

Mayor

Joe Coviello

Council Members

District 1: John Gunter

District 2: John M. Carioscia Sr.

District 3: Marilyn Stout

District 4: Jennifer I. Nelson

District 5: Dave Stokes

District 6: Richard Williams

District 7: Jessica Cosden



1015 Cultural Park Blvd.
Cape Coral, FL

City Manager

John Szerlag

City Attorney

Dolores Menendez

City Auditor

Andrea R. Butola

City Clerk

Rebecca van Deutekom

**AGENDA FOR THE REGULAR MEETING OF THE
CAPE CORAL CITY COUNCIL**

October 15, 2018

4:30 PM

Council Chambers

PLEDGE OF CIVILITY

We will be respectful of each other even when we disagree.
We will direct all comments to the issues. We will avoid personal attacks.

1. MEETING CALLED TO ORDER

A. MAYOR COVIELLO

2. INVOCATION/MOMENT OF SILENCE

A. COUNCILMEMBER CARIOSCIA

3. PLEDGE OF ALLEGIANCE

A. MAYA DREW - TRAFALGAR ELEMENTARY SCHOOL

4. ROLL CALL

A. MAYOR COVIELLO, COUNCIL MEMBERS CARIOSCIA,
COSDEN, GUNTER, NELSON, STOKES, STOUT, WILLIAMS

5. CHANGES TO AGENDA/ADOPTION OF AGENDA

6. RECOGNITIONS/ACHIEVEMENTS

A. NONE

7. APPROVAL OF MINUTES

- A. Regular Meeting - September 17, 2018
- B. Special Meeting - September 20, 2018
- C. Special Meeting - September 24, 2018
- D. Regular Meeting - September 24, 2018

8. BUSINESS

A. PUBLIC COMMENT - CONSENT AGENDA

A maximum of 60 minutes is set for input of citizens on matters concerning the Consent Agenda; 3 minutes per individual.

B. CONSENT AGENDA

- (1) Resolution 118-18 Approve the piggyback of State of Florida Department of Management Services agreement with CBRE, Inc. for the purpose of tenant broker and commercial real estate consulting services for the development of the land area known as Seven Islands at a monthly cost of \$7,500 for a total annual cost of \$90,000; And authorize the City Manager or Designee to execute the contract, amendments, renewals, and any other related documents; Department: Department of Community Development; Estimated Dollar Value: \$90,000; (Government Services)
- (2) Resolution 216-18 Award RFP-HR18-118/KS for Employee Benefits for Self Insured Medical Administrative Services (ASO), Prescription Benefit Management (PBM), Medical Insurance Stop Loss, Group Term Life with Accidental Dismemberment, Long Term Disability, Employee Assistance Program, Dental and Vision to the following firms: In respect to Medical-Self-Insured Health Insurance Administrative Services Only (ASO); Prescription Benefit Management (PBM); Self Insured Health Insurance Claims Stop Loss to Blue Cross and Blue shield of Florida, Inc. (Florida Blue). In respect to Group Term Life with Accidental Death and Dismemberment Insurance; Long Term Disability and Employee Assistance Program award to Blue Cross and Blue Shield of Florida (Florida Combined Life); In respect to Dental award to Blue Cross and Blue Shield of Florida (Florida Combined Life) and In respect to Vision award to Vision Services Plan Insurance Company (VSP) and authorize the City Manager to execute the contracts, renewals, amendments and related documents; Department: Human Resources; Estimated Dollar Value: \$18,496,922
- (3) Resolution 217-18 Award Bid# ITB-PW18-105/KS for Generator and Pump Repair, Maintenance and Installation Services to LJ Power Inc., located in Jupiter, FL as the lowest responsive, responsible bidder at the unit price stated in the bid documents for an estimated annual amount of \$181,358 not to exceed budgetary limits and authorize the City Manager or Designee to execute the contract, renewals and amendments within his authority; Department: Public Works; Estimated Annual Dollar Value \$181,358; (General Fund/W&S)
- (4) Resolution 221-18 Award Bid# ITB-UT18-94/KR to Gulf States Electric, Inc. of Naples, FL as the lowest responsive,

responsible bidder, to provide construction services for the replacement of the Southwest (SW) Reverse Osmosis (RO) Water Treatment Plant (WTP), Motor Control Centers (MCC) for \$881,600 with a 10% City controlled contingency of \$88,160 for a total project cost of \$969,760 and authorize the City Manager or designee to execute the contract, amendments, change orders and purchase orders, within his signature authority; Department: Utilities; Dollar Value: \$969,760; (Water and Sewer Fund)

- (5) Resolution 222-18 Amendment to South Cape Banner Program; Reducing the installation fee from \$80 per pole to \$40 per pole; Department: City Manager's Office; Dollar Value: N/A; (Fund: N/A)
- (6) Resolution 226-18 Award Bid# ITB-UT18-116/KR to Quality Enterprises USA, Inc. of Naples, FL as the lowest responsive, responsible bidder, to provide construction services for the relocation of Weir 15 controls and replacement of the deteriorated control systems for Weir 15 Bladder & Controls Improvement project which are part of the continuation of the Lee County Burnt Store Road Widening project, for an amount of \$174,102 with a 10% City controlled contingency of \$17,410 for a total project cost of \$191,512 and authorize the City Manager or designee to execute the contract, amendments, change orders and purchase orders, within his signature authority; Department: Utilities; Dollar Value: \$191,512; (Water and Sewer Fund)
- (7) Resolution 228-18 A Resolution authorizing payment up to \$5,000 in reimbursable relocation expenses as allowed in section 2-37.3 of the City of Cape Coral Code of Ordinances to the selected candidate for the position of Senior Auditor in the City Auditor's Office; Funding for the City Auditor's Office; Dollar Value: maximum of \$5,000; (General Fund)
- (8) Resolution 229-18 Acceptance of a Permanent Utility Easement within the southern portion of the parcel located at the northwest corner of Pine Island Road and Chiquita Boulevard (Strap #16-44-23-C3-00005.0000) for the installation of utilities associated with the North 2 Utilities Extension Project; Department: Financial Services / Real Estate Division; Dollar Value: NTE \$675; (Water and Sewer Fund)
- (9) Resolution 230-18 Approval of Contract for Purchase of Lots 46 and 47, Block 3025, Unit 43, Cape Coral Subdivision, 1128 Wilmington Parkway, Cape Coral, for the Festival Park project for the purchase price of \$11,000 plus closing costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar Value: \$12,500; (Parks Capital Project Fund)
Note: Trade offer rejected by Seller.
- (10) Resolution 231-18 Renewal of an Interlocal Agreement

Between the City of Cape Coral and Lee County to Provide Services to the Burnt Store Area Fire Service Municipal Service Taxing Unit; Department: Fire; Estimated Dollar Value: \$1,022,886; (General Fund)

- (11) Resolution 232-18 A Resolution approving the request of John D'Angelo (The Outdoor Kitchen Outlet, LLC) to allow the outdoor display of merchandise in front of a Household/Office Furnishing, Group I use located at 1306 Cape Coral Parkway West, Units B and C.
- (12) Resolution 233-18 Acceptance of Paul Coverdell Forensic Science Improvement Grant to purchase forensic equipment and extend forensic accreditation; Department: Police; Dollar Value \$98,043; no cash match; (Fund: N/A)
- (13) Resolution 235-18 Acceptance of a Public Utility and Drainage Easement within a portion of Lots 1 and 2, Block 4898, Unit 74 Cape Coral, (2835 & 2839 SW 33rd Street – Straps # 05-45-23-C1-04898.0010 & -04898.0020) for the relocation of a storm water drainage pipe; Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)
- (14) Resolution 238-18 Acceptance of Edward Byrne Memorial Justice Assistance Grant (JAG) Funding to purchase license plate reader camera system; Department: Police; Dollar Value \$16,382; No cash match
- (15) Authorization to convey an Offer of Judgment in the amount of \$525,000 in an effort to resolve the eminent domain case of City of Cape Coral v. Florida Properties III, LLC, et al., Case Number 2017-CA-002626

C. CITIZENS INPUT TIME

A maximum of 60 minutes is set for input of citizens on matters concerning the City Government to include Resolutions appearing in sections other than Consent Agenda or Public Hearing; 3 minutes per individual.

