certified mail, return receipt requested, and to other interested parties by posting a copy of such notice at the premises, at city hall, and upon the city's website or other electronic media at least five calendar days but no sooner than 20 calendar days prior to the date of hearing.
- (d) *Action of historic preservation board.* The historic preservation board shall meet and act upon an application for a special certificate of appropriateness on or within 70 calendar days from the date the application and materials adequately describing the proposed action are received. The historic preservation board shall approve, deny or approve the special certificate of appropriateness with conditions, subject to the acceptance of the conditions by the applicant, or suspend action on the application for a period not to exceed 35 calendar days in order to seek technical advice from outside sources or to meet further with the applicant to revise or modify the application. Failure of the historic preservation board to act upon an application on or within 70 calendar days (if no additional information is required) or 105 calendar days (if additional information is required by the historic preservation board) from the date the application was received shall result in the immediate issuance of the special certificate of appropriateness applied for, without further action by the historic preservation board.
- (e) *Notice of decision.* All decisions of the historic preservation board shall be in writing and shall include findings of fact. Evidence of approval of the application shall be by the special certificate of appropriateness issued by the historic preservation board or the board's designated staff representative. Notice of a decision shall be given to the applicant and to the building official, the zoning director and any other appropriate public agency, as determined by the historic preservation board. When an application is denied, the notice of the historic preservation board shall provide an adequate written explanation of its decision to deny the application. The historic preservation board shall keep a record of its actions under this chapter. Any appeal may be pursued using the procedure set forth in section 4-532, pertaining to appeals from administrative matters.

Sec. 5-88. Waiting period for demolition of recognized historic resources.

- (a) Permits to demolish any building or structure, or any portions thereof, determined by the historic preservation board to be, and listed as, a recognized historic resource as defined by this chapter, shall not be issued until the expiration of a maximum of 90 days measured from the date of the filing of the demolition permit application with the city. The purpose of this restriction shall be to enable the historic preservation board to pursue alternatives to demolition and to assemble and document information with the property owner or owners of the recognized historic resource pertaining to the appearance and history of the building or structure prior to its demolition. Upon the filing with the city, through its community development department, of an application for a permit to demolish a recognized historic resource, or any portions thereof, notice of such filing shall immediately be given to the historic preservation board's staff liaison for an expedited hearing.
- (b) A demolition permit for a building or structure, or for any portions thereof, that has a Florida Master Site File and/or is 580 years of age or older, and has been determined by the historic preservation board to be, and listed as, a recognized historic resource, may not be issued prior to the expiration of a maximum of 90 days measured from the date of the filing of the demolition permit application with the city, unless the historic preservation board, in its opinion, determines sooner that no cause exists to further delay the issuance of such demolition permit, based upon a finding that either no alternatives to, or delays for, demolition are any longer necessary, practicable or required; or that substantial economic hardship will result to the property owner or owners by reason of any further delay in demolition; or that the building or structure has been substantially destroyed or damaged by an event not within the property owners' control with more than 50 percent of the building or structure affected.
- (c) The demolition application shall be forwarded from the city's community development department, immediately after its filing, to the historic preservation board's staff liaison for consideration. Unless waived by the property owner or owners, the property owner or owners will be notified not less than ten days after the filing of the demolition application, by certified mail, of the delay imposed, and of the date, time and place of the next regularly scheduled meeting, or special meeting called, of the historic preservation board, at which the property owner or owners shall be given an opportunity to be heard, on an expedited basis, in order to contest and/or limit such delay. If, after submission of demolition application, property owner or owners request(s) an opportunity to be heard to contest and/or limit a delay, a hearing shall take place no later than 30 days after the ten-day notification has been provided by certified mail.
- (d) At the next regularly scheduled meeting, or special meeting called, of the historic preservation board the property owner or owners may request that the historic preservation board waive or limit the demolition delay and determine that no cause exists to further withhold the issuance of such demolition permit, based upon a finding that either no alternatives to, or delays for, demolition are any longer necessary, practicable or required; or that undue economic hardship will result to the property owner or owners by reason of any further delay in demolition; or that the building or structure has been substantially destroyed or damaged by an event not within the property owners' control with more than 50 percent of the building or structure affected.
- (e) In the event that undue economic hardship due to the effect of the demolition delay is claimed by a property owner or owners, the historic preservation board may give consideration to the economic impact of the delay upon the property owner or owners and the reasonableness of the property owner or owners carrying out the decision of the board. In doing so, the historic preservation board may require from the property owner or owners to demonstrate undue economic hardship, and may require that such property owner or owners provide sufficient information before it makes a decision on the application, as long as such information is relevant for the historic preservation board to decide whether an undue economic hardship exists.
- (f) In the event that undue economic hardship due to the effect of the demolition delay is claimed by a property owner or owners of income-producing property, the historic preservation board may also require any other