D. PERSONNEL ACTIONS

- (1) NONE

E. PETITIONS TO COUNCIL

- (1) NONE

F. APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

- (1) Affordable Housing Advisory Committee - 2 vacancies (1 for the P&Z member vacancy and 1 for the Resident vacancy)

9. ORDINANCES/RESOLUTIONS

A. Public Hearings

- (1) Ordinance 43-18/LU 17-0012 2nd and Final Public Hearing
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Mixed Use Preserve (MUP), Class III, Type D to Multi-Family Residential (MF) and from Urban Services Reserve Area to Urban Services Transition Area for a parcel lying in a portion of the Southwest Quarter of Section 29, Township 44 South, Range 23 East, Lee County Florida; property located northeast of Veterans Parkway and to the west of the Sandoval Subdivision. (84.47 acres) (Applicant: MSI Holdings, LLC)
Planning & Zoning Recommendation: At their June 6, 2018 meeting, Planning & Zoning voted (5-2) to recommend approval of the Ordinance.
City Management Recommendation: City Management recommends approval.
- (2) Ordinance 44-18 Public Hearing
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article III, Personnel Rules and Regulations, Division 12, "Classifications," to amend the requirements for Council approval regarding the addition of regular full-time positions within a classification and to amend the requirements for Council approval based on the new pay grade for a reclassification. (Applicant: Brought forward by City Management)

B. Introductions

- (1) Ordinance 70-18 Set Public Hearing Date for November 5, 2018
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending the Land Use and Development Regulations, Article III, Supplementary District Regulations, Section 3.9, Fences, Shrubbery, Walls, by amending the regulations for fence materials in Residential Zoning Districts. (Applicant: Brought forward by City Management.)
P&Z Recommendation: At their October 3, 2018 meeting, the Planning & Zoning Commission voted unanimously to recommend approval.
City Management Recommendation: City Management recommends approval.
- (2) Ordinance 71-18 Set Public Hearing Date for November 5, 2018
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending the Conservation and Coastal Management, Housing, Future Land Use, Infrastructure, Recreation and Open Space, and Transportation Elements of

the City of Cape Coral Comprehensive Plan. (Applicant: Brought forward by City Management.)
P&Z Recommendation: At their October 3, 2018 meeting, the Planning and Zoning Commission voted unanimously to approve Ordinance 71-18 for transmittal.
City Management Recommendation: City Management recommends approval for transmittal.

- (3) Ordinance 73-18 Set Public Hearing Date for November 5, 2018

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance declaring certain real property to be surplus property and authorizing the City Manager to sell the surplus property described in Exhibit A. (Applicant: Brought forward by City Management.)

10. UNFINISHED BUSINESS

- A. Water Quality - Update
- B. Follow Up Items for Council

11. NEW BUSINESS

- A. NONE
- B. ADDENDUM: Metropolitan Planning Organization Citizens Advisory Committee (MPOCAC) (Brought forward by Councilmember Cosden)

12. REPORTS OF THE MAYOR AND COUNCIL MEMBERS

13. REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

14. TIME AND PLACE OF FUTURE MEETINGS

- A. A Committee of the Whole Meeting is Scheduled for Monday, October 22, 2018 at 4:30 p.m. in Council Chambers

15. MOTION TO ADJOURN

**GENERAL RULES AND PROCEDURES REGARDING
THE CAPE CORAL CITY COUNCIL AGENDA**

In accordance with the Americans with Disabilities Act and Section of 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Office of the City Clerk at least forty-eight (48) hours prior to the meeting. If hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

Persons wishing to address Council under Citizens Input or the Consent Agenda may do so during the designated times at each meeting. No prior scheduling is necessary. All speakers must have their presentations approved by the City Clerk's office no later than 3:00 PM the day of the meeting.

Any citizen may appear before the City Council at the scheduled PUBLIC HEARING/INPUT to comment on the specific agenda item being considered. No

prior scheduling is necessary.

When recognized by the presiding officer, a speaker shall address the City Council from the designated speaker's lectern, and shall state his or her name and whom, if anyone, he or she represents. An address shall only be required if necessary to comply with a federal, state or local law.

Copies of the agenda are available in the main lobby of Cape Coral City Hall and in the City Council Office, 1015 Cultural Park Boulevard. Copies of all back-up documentation are also available for review in the lobby of Council Chambers. You are asked to refrain from removing any documentation. If you desire copies, please request they be made for you. Copies are 15 cents per page. Agendas and back-up documentation are also available on-line on the City website (capecoral.net) after 4:00 PM on the Thursday prior to the Council Meeting.

***PUBLIC HEARINGS DEPARTMENT OF COMMUNITY DEVELOPMENT CASES**

In all public hearings for which an applicant or applicants exist and which would affect a relatively limited land area, including but not limited to PDPs, appeals concerning variances or special exceptions, and small-scale rezonings, the following procedures shall be utilized in order to afford all parties or their representatives a full opportunity to be heard on matters relevant to the application:

1. The applicant, as well as witnesses offering testimony or presenting evidence, will be required to swear or affirm that the testimony they provide is the truth.
2. The order of presentation will begin with the City staff report, the presentation by the applicant and/or the applicant's representative; witnesses called by the applicant, and then members of the public.
3. Members of the City Council may question any witness on relevant issues, by the applicant and/or the applicant's representative, City staff, or by any member of the public.
4. The Mayor may impose reasonable limitations on the offer of testimony or evidence and refuse to hear testimony or evidence that is not relevant to the issue being heard. The Mayor may also impose reasonable limitations on the number of witnesses heard when such witnesses become repetitive or are introducing duplicate testimony or evidence. The Mayor may also call witnesses and introduce evidence on behalf of the City Council if it is felt that such witnesses and/or evidence are necessary for a thorough consideration of the subject.

5. After the introduction of all-relevant testimony and evidence, the applicant shall have the opportunity to present a closing statement.
6. If a person decides to appeal any decision made by the City Council with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Item Number:	7.A.
Meeting Date:	10/15/2018
Item Type:	APPROVAL OF MINUTES

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Regular Meeting - September 17, 2018

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan? No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Regular Meeting - September 17, 2018

PREPARED BY:

Kimberly
Bruns Division- Managerial Department- City Clerk's
Department

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns
Assistant City Clerk
1-239-242-3243

ATTACHMENTS:

Description	Type
□ Regular Meeting - September 17, 2018	Backup Material

**MINUTES FOR THE REGULAR MEETING OF THE
CAPE CORAL CITY COUNCIL**

September 17, 2018

Council Chambers

4:30 p.m.

Meeting called to order by Mayor Coviello at 4:30 p.m.

Invocation/Moment of Silence - Councilmember Stokes

Pledge of Allegiance – Elisa Meyers - Trafalgar Elementary

Roll Call: Mayor Coviello, Council Members Cosden, Gunter, Nelson, Stokes, Stout, and Williams were present. Carioscia arrived at 5:16 p.m.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Coviello requested to move Item 10B, Resolution 208-18, directly after Citizens Input.

Councilmember Cosden moved, seconded by Councilmember Stokes to adopt the agenda, as amended to move Item 10B directly after Citizens Input.

Council polled as follows: Stokes, Stout, Williams, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 7-0.

RECOGNITIONS/ACHIEVEMENTS

Recognition of Receipt of the Community Emergency Response Team Distinguished Service Award - Presented to Dolores Bertolini

Fire Chief Lamb recognized Dolores Bertolini with the receipt of the Community Emergency Response Team Distinguished Award.

APPROVAL OF MINUTES

Regular Meeting – August 6, 2018

Councilmember Stout moved, seconded by Councilmember Nelson to approve the minutes for the August 6, 2018 regular meeting as presented. Voice Poll: All "ayes." Motion carried.

Regular Meeting – August 20, 2018

Councilmember Stokes moved, seconded by Councilmember Nelson to approve the minutes for the August 20, 2018 special meeting as presented. Voice Poll: All "ayes." Motion carried.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

None.

CONSENT AGENDA

Councilmember Williams pulled Items B(2) and B(9).

- 1) Resolution 188-18 Authorizes the waiver of procurement procedures for measures to respond, mitigate and recover from the ongoing effects of blue-green algal bloom, and authorizes the City Manager or his designee to execute any necessary contracts, purchase orders, and related documents; Department: Fire; Dollar Value: Not to exceed \$100,000; (Water and Sewer Fund)
- 2) Resolution 191-18 Accept Grant #401705 Sirenia Vista Canoe/Kayak Dock Launching Project and Shoreline Improvement, awarded by the Lee County Tourist Development Council (TDC grant) for an amount of \$65,000; Award to Pavement Maintenance, LLC., the Sirenia Vista Kayak Launch Shoreline Improvements project in the amount of \$24,000; and award to Northeast Products and Services, Inc. the purchase of an Adaptive Kayak Launch in the amount of \$34,600 and approve a 10% City controlled contingency for the whole project in the amount of \$5,860 for a total project cost of \$64,460 and authorize the City Manager or Designee to execute the grant, contract, contract amendment, purchase order and any related documents for the project; Department: Parks and Recreation; Estimated dollar value: \$65,000; (Government Capital Project Fund)
- 3) Resolution 195-18 Diplomat RV and Boat Storage - Potable Water Main Extension. Reimbursement for up-sizing their proposed potable water main from an eight-inch (8") to a twelve-inch (12") water main to allow others to eventually connect into and increase the hydraulic pressure, flow and improve water quality service to the entire Diplomat Parkway corridor in the future; Department: Utilities; Dollar Value: \$32,376; (Water & Sewer Fund)
- 4) Resolution 197-18 Approve Amendment #1 to contract CON-UT17-03/KR between the City of Cape Coral and TKW Consulting Engineers, Inc. for additional Professional Services for Underground Fire Line, Phase II which consists of an additional 3360 linear feet of water main improvements near Van Loon Commons apartment complex. The additional services include survey, design and drawing services in the amount of \$47,855; and Authorize the City Manager or designee to execute the amendment, and any additional amendments within his authority. The project, approved via Resolution 87-17 on June 5, 2017, would be increased from \$269,392 to \$317,247; Department: Utilities; Dollar Value: \$47,855; (Water and Sewer Fund)
- 5) Resolution 203-18 Approval of Contract for Purchase of Lots 13 and 14, Block 3025, Unit 43, Cape Coral Subdivision, 1304 Wilmington Parkway, Cape Coral, for the Festival Park project for the purchase price of \$10,000 plus closing costs not to exceed \$1,200; Negotiations to trade parcels with the property owner were unsuccessful; Department: Financial Services / Real Estate Division; Dollar Value: \$11,200; (Parks Capital Project Fund)
- 6) Resolution 204-18 Single Family Impact Fee Deferral Program Developer Agreements between the City of Cape Coral and Habitat for Humanity of Lee and Hendry Counties and Cape Coral Housing Development Corporation; Department: Community Development; Dollar Value: N/A; Fund: N/A
- 7) Resolution 205-18 Accept West Coast Inland Navigation District (WCIND) Subgrant Funding for renewal of one FTE, overtime and equipment; Department: Police; Dollar Value: \$162,604 with no matching funds
- 8) Resolution 206-18 Acceptance of Victims of Crime Act (VOCA) Grant Funding for 75% of two Victim Assistance Advocates base salary and fringe benefits and training; Department Police; Dollar Value \$110,935; Cash Match of \$27,738
- 9) Resolution 207-18 Approving the First Amendment to Annexation Agreement (U.S. 41 Parcels) between the City of Cape Coral, Jeffrey M. Gussoff, as Successor Trustee for the Zemel Family Trust, and ZREV Farm, LLC, and

authorizing the Mayor to execute the Amendment; Department: DCD; Dollar Value: N/A; (Fund: N/A) (Size: 1,121 acres)

Councilmember Stokes moved, seconded by Councilmember Gunter to approve items 8(B)(1), 8(B)(3), 8(B)(4), 8(B)(5), 8(B)(6), 8(B)(7), and 8(B)(8), as presented.

Council polled as follows: Stokes, Stout, Williams, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 7-0.

Councilmember Williams requested in Item 8(B)(2) that there will not be any accommodations for trailers or boats.

Parks and Recreation Director Runyon stated that this ADA-accessible dock area will only be for kayaks and canoes and will not include boats.

Councilmember Williams requested a map be displayed for item 8(B)(9) to show the location of the parcels.

Planning Team Coordinator Daltry displayed the map showing the northeastern corner of the City of Cape Coral known as the Zemel 41 properties. He discussed the changes made were to move a roadway alignment and that a 13-acre piece of property be deeded to the City.

Councilmember Williams moved, seconded by Councilmember Stokes to approve item 8(B)(2), and 8(B)(9), as presented.

Council polled as follows: Stokes, Stout, Williams, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 7-0.

CITIZENS INPUT TIME

Joyce Easton discussed the item regarding the reclaimed water agreement. She questioned why the City would be paying 95 cents per 1,000 gallons and how the cost could increase every year. She questioned the status of the planned reservoir in Punta Gorda.

Cheryl Anderson stated the Cape Coral Friends of Wildlife will be presenting a showing of the Toxic Puzzle movie at the library on Mohawk this Saturday.

James Collyer stated he saw the Toxic Puzzle movie and suggested leaders in our community see it. He noted how neurological problems can develop from exposure to blue green algae. He discussed the protests on the Matlacha and Matanzas Pass Bridges and reverse eminent domain.

Mayor Coviello requested a response for Ms. Easton's question regarding the FGUA agreement and the reservoir status.

City Manager Szerlag stated he wrote a letter to Mayor and Council on September 12th. He would incorporate those answers in his letter even though they are not contained with any specificity.

Resolution 208-18 Interlocal Agreement between Cape Coral and Fort Myers for the purchase and disposal of reclaimed water

Fort Myers Mayor Randy Henderson introduced Stephanie Shafer, Public Information Professional, and Richard Moulton, Director of Public Works from the City of Fort Myers. He noted what a pleasure this was when two municipalities get together to push an agreement of this type. He discussed the construction costs for each City. This is the culmination of many hours of work. Sharing this water is an amazing feat. He noted how he and Mayor Coviello are trying their best and raising their voices to resolve the

algae issue. Mayors are uniting and voicing their concerns in Tallahassee and Washington.

Fort Myers Mayor Henderson left the meeting with his staff at 5:01 p.m.

City Manager Szerlag reviewed the purpose of the Resolution. He noted this pipeline would be parallel to the Midpoint Bridge, not the Cape Coral Bridge. Both projects need to be completed by January 15, 2023. Our estimated cost of the pipeline is \$15 million and will be funded through capital budgeting of the Utilities Enterprise Fund (Water and Sewer Fund). There is one grant totaling \$790,000 for permitting and engineering. The initial rate Cape Coral will pay is 95 cents per 1,000 gallons of water for irrigation purposes. The rate carries an annual cost of living adjustment of 75% of the cost of living index or 3%, whichever is less. He discussed the irrigation contracts and the costs involved. He stated the reservoir was an experiment. This past year our rate was 18 cents per 1,000 gallons. He hoped to get a lease purchase agreement to bring forth to Council in 2019. The reason for the lease purchase was because of the uncertainty of how much water the reservoir can take. Staff recommended approval.

Mayor Coviello commented that the agreement will be helping the environment and was a win-win for both cities.

Councilmember Stout noted how the cost of 95 cents per 1,000 gallons is a lot lower from when negotiations first started.

Councilmember Stokes explained why he would be supportive of this Resolution because this is what the citizens want.

Councilmember Gunter stated he would also support this Resolution. He commended the City Manager of both cities, as well as the staff from Cape Coral and Fort Myers on this agreement.

Councilmember Nelson stated she was also in support of this Resolution. She requested that the City Manager review the rates again, especially how the rates will not go up for the ratepayers.

City Manager Szerlag stated he distributed a letter to City Council today which indicates that this agreement will not cause a rate increase for the Cape Coral ratepayer.

Councilmember Cosden stated she was also in support of this. She was glad that we will be stopping millions of gallons of polluted water from going into the river.

Councilmember Stout moved, seconded by Councilmember Gunter to approve Resolution 208-18.

Council polled as follows: Stokes, Stout, Williams, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 7-0.

PERSONNEL ACTIONS

None

PETITIONS TO COUNCIL

None

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Planning & Zoning Commission - 1 Vacancy

Interview

Jesse Ray Marker - present

Assistant City Clerk Bruns stated we received two applications for one vacancy due to a resignation. At the September 5th P&Z meeting, the Commission recommended approval of Jesse Ray Marker. One applicant withdrew her application.

Councilmember Williams moved, seconded by Councilmember Gunter to appoint Jesse Marker to the Planning and Zoning Commission.

Council polled as follows: Stokes, Stout, Williams, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 7-0.

Councilmember Carioscia arrived at 5:16 p.m.

Affordable Housing Advisory Committee (AHAC) - 3 Vacancies

Interviews

**Advocate for Low Income Persons – Term expires 2/22/2019 – Appoint one
For-profit Provider of Affordable Housing – Term expires 2/22/2019 – Appoint one**

Blanca Contreras – present
Kenneth Jenkins – present
Franklin Lee – present
Brenda McNeil - present
Terry Smith – not present
Elizabeth Steele (withdrew application 9/13/18)

Assistant City Clerk Bruns announced that three vacancies existed, one for each category. She explained that there were no current qualified applicants for the vacancy for (K) Essential Services Personnel. She noted each member should choose two.

Councilmember Nelson stated all candidates were well qualified and thanked them all for applying.

Councilmember Stout noted how hard the decision will be to just select two.

Councilmember Stokes stated how qualified the applicants were.

***Council polled as follows:
Stokes: Contreras and McNeil
Stout: Contreras and Lee
Williams: Jenkins and McNeil
Carioscia: Contreras and Lee
Cosden: Jenkins and Contreras
Coviello: Contreras and Jenkins
Gunter: Contreras and Jenkins
Nelson: Jenkins and Lee***

Assistant City Clerk Bruns stated the total was the following: Contreras - 6, Jenkins – 5, Lee – 3, and McNeil – 2.

Councilmember Cosden moved, seconded by Councilmember Nelson to appoint Blanca Contreras and Kenneth Jenkins for the Advocate for Low Income Persons and For-profit Provider of Affordable Housing seats on the Affordable Housing Advisory Committee.

Council polled as follows: Stokes, Stout, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 8-0.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Resolution 187-18 (VP 18-0001*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE RESOLUTION ACCOMPLISHES:

A resolution providing for the vacation of plat for an alley and the underlying public utility and drainage easements located between Lots 29-37 and Lots 38-46, Block 2162, Cape Coral Unit 32; providing for the vacation of plat for all platted public utility and drainage easements lying within Lots 27-46, Block 2162, Cape Coral Unit 32; property located at 2315-2333 Andalusia Boulevard and 2320-2330 NE 8th Place. (Applicants: Harry Lowell, CJ Investment Services, Inc., and Bubbass Building Trust LLC)

Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions located in VP HEX Recommendation 8-2018.

City Management Recommendation: City Management recommends approval with conditions.