information considered necessary by the historic preservation board to a determination as to whether the property does yield or may yield a reasonable return to the owner or owners.

- (g) For the purpose of making available to owners of property for which a demolition waiting period has been invoked pursuant to this section, the historic preservation board shall maintain a list of qualified interested parties, such as Florida licensed contractors, as defined in F.S. § 489.105(3), and possessing an appropriate division 1 contractors license or a local certificate of competency for demolition contracting issued by Lee County, and preservationists specializing in relocation and salvage of historic structures.
- (h) If an undue economic hardship is claimed by the property owner or owners as a result of the demolition delay, the historic preservation board shall have the power to modify adherence to its original decision. Any modification of a prior order shall be based upon sufficient evidence submitted by the owner and a subsequent finding by the historic preservation board that retention of the building or structure would deny the owner of all economically viable use of the property, thus creating an undue economic hardship.
- (i) If an undue economic hardship is claimed by the property owner or owners as a result of the demolition delay, the historic preservation board shall have the power to modify adherence to its original decision. Any modification of a prior order shall be based upon sufficient evidence submitted by the owner and a subsequent finding by the historic preservation board that retention of the building or structure would deny the owner of all economically viable use of the property, thus creating an undue economic hardship.
- (j) Any decision of the historic preservation board in requiring a demolition delay may be appealed to the city council by filing a written request within 15 days after the decision has been made. In reviewing such an appeal, city council shall consider the information submitted for the historic preservation board to base their decision, the facts presented, and any new information that could have affected the decision. Prior to filing any claims under the Bert J. Harris, Jr., Private Property Rights Protection Act, a property owner or owners must apply for an exemption to consider having exhausted his, hers or their administrative remedies under this section before a cause of action or "action of a governmental entity" will accrue or be deemed ripe. Such exhaustion shall not include a filing for an appeal or a petition for writ of certiorari in circuit court.

Sec. 3-417. Open space.

- (a) *Open space calculations.* All development must contain the minimum percentage of open space as outlined in the following table below:

Open Space Requirement

Type of Development	Required Open Space as a % of Development Area
Residential, non-planned development: Type of dwelling units as defined in chapter 9 located in conventional zoning districts	
Single-family residence	Open space/pervious standards. See chapter 4.
Duplex on a single lot with a minimum lot size of 7,500 sq. ft.	None
Two-family attached each on an individual lot with a minimum lot size of 3,750 sq. ft. per unit	None
All other residential other than planned developments	35%
Residential planned development	40%
Industrial	10%
Other: All other uses including, but not limited to commercial, places of worship, recreational vehicle parks, community facilities, schools (excluding Lee County School District), etc.	20%