Assistant City Clerk Bruns read the title of the Resolution and administered the oath.

Planning Team Coordinator Struve reviewed the purpose of the Resolution and presented the following slides:

- Resolution 187-18
- Site
- Current Zoning Map
- Background
- Sketch
- ROW Vacation Analysis (LUDR, Section 8.11)
- Easement Vacation Analysis (LUDR, Section 8.11)
- Recommendations
- Correspondence – one phone call - opposed

Public Hearing opened.

Jeff Wright, Attorney, Henderson, Franklin, Starnes & Holt, P.A., appeared on behalf of the applicant and was available for any questions.

Public Hearing closed.

Councilmember Nelson moved, seconded by Councilmember Cosden to approve Resolution 187-18, as presented.

Mayor Coviello questioned who was responsible to pave the alleyway when it is developed.

Planning Team Coordinator Struve stated when a site is developed and an alleyway is required to be approved, the developer is responsible for paving the alleyway initially. However, if it is a public alley, the City assumes long-term maintenance obligations once the alley is paved.

Council polled as follows: Stokes, Stout, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 8-0.

Ordinance 50-18 (LU 18-0004) Public Hearing for Transmittal

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Mixed Use Preserve, Class IV, Type D (MUP IV-D) to Mixed Use (MX) Land Use Designation for property located in Section 5, Township 43 South,

Range 24 East, Lee County, Florida, and located in Section 6, Township 43 South, Range 24 East, Lee County, Florida; from Mixed Use Preserve, Conservation (CONS) to Natural Resources/Preservation (PRES) Land Use Designation for property located in Section 5, Township 43 South, Range 24 East, Lee County, Florida, and located in Section 7, Township 43 South, Range 24 East, Lee County, Florida, and located in Section 20, Township 43 South, Range 23 East, Lee County, Florida; from Mixed Use Preserve, Class III, Type D (MUP III-D) To Multi-Family Residential (MF) Land Use Designation for property located in Section 7, Township 43 South, Range 24 East, Lee County Florida; from Highway Commercial to Commercial Professional Land Use Designation for Lots 1, 2 and 5, Alabar Vista, an Unrecorded Subdivision; from Low Density Residential (LDR I) to Low Density Residential (LDR) for property located in Section 30, Township 43 South, Range 23 East, Lee County, Florida; from Mixed Use Preserve, Class III, Type C (MUP III-C) To Mixed Use (MX) Land Use Designation for property located in Section 30, Township 43 South, Range 23 East, Lee County, Florida; from Mixed Use Preserve, Class III, Type C (MUP III-C) to Single Family Residential (SF) Land Use Designation for property located in Westchester Estates, an Unrecorded Subdivision; from Mixed Use Preserve Class III, Type D (MUP III-D) to Mixed Use (MX) Land Use Designation for property located in Section 20, Township 43 South, Range 23 East, Lee County, Florida, and located in Section 29, Township 44 South, Range 23 East, Lee County, Florida, all as more particularly described herein. (1,581.03 acres) (Applicant: Brought forward by City Management.) Planning & Zoning Recommendation: At their 8/15/2018 Special Meeting, the P&Z Commission voted unanimously to recommend approval of Ordinance 50-18. City Management Recommendation: City Management recommends approval.

Assistant City Clerk Bruns read the title of the Ordinance.

Planning Team Coordinator Daltry reviewed the purpose of the Resolution and presented the following slides:

- Ordinance 50-18/ LU 18-0004
- LU 18-0004 – Land Uses
- Current Future Land Use Map
- Proposed Future Land Use Map
- Current Future Land Use Map (continued)
- Proposed Future Land Use Map (continued)
- Current Future Land Use Map (continued)
- Proposed Future Land Use Map (continued)
- Current Future Land Use Map (continued)
- Proposed Future Land Use Map (continued)
- LU 18-0004- Alternative 1, Current Future Land Use Map, Proposed Future Land Use Map
- LU 18-0004 – Alternative 2, Current Future Land Use Map, Proposed Future Land Use Map
- FLUMA and Zoning Amendments
- Background
- Background (continued)
- Considerations – Regional Plans
- Considerations – Comprehensive Plan
- Recommendation
- P&Z Recommendation

Public Hearing opened.

Kevin Jones of Alabar Lane questioned where rainwater would be going since it currently floods after a heavy rain.

City Manager Szerlag stated it was his understanding that any new development cannot cause a drainage problem for surrounding properties nor exacerbate an existing drainage problem.

Public Works Director Clinghan responded that during the site development review process, cue off has to be maintained. That is why you have retention in detention ponds, so the cue coming off the site cannot change from the existing conditions as far as the flow. Potentially the flow will not be worse since we cannot increase the flow coming off the site development. That would be something looked at if this resident lives on an adjacent property.

City Manager Szerlag stated given the same rain event before or after development, the runoff on the contiguous properties cannot be greater. He would ask staff when the development comes in, to see what we can do to improve drainage around the area for those houses that are built very close to a grade level.

Mayor Coviello noted that this would be going to the State for transmittal and then come back to Council for a final vote.

Mr. Daltry stated upon transmittal, turnaround time is pretty fast and may be coming back in mid-November.

Public Hearing closed.

Councilmember Williams moved, seconded by Councilmember Gunter, to adopt Ordinance 50-18 for transmittal, as presented.

Assistant City Clerk Bruns questioned if this included Alternative 1 or 2.

Mr. Daltry stated staff was requesting direction regarding that one multi-family or mixed use for the area off Zemel 41. As part of Council's transmittal motion, staff requests direction to go with whichever alternative suits you.

Councilmember Williams requested more input before he changed his motion.

Councilmember Gunter agreed he would like more information on that particular parcel.

Mayor Coviello questioned if Alternative 1 was leaving open some of the wet area.

Planning Team Coordinator Daltry noted that Alternative 1 is multi-family for approximately 200 acres, with a maximum of 3,200 multi-family dwelling units. Alternative 2 is mixed-use for 200 acres of which 20% could be multi-family. It would be 40 acres times 16 = 640 multi-family dwelling units and a fair amount of commercial space. Both address needs of the City, multi-family and commercial. Alternative 2 would give the option of more commercial. Alternative 1 would give you more multi-family housing.

Councilmember Cosden stated she preferred Alternative 2.

Councilmember Stokes preferred Alternative 2 as well because of the need for commercial use.

Councilmember Gunter state he was more in favor of commercial space in this area.

Councilmember Williams moved, seconded by Councilmember Nelson, to adopt Ordinance 50-18 for transmittal, with Alternative 2.

City Attorney Menendez requested that Mr. Daltry explain to the Council the change that would be in the Ordinance in terms of what they were recommending for transmittal. She noted that the alternatives are not spelled out in the Ordinance.

Mr. Daltry explained what part the amendment would be in the Ordinance.

City Manager Szerlag noted he was responsible for not having the text modified. This was brought to his attention subsequent to the Planning Commission's support of Planning Staff's recommendation. He stated he never modifies what P&Z or staff wants to do, but as Manager he wanted Council to take a look at another possibility because we are hurting in terms of commercial activity.

Discussion held regarding the mixed use being in that location.

Council polled as follows: Stokes, Stout, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 8-0.

Ordinance 58-18 (PDP 18-0003*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Ordinance 43-98, as amended by Ordinance 8-06, which approved a Planned Development Project entitled "Santa Barbara Plaza East," for certain property located at 1025-1031 Santa Barbara Boulevard and 124-128 Nicholas Parkway East by expanding the project area to include Lots 12-15, Block 1027, Cape Coral Unit 24. (Applicant: Jadboir Ventures LLC)

Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the Project, subject to the terms and conditions set forth in PDP HEX

Recommendation Order 3-2018.

City Management Recommendation: City Management recommends approval with conditions.

Assistant City Clerk Bruns read the title of the Ordinance and administered the oath.

Planning Team Coordinator Struve reviewed the purpose of the Ordinance and presented the following slides:

- Ordinance 58-18, PDP 18-0003
- Ordinance 58-18
- Ordinance 58-18 site
- Zoning Map
- Background
- Subject Parcel Aerial View
- Lots 12-15 – New Area Added to Project
- Development Plan
- Analysis (LUDR, Section 4.2)
- Recommendation and Correspondence
- Correspondence – four phone calls – informational

Public Hearing opened.

Joe Mazurkiewicz, President, BJM Consulting, Inc., authorized representative, provided background on this site. He concurred with staff and recommendations made. There will be sufficient buffering to protect the adjoining properties and requested approval of this PDP amendment.

Public Hearing closed.

Councilmember Stout moved, seconded by Councilmember Gunter to adopt Ordinance 58-18, as presented.

Council polled as follows: Stokes, Stout, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 8-0.

Ordinance 59-18 (ZA 18-0004*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Official Zoning Map by rezoning property described as Lots 1-6 and Lots 61-72, Block 4127, Unit 59, Cape Coral Subdivision, from Residential Development (RD) to Pedestrian Commercial (C-1) zone; property is located at 6-22 Burnt Store Road and 5 NW 32nd Place. (2.4 acres) (Applicants: Harold and Pamela Arkin, Trustees, Esta Y. Rubinstein, Trustee, and Big Marlin Properties, LLC)

Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the application for rezoning of this parcel.

City Management Recommendation: City Management recommends approval.

Assistant City Clerk Brunns read the title of the Ordinance and administered the oath.

Principal Planner Boyko reviewed the purpose of the Ordinance and presented the following slides:

- Ordinance 59-18
- ZA 18-0004 Subject Parcel Map
- Current FLU
- Current Zoning, Proposed Zoning
- Findings of Fact
- Analysis – LUDR
- Summary and Recommendation
- No correspondence

Public Hearing opened.

Greg Stewart, Stewart & Associates, authorized representative, stated he supported staff recommendation and was available to answer any questions.

Assistant City Clerk Brunns administered the oath to Mr. Stewart.

Public Hearing closed.

Councilmember Williams moved, seconded by Councilmember Stokes to adopt Ordinance 59-18, as presented.

Council polled as follows: Stokes, Stout, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 8-0.

INTRODUCTIONS

Ordinance 65-18 Set Public Hearing Date for October 1, 2018

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance approving and granting to Florida Governmental Utility Authority a Utility Easement to survey, construct, operate, maintain, repair, remove, replace or abandon a 16-inch irrigation main and associated valving and telemetry facilities in, along, under, above and upon property owned by the City that is in the area of the Del Prado Irrigation Storage Tank; authorizing and directing the Mayor to execute the Easement. (Applicant: Brought forward by City Management)

Assistant City Clerk Brunns read the title of the Ordinance.

The public hearing was scheduled for October 1, 2018 in Council Chambers.

Property Broker Andrews stated she would have a presentation at the public hearing and was available for any questions.

Ordinance 66-18 (PDP 18-0004*) Set Public Hearing Date for October 1, 2018

*Quasi-Judicial, All Persons Testifying Must be Sworn In

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending Ordinance 112-03, approving a Planned Development Project entitled "Houlihans Restaurant and Office Building" for certain property described as Lots 12-20 and 52-62, Unit 44, Block 1699; property located at 627 & 629 Cape Coral Parkway West and 620 SW 47th Terrace; renaming the project "Duffy's Parking Lot Expansion"; expanding the project area by 20,000 square feet; rezoning Lots 19-20 and 52-53, Block 1699, Unit 44, from Professional Office (P-1) to Pedestrian Commercial (C-1); expanding a previously approved deviation from the Engineering and Design Standards, Sheet E-1, in order to allow a parking lot design where vehicles may back onto a public right-of-way; granting development plan approval. (Applicant: Cape Coral Parkway, LLC)

Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the Project, subject to the terms and conditions set forth in PDP HEX Recommendation 4-2018.

City Management Recommendation: City Management recommends approval.

Assistant City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for October 1, 2018 in Council Chambers.

Planner Heller stated he would have a presentation at the public hearing and was available for any questions.

Ordinance 67-18 Set Public Hearing for September 24, 2018

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance grants to Lee County Electric Cooperative, Inc. (LCEC), its successors and assigns, an electric franchise; imposes provisions and conditions relating to the franchise; and provides for quarterly payments to the City. (Applicant: Brought forward by Mayor Coviello)

Assistant City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for September 24, 2018 in Council Chambers.

Mayor Coviello stated discussion will be held at the public hearing.

Ordinance 68-18 Set Public Hearing for October 1, 2018

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Chapter 12, "Offenses and Miscellaneous Provisions" of the Code of Ordinances to create Section 12-128, Article XIII, "Retail Sale of Dogs and Cats Prohibited" prohibiting the retail sale of dogs and cats in the City; provides for definitions, prohibition, disclosures, and enforcement and penalties. (Applicant: Brought forward by Councilmember Williams)

Assistant City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for October 1, 2018 in Council Chambers.

DCD Director Cautero stated he would have a presentation at the public hearing and was available for any questions.

UNFINISHED BUSINESS

Water Quality – Update

Public Works Director Clinghan reviewed the memo provided to Council and gave the most current update on Lake Okeechobee.

Mayor Coviello discussed the SFWMD meeting; they went from 300 to 400 cfs. However, the Mayors present at that meeting wanted 720 cfs. If we got more water when we needed it in the dry season, it would help our salinity levels in our canals. They

seemed to have more interest in the water supply and may have ties to agriculture; they do not have the coastal communities' best interest at heart. The Mayors are going to work together to try and get them to increase the releases during the dry season which may be a temporary solution for our area to help eliminate those massive releases during the wet season.

Fire Chief Lamb provided an update on the algae situation. He provided the following slides about the action plan:

- Emergency Management Coordination
- What Has Been Done – Lee County

Utilities Director Pearson discussed the slides:

- What Has Been Done – Lee County
- What Cape Coral is Doing
- Treatment, Ecological Laboratories, Inc.
- Palaco Grande Canal, Nassau Canal
- Vertex Bubble Curtain Test Project – Mandolin Canal

Fire Chief Lamb discussed the following slides:

- What Cape Coral is doing - Booming
- Partial booming on canals- Palaco Grande Canal and Nassau Canal
- Booming, safety, cost
- Mandolin Canal/Clipper Basin
- Bubble Curtain
- Floridadisasterloan.org
- SBA, U.S. Small Business Administration
- Moving Forward

Councilmember Cosden requested a presentation on the next meeting agenda regarding air quality testing.

City Manager Szerlag stated he has not spoken to staff yet; October 1st is better.

Resolution 208-18 Interlocal Agreement between Cape Coral and Fort Myers for the purchase and disposal of reclaimed water – moved to directly after Citizens Input

Follow Up Items Requested by Council

None

NEW BUSINESS

Wednesday, September 26, 2018 Committee of the Whole meeting date discussion - Mayor Coviello

Mayor Coviello discussed the September 26th COW meeting. He requested that it be rescheduled to October 3rd or October 10th. He mentioned the items that would be discussed: residential parking and Seven Islands.

Councilmember Stokes stated either one worked for him.

City Attorney Menendez stated there should be a motion.

Councilmember Stokes moved, seconded by Councilmember Carioscia to reschedule the September 26th COW meeting to the evening of October 3rd.

Council polled as follows: Stokes, Stout, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 8-0.

REPORTS OF THE MAYOR AND COUNCIL MEMBERS:

Councilmember Stokes – Topics: attended the FLC meeting on Personal Taxation Finance Committee in Orlando.

Councilmember Stout – Topics: Received information from the City Attorney's Office about creating the Economic Development Advisory Board.

Councilmember Williams – Topics: Attended the Legislative Committee on Utilities, Natural Resources, and Public Works at the FLC last week. He stated it was brought to his attention that the Youth Council had a \$5,000 budget last year. It is not included in the current budget. It is a line item in the City Council budget.

Councilmember Williams moved, seconded by Councilmember Cosden that we put \$5,000 into the City Council budget for the Youth Council use.

Council polled as follows: Stokes, Stout, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 8-0.

Councilmember Carioscia – Topics: No report.

Councilmember Cosden – Topics: Attended the Youth Council meeting last Friday for Councilmember Williams; Issued a proclamation on behalf of the Mayor for Thursday, September 13th declared to be Goodness to Go Day for the Sustainable Outreach Society at the Cape Coral Caring Center; researching a couple of boards such as the Military Advisory Board and Mental Health Advisory Board, did not want a second yet.

Councilmember Gunter – Topics: September 8th attended the Military Museum Parade for Heroes; September 12th Palaco Grande HOA meeting; September 13-14 Legislative Policy Committee for Land Use and Economic Development at the FLC in Orlando; September 15th attended the Law and Order Ball; Beautification Stakeholders Group, looking for a second, provided by Councilmember Stout, to make this committee an advisory board to work with staff and come up with improvements.

City Attorney Menendez stated the Stakeholders Group is an informal group and share their knowledge with staff who determines if anything would be brought forward to City Council. She asked if Councilmember Gunter wanted to convert that same membership of the stakeholders group into a committee that would be advising Council.

Councilmember Gunter responded in the affirmative and noted possible expansion of that committee to add more professionals.

City Attorney Menendez stated he was looking to get a concurrence from another Councilmember to bring forward potentially a board or committee regarding the issues described. It may be called a Landscaping Committee, one that would address the issues being discussed and to advise Council. The composition of that committee will be determined as that committee is further developed.

Councilmember Gunter agreed and would work with the City Attorney's Office to come up with some parameters.

Councilmember Carioscia inquired if Councilmember Gunter wanted to assign duties to the Beautification Committee or create an entire new committee.

Councilmember Gunter stated we have a Beautification Stakeholders Group. His intent was to incorporate that group and maybe broaden their scope, such as irrigation standards and water quality issues.

Councilmember Carioscia stated instead of recruiting a whole group of new people, maybe we can just assign that committee some of these issues.

City Attorney Menendez clarified what Councilmember Gunter wanted to have is an actual formal committee and will be a sunshine committee to make recommendations to Council.

Councilmember Gunter noted the Seven Islands project coming up, as well as others, and maybe get some input on the landscaping that may go in.

Councilmember Williams voiced his concern about advertising, public meetings, and support from the City Clerk every time there is a meeting. He stated as far as recommendations from them, that should be given to staff. He felt it was better to keep it as a stakeholder group.