- (b) *Indigenous native vegetation.*

- (1) Preservation.
 - a. Large developments, with existing indigenous native vegetation, must provide 50 percent of their open space percentage requirement through the on-site preservation of existing indigenous native vegetation. Refer to section 3-523. A minimum setback of 30 feet is required from any habitable structure.
 - b. If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous native trees, then 50 percent of their open space percentage requirement must be met through the on-site preservation of existing native trees consistent with subsections (b)(1)b.1 through 4 of this section. Refer to Appendix A of this chapter.
 1. Preservation of indigenous tree clusters is preferred over individual tree protection. Reasonable efforts to retain individual trees must be made. It is recognized that site design requirements (e.g., fill) may limit the ability to retain some individual trees, and in that case the city will allow the removal of those trees.
 2. Sabal palms may be relocated in a horticulturally correct manner and clustered within open space areas.
 3. Native trees (four-inch caliper dbh or greater) may be relocated to open space areas when proper horticultural methods (e.g., root pruning; use of anti-transpirants) are utilized to ensure the survivability of the trees.
 4. Effort must be made to preserve heritage trees (indigenous trees or palms with a 20-inch or greater caliper dbh). If a heritage tree must be removed from a site, then an approved replacement species with a minimum 20-foot height and 4-inch or greater caliper dbh must be planted within an appropriate open space area.
- (2) ~~Tree advisory board~~ Planning and Zoning Board review.
 - a. ~~The tree advisory board~~ may make recommendations to applicants and staff, concurrent with the zoning process and prior to the issuance of the development order, who may suggest modifications to the master concept plan. ~~The tree advisory board's~~ final recommendation may not take longer than 60 days from the date the matter is placed on their agenda, unless agreed to by the applicant.
 - b. If the review is required as a zoning condition prior to the issuance of the development order, staff may approve administrative deviations to the parking plan or site layout upon input from ~~the tree advisory board~~. Alternatively, if the staff believes the deviation exceeds the staff's designated authority, the staff may request the ~~city council's~~ concurrence that an administrative deviation is the best practice to promote the preservation of a heritage tree. ~~Any request for city council concurrence will be considered at a regular city council meeting, with regular notice of the agenda (no special advertisement or public notice to parties of record).~~ If ~~city council~~ determines the deviation warrants a public hearing resulting from changes in the parking plan or site layout, the applicant shall file for an amendment to their planned development through chapter 4.
- (3) Salvaging existing native plants.
 - a. Open space areas must be designed to incorporate as many of the existing large native trees and sabal palms as possible.
 - b. Native trees and sabal palms. Healthy native trees and sabal palms with a caliper of four inches or greater at 4½ feet above the ground (dbh) may be relocated onsite for credit toward code required landscaping when the trees have been properly prepared for relocation through root pruning or other horticulturally correct methods approved by the city manager or designee.
- (4) Credits.

- a. As an incentive to preserve indigenous native upland plant communities in large tracts, a scaled open space credit for single preserve areas will be granted as follows:

Indigenous Vegetation Credit

Credit provided	Minimum size	Minimum width
110%	½ acre	50 feet
125%	1 acre	100 feet
150%	3 acres	200 feet

- b. An additional, maximum ten percent credit will be granted if any of the following vegetation areas are included:
 - 1. Rare and unique uplands as defined by the city comprehensive plan.
 - 2. Connection to offsite public or private environmental conservation or preserve areas.
 - 3. Upland buffers to natural waterbodies
- (5) Consistent with the provisions of section 3-81, the city manager or designee may permit administrative deviations to reduce the minimum 50 percent indigenous native vegetation requirement within this subsection to a lower percentage, if the applicant demonstrates that the proposed landscape plan will result in a better overall product than what would have been produced under these standards. Existing approved indigenous preserve areas within planned developments are not eligible for administrative deviations. The administrative deviation request must include the unique conditions or circumstances that make the property unusable and unreasonably burdensome. The applicant must provide details of other actions that will be taken to offset the reduction. Offsets to this requirement can only be made through enhancements to the landscape material being planted according to the landscape plan.
- (6) Setbacks.
 - a. 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."
- (c) *Minimum dimensions.*
 - (1) The minimum average width of open space areas must be five feet in commercial areas and ten feet in all other areas.
 - (2) The minimum area of open space must be 180 square feet.
 - (3) Indigenous open space areas must have a minimum average width of 20 feet and minimum area of 400 square feet.
- (d) *Use of open space.*
 - (1) Open space areas must be landscaped in accordance with this division.
 - (2) The following uses may contribute to the open space requirements; provided the minimum dimensions are met:
 - a. Buffers and landscaped areas in off-street parking areas, except for areas reserved for future parking spaces pursuant to section 4-1729(d).
 - b. Dry detention areas.