City Attorney Menendez stated it depends a lot on the purpose of the committee. She explained how this group would no longer be just a discussion group with the City Manager.

Councilmember Cosden asked if Councilmember Gunter was only looking for a second to start working on the concept.

Councilmember Gunter responded in the affirmative. He may research to see what other cities are doing and may decide that it is not a good idea.

Mayor Coviello stated the stakeholders group has been very effective and if it is not broken, why fix it?

Councilmember Gunter stated they would be working more with staff than with Council.

Mayor Coviello stated once we formalize a committee, their recommendations come to Council.

Councilmember Gunter stated he was looking for a second and take a look if there is any room for improvement.

City Manager Szerlag stated when we work with the City Attorney's Office to develop an ordinance, that talks about the structure, but the actual outcome is his purview of authority such as irrigation, landscaping, budgeting, etc. He asked Councilmember Gunter that when he speaks to Legal, he will be present as well and other staff members. He noted the City Clerk's Office has limited staff to work on committees. He added other staff are impacted by more assignments from committee meetings.

Councilmember Gunter stated he would work with the City Manager and the City Attorney, as well as other staff.

Councilmember Nelson – Topics: attended the Law and Order Ball; was invited to an informal meeting with Senator Nelson to talk with business owners affected by the blue green algae; Captains for Clean Water at the CCCIA dinner; #SWFL Challenge; SWFL Care Fund sponsored by the SWFL Community Foundation helping the human side of workers who have lost their income; asked for a second to create the non-compliance bulk trash ordinance focusing specifically on moveouts, second provided by Councilmember Stout.

Mayor Coviello: Topics: attended a meeting with the Cape Coral Civic Association; Community Conversation at Cape Coral Hospital; met with Congressman and Gubernatorial Candidate Ron DeSantis and toured the canals; water quality interview with WINK News; attended with staff the water quality meeting in Fort Myers with the DEP, SWFLWMD, Department of Health; meeting with all Lee County Mayors with representatives from agriculture and U.S. Sugar; Honor Flight Golf Outing; IUPAT Labor Day Picnic/Parade; New Residents Club guest speaker on water quality; meetings with News Press and Breeze regarding the upcoming GO Bond Referendum; unveiling the

Woolly Mammoth Bone at the Historical Museum; presented a prize to Cassidy Keys for winning the U.S. Conference of Mayors Dollarwise Summer Youth Contest; Military Museum Parade of Heroes; SFWMD meeting in West Palm Beach; CCCIA dinner meeting; Cape Coral Police Department swearing in ceremony on Friday; Law and Order Ball on Saturday evening. Will be at the ceremony at Coral Ridge and the MPO meeting on Friday.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney – Topic: None

City Manager – Topic: Our first education meeting on the Parks and Recreation GO Bond will be Wednesday, September 19th, between 7:00 p.m. and 8:00 p.m. at the Christa McAuliffe Elementary Cafeteria.

TIME AND PLACE OF FUTURE MEETINGS

A Special Meeting of the Cape Coral City Council was scheduled for Thursday, September 20, 2018 at 5:05 p.m. in Council Chambers (Second and Final Budget Hearing).

A Regular Meeting of the Cape Coral City Council was scheduled for Monday, September 24, 2018 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 7:03 p.m.

Submitted by,

Rebecca van Deutekom, MMC
City Clerk

Item Number:	7.B.
Meeting Date:	10/15/2018
Item Type:	APPROVAL OF MINUTES

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Special Meeting - September 20, 2018

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan? No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Special Meeting - September 20, 2018

PREPARED BY:

Kimberly Bruns Division- Managerial Department- City Clerk's Department

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns
1-239-242-3243
Assistant City Clerk

ATTACHMENTS:

Description	Type
□ Special Meeting - September 20, 2018	Backup Material

MINUTES FOR THE SPECIAL MEETING OF THE
CAPE CORAL CITY COUNCIL

Thursday, September 20, 2018

Council Chambers

5:05 p.m.

Meeting called to order by Mayor Coviello at 5:05 p.m.

Invocation/Moment of Silence

Pledge of Allegiance

Roll Call: Mayor Coviello, Council Members Carioscia, Cosden, Gunter, Nelson, Stokes, Stout, and Williams were present.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Councilmember Williams moved, seconded by Councilmember Stokes to adopt the agenda, as presented.

Council polled as follows: Stokes, Stout, Williams Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." All "ayes." Motion carried 8-0.

CITIZENS INPUT TIME

Dan Sheppard appeared to give a history of District 2, he described it as almost built out. There are infrastructure items needing to be finished such as medians which are important. We are now in the building boom, he has not seen talk about completing infrastructure. The people in his district have paid their impact fees and their taxes. People do not want to pay for incomplete neighborhoods. There have been more important items such as safety, but right now, he does not see it being talked about. He explained that the investment of finishing infrastructure adds value and brings in more dollars.

Mayor Coviello explained he classifies infrastructure as roads and sewer, water, things other than medians. He was in agreement about having a beautiful city and the budget dollars might be low for what we are trying to accomplish. He met with a stakeholder regarding landscaping, and they discussed the direction the group was going in and what could potentially take place.

BUSINESS

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Ordinance 63-18 FY2019 Budget - Millage - Second and Final Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance establishes and levies ad valorem taxes within the corporate limits of the City for the tax year 2018; provides for the levy of ad valorem taxes in the amount of 6.750 mills (\$6.750 per \$1000) based on the assessed value on non-exempt real and personal property located within the city limits of the City of Cape Coral; and provides for the manner of assessment and collection. (Applicant: Brought forward by City Management.)

City Clerk van Deutekom read the title of the Ordinance.

Finance Director Bateman explained the purpose of the Ordinance. Slides consisted of the following:

- Ordinance 63-18
- General Operations Rate
- Operating Millage Rate and Rolled-Back Rate
- Final Millage Rate

City Manager Szerlag explained as Manager, he is responsible to develop a balanced budget that is presented to City Council and the Budget Review Committee. He advocated for the maintenance of the 6.750 millage rate. This helps produce a sustainable budget that moves the City forward and steadily improves our level of service for our residents and businesses. We have added 35K people to our resident population since he became City Manager. We must keep in mind to keep pace with hiring personnel and paying them a competitive rate. He explained that he was fortunate enough to advance the philosophy of going to the 75th percentile for all of our employees to remain competitive. He was hopeful that Mayor and Council continues with that philosophy because those numbers are already baked into the budget. He provided an example of what could happen to a municipality that did not pay competitively that now does. Less than five years, our Police Department was a training ground for other officers to learn and move on to another City to be able to make more money. It costs us about \$65K to train the officers, who would then leave to another suburb or satellite city of Cape Coral and make more money by doing so. This has stopped after negotiating contracts and achieving pension reform. Went to the 75th percentile and now have about 1,000 applicants for the next round of hiring in the Police Department. We are still in a reinstatement mode based on our 2008 levels while adding to our population. He further explained that a millage reduction would have an adverse impact on pay increases, proposed reinstatement schedules, and new hire schedules. In terms of Capital, we are still in catch up mode. With the 6.750 millage rate, we are able to move forward and sustain paving at \$6.5M a year, median landscaping, alley resurfacing schedules, Fire Station 2 renovations, and park improvements. A millage reduction would have an adverse impact on those projects. He displayed and explained a slide titled, "Potential Budget Cuts by Department."

He met with Lee County to work together with their Economic Development Office on a joint branding to enhance the image of both Lee County and other cities of Lee County. This could include an office site. Roger Desjarlais has agreed to be on the hiring panel for the City's future Economic Development Manager.

In order to maintain our two-month reserve level in the General Fund with a 2.5 mill reduction as well of the Homestead Exemption, we are going to be unsustainable unless we make severe cuts. The consultant and department heads were available to discuss cuts that would be necessary to balance the budget. There are other items that would have an adverse effect on the General Fund.

He explained what else would be affected by the reduction:

- Unable to sustain Charter School
- Potential natural disaster (Spent \$20M due to IRMA)
- Growth prediction concerns based on environmental factors
- Effects on ad valorem
- Department Heads are available to speak on personnel, capital, O&M costs and transfer costs.

Eric von Molssen, Stantec consultant, appeared to discuss the results of the General Fund financial sustainability model and what would happen if the mill reduced by 2.5 mills. He explained the financial model with the detailed analysis of the budget being presented and through ten years. He demonstrated the effects of a reduction by 2.5 mills.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Williams to adopt Ordinance 63-18 (the millage rate of 6.750 Mills), as presented.

Mayor Coviello acknowledged the 6.75 mills was the recommendation by the Budget Review Committee and if the Homestead Exemption passes, we would lose \$4M in future budgets. Lowering the millage would jeopardize our reserves which would be detrimental to our bond rating or our credit rating. The checkbook approach shows our City is among the lowest in Florida regarding the actual check you will write each year. We had added SRO responsibilities. We are not sure where our property values will land based on dealing with the red tide and the blue green algae. Preventative measures for future releases are being researched to block from our canals, which will have costs associated that are not figured in our current budget.

Councilmember Stokes echoed the Mayor's thoughts. He explained that we have not received reimbursement from the Hurricane, along with the addition of the SRO's. He wanted to make sure our needs are covered by this millage rate, and he will be supporting the motion.

Council polled as follows: Stokes, Stout, Williams, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." Eight "ayes." Motion carried 8-0.

Councilmember Williams left the dais/meeting at 5:36 p.m.

Ordinance 64-18 FY2019 Operating Budget - Second and Final Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance adopts the City of Cape Coral operating budget, revenues (sources) and expenditures (uses), and capital budget for the Fiscal Year 2019 for the City of Cape Coral, and repeals all ordinances in conflict with this ordinance. (Applicant: Brought forward by City Management.)

City Clerk van Deutekom read the title of the Ordinance.

Director Bateman explained the purpose of the Ordinance. Slides consisted of the following:

- Ordinance 64-18
- Tentative Budget by Fund Type
- General Fund Summary
- Adopted Budget

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Carioscia to adopt Ordinance 64-18 FY 2019 Budget Totaling \$779,763,685, as presented.

Council polled as follows: Stokes, Stout, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." Seven "ayes." Motion carried 7-0.

Mayor Coviello mentioned there may be a need for a special meeting regarding the minimum flow levels coming out of Lake Okeechobee for Monday, September 24, 2018, awaiting more information. Also, in reference to the Committee of the Whole meeting that was scheduled on October 3, 2018, he requested moving it to October 10, 2018 due to the consultant's schedule.

Councilmember Cosden moved, seconded by Councilmember Gunter to move the October 3, 2018 Committee of the Whole meeting to October 10, 2018 at 4:30 pm, as presented.

Council polled as follows: Stokes, Stout, Carioscia, Cosden, Coviello, Gunter, and Nelson voted "aye." Seven "ayes." Motion carried 7-0.

TIME AND PLACE OF FUTURE MEETINGS

A Regular Meeting of the Cape Coral City Council was scheduled for Monday, September 24, 2018 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 5:40 p.m.

Submitted by,

Rebecca van Deutekom, MMC
City Clerk

Item Number:	7.C.
Meeting Date:	10/15/2018
Item Type:	APPROVAL OF MINUTES

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Special Meeting - September 24, 2018

REQUESTED ACTION:

Appoint

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan? No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Special Meeting - September 24, 2018

PREPARED BY:

Kimberly
Bruns Division- Managerial Department- City Clerk's
Department

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns
1-239-242-3243
Assistant City Clerk

ATTACHMENTS:

Description	Type
□ Special Meeting - September 24, 2018	Backup Material

**MINUTES FOR THE SPECIAL MEETING OF THE
CAPE CORAL CITY COUNCIL**

Monday, September 24, 2018

Council Chambers

2:00 p.m.

Meeting called to order by Mayor Coviello at 2:01 p.m.

Invocation/Moment of Silence

Pledge of Allegiance

Roll Call: Mayor Coviello, Council Members Carioscia, Cosden, Gunter, Stokes, and Stout were present. Williams was excused. Nelson arrived at 2:06 p.m.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Councilmember Stokes moved, seconded by Councilmember Gunter to adopt the agenda, as presented.

Council polled as follows: Stout, Carioscia, Cosden, Coviello, Gunter, and Stokes voted "aye." All "ayes." Motion carried 6-0.

CITIZENS INPUT TIME

James Collyer appeared to discuss the topic of the meeting and was glad that this meeting was being held. He encouraged everyone to support this issue and appreciated that the City was being involved in the level that they are. He supported the petition.

Cheryl Anderson appeared to discuss the movie that was shown this past Saturday at the library on the toxic algae with 126 residents in attendance. She agreed with increasing the releases in the dry season to help our situation.

Councilmember Nelson arrived at 2:06 p.m.

Linda Prince thanked the Council for all their efforts in putting out this petition.

Paul Tipton appeared to discuss why he moved to Cape Coral. He would like to see this item addressed at the Army Corps of Engineers; the problem is at Lake Okeechobee.

BUSINESS

**Potential Petition to Challenge South Florida Water Management District's
Proposed Rule Changes to Rule 40E-8.221 Pertaining to Minimum Flow and
Levels (MFLs) for the Caloosahatchee River**

Mayor Coviello asked Sanibel Mayor Kevin Ruane to come to the podium and explain the purpose of this petition.

Sanibel Mayor Ruane stated that on September 13th, Mayor Coviello, as well as the Mayor of Fort Myers Beach and myself, went to the South Florida Water Management District (SFWMD). The agenda was for them to deal with low flow issues. We need water to come here in the dry season. Salinity issues are too high, and it needs to be reduced. He suggested to the SFWMD that the change they had on the agenda, which was taking water from 300 cfs to 400 cfs, was inappropriate. He provided them with scientific information during Public Input. The estuaries are extremely important during the dry flow, but more importantly what is happening is actually reducing water that we will receive during wet season. If you lower the tub, you have more water to put in the tub. This is a policy issue that has no cost that can be implemented right away. First of

all, he requested all the united Mayors to send a letter asking the SFWMD to appeal this and pull it back before we go through the formal process. Secondly, there is a filing of a petition with the State of Florida Administrative Services. It is an actual appeal, and there might be costs associated with it to pay for experts. He requested support from the Council.

Councilmember Stokes thanked the residents who came out to speak to support this during Citizens Input. He thanked Mayor Ruane for starting this petition.

Councilmember Stout questioned if the water releases go to help the sugar fields.

Sanibel Mayor Ruane explained the different missions of the WMD and the Army Corps of Engineers.

City Attorney Menendez explained that there are two actions before Council today. One is to authorize the Mayor to join in with the other Mayors in the communities to oppose the action of the SFWMD regarding this rule change. The second is whether or not you want to be a joint petitioner with the City of Sanibel which is an administrative proceeding against the SFWMD. That has to be filed today by 5:00 p.m. The City of Cape Coral can be identified as a joint petitioner if that is the desire of Council. There may be costs involved. If Council chooses not to be a joint petitioner today, there would be an opportunity to intervene later in the process. She noted that this has been a rapidly evolving issue. As late as 30 minutes ago, she has been in contact with some of our other fellow local government attorneys in this area. Her understanding is that Fort Myers Beach, as of this morning, has indicated that they want to participate in a letter and may be joining in on the petition. Estero has decided not to be a joint petitioner. Bonita and Fort Myers have not had an opportunity to determine yet whether they want to join in or take any other action. She has not heard anything about Naples.

Mayor Coviello stated he got a text from the Bonita Springs Mayor confirming that they will be signing the letter and confirming it at their next Council meeting. He encouraged joining the petition. He stated our request really fell on deaf ears at the SFWMD; they do not have the coastal communities' best interests at heart. He supported signing the letter as well as the petition.

Councilmember Nelson questioned the releases being mentioned, are there any integrity issues with the dike?

Sanibel Mayor Ruane explained it had nothing to do with the integrity of the dike.

Councilmember Nelson questioned if any costs of the petition will be split?

Sanibel Mayor Ruane stated that he was at the Fort Myers Beach Council meeting today. They agreed with both signing the letter and supporting the petition. He spoke to the Bonita Springs Mayor today, as well as their City Attorney and City Manager, and he will also sign the letter and will be a co-petitioner.

Mayor Coviello asked PW Director Clinghan to come to the podium.

PW Director Clinghan stated this issue was discussed with the Environmental Resources Group and Public Works supports the increase in flows to 720 cfs or maintain that 10 psu.

Councilmember Cosden inquired if we do go forward with the petition, what is the initial cost?

Sanibel Mayor Ruane stated there will be nominal costs with filing this petition. The cost will run into significant dollars if we get into a long-drawn expert situation.

Councilmember Gunter thanked Sanibel Mayor Ruane for all his efforts. We need to stand together to address these issues. He supported being a joint petitioner. He was hoping to avoid whatever costs there are for taxpayer dollars, but in the same token, the damages that are going into our economy right now are far exceeding any type of cost

Councilmember Gunter thanked Mayor Ruane for his efforts and noted this is a problem that affects all of us. He supported the letter signing and the petition.

Councilmember Nelson moved, seconded by Councilmember Gunter to approve the Mayor to sign the letter opposing the action of the SFWMD.

Council polled as follows: Stout, Carioscia, Cosden, Coviello, Gunter, Nelson, and Stokes voted "aye." All "ayes." Motion carried 7-0.

Discussion held regarding a motion for the City to be a co-petitioner.

Councilmember Nelson moved, seconded by Councilmember Cosden to join in the petition regarding the rule change of the minimum flow levels.

Council polled as follows: Stout, Carioscia, Cosden, Coviello, Gunter, Nelson, and Stokes voted "aye." All "ayes." Motion carried 7-0.

Sanibel Mayor Ruane thanked the City Council and left the meeting at 2:25 p.m.

TIME AND PLACE OF FUTURE MEETINGS

A Regular Meeting of the Cape Coral City Council was scheduled for Monday, September 24, 2018 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 2:26 p.m.