- c. Existing or proposed bodies of water, including stormwater management areas, and areas subject to saltwater inundation, which may be used to offset up to a maximum of 25 percent of the required open space area.
 - d. Active and passive recreation areas such as playgrounds, golf courses, beach frontage, native trails, bikeways, pedestrian ways, tennis courts, swimming pools, and other similar open spaces, as long as not more than 20 percent of the recreational area credited as open space consists of impervious surface.
 - e. Outdoor active and passive public use areas such as plazas, atriums, courtyards, and other similar public spaces may be used to offset up to a maximum of 20 percent of the required open space.
 - f. Archaeological sites or zones that are designated as significant historic resources pursuant to chapter 5 may also be used in open space calculations.
- (e) *Indigenous preserve management plan.* A long-term management plan must be submitted that details land management activities to be taken to ecologically manage the indigenous preservation area. This document must be recorded on the deed to ensure future property owners associations, and future owners or assigns are provided clear notice of these long-term land management requirements and commitments. The management plan must provide details of maintaining the biological health of the system. The management plan must include, but is not limited to: native plant maintenance, exotic pest plant control, protected species habitat maintenance, schedule of maintenance activities and allowable uses, and wildfire risk mitigation (which will take into account the flammability of such vegetation). The requirements for this plan are outlined below:
- (1) *Introduction.*
 - a. Plan must be prepared by an environmental consultant, section 3-79.
 - b. Plan shall state the names of the individuals that prepared the plan, designate a preserve manager and provide contact information.
 - c. Plan shall state the STRAP number of the parcel preserved.
 - d. Plan shall include a map of the preserve area at a legible scale.
 - e. Plan shall state the development order or permit number.
 - f. Plan shall state if other state or federal agencies require maintenance of the preserve area and this plan shall be compatible with any other plans.
 - g. Plan does not necessarily have to follow this format but must address all the items in this outline.
 - h. Plan shall describe the communities or habitats including the FLUCFCS codes.
 - i. Plan shall state the goal or future of the preserve, i.e., preserving gopher tortoise habitat, preserving wetland storage functions, preserving heritage trees, etc.
 - j. The plan shall state that the conditions and recommendations of the indigenous preserve management plan are required, except for subsection (e)(4) of this section (exotic animal management), and subsection (e)(8) of this section. (Recommendations for corrective measures or future activities that are clearly above the core requirements of this management plan.)
 - (2) *Method and frequency of native vegetation management.*
 - a. What time of year will maintenance be performed, spring, summer, etc.
 - b. Frequency of maintenance, monthly, yearly, etc.
 - c. Method of maintenance activity, herbicide, trimming, burning, raking, etc.
 - d. Describe the details of maintenance activity, i.e., what chemicals used, tracer dyes, will vegetation be removed from site, how much raking will occur, etc.

- e. Vacant and disturbed areas within preserves shall be planted and restored. Plantings and spacing shall be approved as part of the preserve area management plan.
- (3) *Method and frequency of exotic vegetation management.*
- a. What time of year will maintenance be performed, spring, summer, etc.
- b. Frequency of maintenance, monthly, yearly, etc.
- c. Specify that all Category I and Category II exotic plants, according to the exotic pest plant council, shall be removed and maintained at a level of five percent or less coverage in perpetuity.
 - d. Method of maintenance activity, herbicide, trimming, burning, raking, etc.
 - e. Describe the details of maintenance activity, i.e., what chemicals used, tracer dyes, will vegetation be removed from site, how much raking will occur, etc.
- (4) *Method of exotic animal management.*
- a. Plan shall state the threats from exotic animals, feral cats and dogs, iguanas, pythons, etc.
 - b. Plan shall state any methods used to dissuade or control exotic animals, signage notifying residents to keep pets on leashes, surveys for exotic animal infestation, or physical removal of exotic animals, etc.
- Note: Exotic animal management is not mandated but is recommended for the health of the system.
- (5) *Wildland fire hazard mitigation plan.*
- a. Incorporate the wildland fire hazard mitigation plan into the indigenous preserve management plan.
 - b. State the criteria used to maintain the preserve for fire hazards, raking of mulch every two to three years, trimming palmettos every two to three years, frequency of burns, removing dead vegetation, etc.
- (6) *Protected species management plan conditions (if applicable).*
- a. Aerial map with a scale of one inch equals 200 feet or the same scale of the DO with FLUCFCS codes.
 - b. Habitat descriptions for the FLUCFCS codes present.
 - c. Location of individuals, nest sites, burrows, etc., as appropriate.
 - d. Areas to be preserved and managed for protected species management.
 - e. List any specific management activities, annual surveys, monitoring, plantings, etc.
 - f. Plan shall state if other state or federal agencies require maintenance of the preserve area and this plan shall be compatible with any other plans.
- (7) *Activities allowed or disallowed in preserve areas.*
- a. List any activities allowed in preserve areas, boardwalks, mulched paths, chickee huts, etc.
 - b. List any activities not allowed in preserve areas.
- (8) *Monitoring reports.*
- a. Perform a baseline monitoring report.
 - b. Document initial conditions including photos.
 - c. Document the status of the restoration activities and any progress or decline.
 - d. Document the death or decline or increase of preserve vegetation.

- e. Document any protected species activities or observations.
- f. Provide professional observations and a summary of the overall health of the preserve.
- g. Provide recommendations for corrective measures and/or future activities.
- h. Monitoring reports are required for a period of five consecutive years from the issue date of the development order and shall be submitted to the city community development.

ITEM TITLE: Discussion of crosswalk placement on Old 41 Road.

REQUESTOR: Council Member Nigel P. Fullick

AGENDA SECTION: Mayor and Council Member Items

STRATEGIC PRIORITY: #2 Improve Vehicular and Multimodal Transportation Networks

BACKGROUND:

Recently I was approached by a Bonita Springs resident inquiring about the possibility of the city installing a crosswalk on Old 41, South of the Oak Creek Bridge in between Tennessee Street and Packinghouse Lane.

I met onsite with staff and the resident and did observe there are no crosswalks in the vicinity. In the brief time I was there I did see people crossing the road with difficulty.

I would like to discuss with City Council the possibility of directing staff to evaluate this area for a potential crosswalk.

STAFF RECOMMENDATION: Discussion

ATTACHMENTS: None

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Dept. Director:	Matt Feeney

ITEM TITLE: Authorize staff to submit community projects for Congressman Byron Donalds FY2027 Appropriate Requests funding.

REQUESTOR: Elly Soto McKuen, Senior Project Manager and Arleen Hunter, City Manager

AGENDA SECTION: City Manager Items

STRATEGIC PRIORITY: 2) Vehicular/Multimodal Transportation, 3) Community Aesthetics/Parks and Recreation, 5) Strengthen City Finances

BACKGROUND: Congressman Byron Donalds, representing Florida's District 19, announced that his office is accepting projects for potential funding in the FY2027 Federal Budget Session. Appropriation requests have been broken into three (3) categories, programmatic, language and community projects. The deadline to submit requests has been extended to Friday, March 6, 2026.

In past years the City has submitted community projects. Congressman Donalds office has requested that if multiple projects are submitted the City should prioritize the projects as his office will only move up to 10 requests forward from his district. Staff has reviewed potential projects and would suggest the following projects for consideration for the FY2027 Appropriation Requests (in no specific priority order):

1. Public Safety Emergency Response Center
2. Paradise Road Bike and Pedestrian Improvements
3. Community Aquatic Facility Expansion

STAFF RECOMMENDATION: Authorize staff to submit community projects for Congressman Byron Donalds FY2027 Appropriate Requests funding.

REVIEWERS:

City Manager:	Arleen Hunter
City Attorney:	Derek Rooney
City Clerk:	Mike Sheffield
Dept. Director:	Matt Feeney