Submitted by,

Rebecca van Deutekom, MMC
City Clerk

Item Number:	7.D.
Meeting Date:	10/15/2018
Item Type:	APPROVAL OF MINUTES

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Regular Meeting - September 24, 2018

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision? No

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Regular Meeting - September 24, 2018

PREPARED BY:

Kimberly Bruns	Division- Managerial	Department- City Clerk's Department
-------------------	----------------------	--

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns
1-239-242-3243
Assistant City Clerk

ATTACHMENTS:

Description	Type
□ Regular Meeting - September 24, 2018	Backup Material

**MINUTES FOR THE REGULAR MEETING OF THE
CAPE CORAL CITY COUNCIL**

September 24, 2018

Council Chambers

4:30 p.m.

Meeting called to order by Mayor Coviello at 4:30 p.m.

Invocation/Moment of Silence – Councilmember Stout

Pledge of Allegiance – Jonathan Lawrence - Gulf Elementary School

Roll Call: Mayor Coviello, Council Members Carioscia, Cosden, Gunter, Nelson, Stokes, and Stout were present. Councilmember Williams was excused.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Councilmember Gunter moved, seconded by Councilmember Stout to adopt the agenda, as amended. (Moved Item 9.2.A after Citizen's Input and added Ordinance 68-18 discussion to 10.B.)

Council polled as follows: Stout, Carioscia, Cosden, Coviello, Gunter, Nelson, and Stokes voted "aye." All "ayes." Motion carried 7-0.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

None.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

None.

CONSENT AGENDA

- 1) Resolution 198-18 Approve purchases for the renovation of the Art Studio such as Contract #CON-PR18-129/KS with Acousti Engineering Company of Florida, for the purchase and installation of acoustical ceiling grid in the amount of \$21,150 and Contract #CON-PR18-130/KS with Boss Flooring LLC d/b/a Floor Mart for the purchase and installation of flooring in the amount of \$23,414; and any other related purchase following the City of Cape Coral Code of Ordinances Article VII: Purchase and Sale of Real and Personal Property Division 1 Section 2-144 and authorize the City Manager to execute the contracts, purchase orders and any other related documents. The project is a combination of external vendors and in-house labor with the purchase of materials following the Procurement Ordinances. The total project cost is estimated at around \$300,000. The monies for this project is available via a Cultural Facilities Grant approved on September 20, 2016 via Resolution 173-16; Department: Parks and Recreation; Estimated Dollar Value \$300,000; (Capital Fund)
- 2) Resolution 199-18 Approve entering into a new agreement with Axon Enterprise, Inc., (formerly Taser International) for the purchase of body-worn cameras (BWC) and taser conducted electrical weapons (CEW), which consolidate all current agreements into one agreement for a period of five (5) years starting on FY2019 which includes current equipment (180 BWC's and CEW's) and the additional

request of 23 new BWC's and CEW's for an annual amount of \$248,720 with the following years at an annual amount of \$229,086, based on annual appropriations, for a five-year total of \$1,165,064. The consolidation of the agreements will yield savings. The original agreements were approved, the first one via a Waiver on November 17, 2014 (from January 2015 to January 2020 for a five year total \$287,976 – for 60 BWC's and CEW's) and the second one via Resolution 43-16 on April 11, 2016 (April 2016 to April 2021 (for a five year total of \$710,485 – for 120 BWC's and CEW's), both agreements were for a five (5) year period. The current agreements will be cancelled if this consolidated agreement is approved; And authorize the City Manager or Designee to execute the purchase orders and any related documents. Department: Police Dollar Value: \$1,165,064 (FY19-\$248,719.54, FY20-FY23 \$229,086 each year) (General Fund & Federal Forfeiture Funds)

- 3) Resolution 210-18 Approve the Single Source with Selectron for the addition of new notification capabilities for "Fire Hydrant maintenance" and "Scheduled Line Shutdown" notifications to the City's existing Automated Customer Notification System at a one time cost of \$18,000 in addition to FY-2018 renewals for Voice Permit and Voice Utility of \$48,020 for a total FY-2018 expenditure of \$66,020 and approve recurring annual renewals and future additions to Selectron for software enhancements, upgrades, and maintenance, not to exceed budgetary limits and authorize the City Manager, or designee, to execute the purchase orders, agreements and renewals. This is a "Best Value" purchase, under Single Source, as utilizing a different vendor and not the existing vendor would cause the City to incur additional expense over the ones stated; Department: Utilities; Estimated Annual Dollar Value \$66,020; (Water and Sewer Fund)
- 4) Resolution 212-18 A resolution requesting authorization to extend payment up to \$5,000 in reimbursable relocation expenses as allowed in section 2-37.3 of the City of Cape Coral Code of Ordinances to the selected candidates for the positions of Park Superintendent in the Parks and Recreation Department, Building Official in the Community Development Department, and the Economic Development Manager in the City Manager's Office; Funding for the Parks and Recreation Department; Dollar Value: maximum of \$5,000; (General Fund); Funding for the Community Development Department; Dollar Value: maximum of \$5,000; (Enterprise Funds); Funding for the City Manager's Office; Dollar Value: maximum of \$5,000; (General Fund)
- 5) Resolution 214-18 Lifeline Family Center - Potable Water Main Extension. Reimbursement for remainder of the off-site potable water improvements so they may switch from reuse to potable water for fire protection; Department: Utilities; Dollar Value: \$54,550; (Water & Sewer Fund)
- 6) Resolution 215-18 Approval of Crown Castle's request for consent to modify Sprint PCS equipment at the communication tower located at Nicholas Annex (former City Hall site) located at 815 Nicholas Parkway East and authorization for the City Manager to execute said consent letter; Department: Financial Services / Real Estate; Dollar Value: N/A; (Fund: N/A)
- 7) Waiver of Conflict of Interest for the Law Firm of Henderson Franklin/Habitat for Humanity; Department: City Attorney; Dollar Value: N/A (Fund: N/A)
- 8) Approve Release of Claims arising out of the case of Kimberly Ann Green, as the Personal Representative of the Estate of Jessica Ann Green, deceased v. City of Cape Coral, Case No. 18-CA-1969

Councilmember Carioscia moved, seconded by Councilmember Stokes approve items 8(B)(1), 8(B)(2), 8(B)(3), 8(B)(4), 8(B)(5), 8(B)(6), 8(B)(7), and 8(B)(8), as presented.

Council polled as follows: Stout, Carioscia, Cosden, Coviello, Gunter, Nelson, and Stokes voted "aye." All "ayes." Motion carried 7-0.

CITIZENS INPUT TIME

John Jacobs, President of Northwest Neighborhood Association, appeared with a request to City Council to rescind the approval of Ordinance 59-18 (ZA 18-0004).

Tim Trimble shared his concerns about the health effects of Blue Green Algae including exposure to the production of a bacterium known as BMAA. This bacterium has links with Alzheimer's and ALS.

Gary Elders appeared to request Council address move out trash left curbside in the City of Cape Coral.

Louis Navarra expressed concerns with Waste Pro Customer Service location at City Hall regarding the recycling program. He was in favor of the Bond Issue, but he wanted to know about the Golf Course element not being included. He requested City Council readdress the vacation rental regulations. He expressed appreciation to the Rotary Club's accomplishment with their Garden Project.

Councilmember Cosden questioned the issue regarding the Burnt Store and Embers property.

Director Cautero responded that a written response will be issued tomorrow. He explained the following:

1. Council is not able to rescind the Ordinance.
2. In their research, there was nothing out of the ordinary found.
3. We were perplexed, maybe the same way that the NWNA members were about the P-1 discussion. We received the request from RD to C-1 and reviewed it along those guidelines.
4. That sketch plan was something the applicant brought forward and showed as a concept plan to the Hearing Examiner which was not required. This can cause confusion. Straight rezones cannot be conditioned so that is why the Hearing Examiner did not make any recommendation based on the proposed sketch plan/site plan.

Councilmember Nelson addressed the issue regarding Waste Pro. She explained she is working on this issue regarding picking up the move out trash. They currently are looking at the bulk trash issue. The tax increase was from Lee County Solid Waste and it goes up or down based on the market in terms of an increase. Regarding the issue about the Golf Course, we do not own the property yet, so it could not be included. She requested that the City Manager address the Golf Course purchase process.

City Manager Szerlag explained he has been working with Bill McHale of Ryan Companies, a price point has been agreed upon predicated on a clean piece of property. There are contamination issues on the site both with the soil and ground water. A site remediation attorney has been recommended as well as a site remediation engineer. The City of Cape Coral would like to write one check including clean up. There are two standards involved here. One standard is residential which has a stringent cleanup for both soil and ground water. The other is commercial/industrial which has less of a cleanup standard. His objective is to come to City Council with an iron-clad agreement that does not make the City responsible for anything beyond the purchase price. It is not easy when it comes to remediation.

Councilmember Gunter noted the Waste Pro issue is something we will need to address. The residential rates have not changed with Waste Pro. He inquired about the P-1 to C-1 in the process.

City Attorney Menendez stated this occurred before it came to Council. When recommendations were being made by Planning and Zoning or the Hearing Examiner, were those recommendations for approval based on a C-1 or P-1 zoning? What the Council had before them was a C-1 Ordinance which was approved by them. Ordinances, unlike other items that Council considers, cannot be rescinded or reconsidered. The only way you can change an Ordinance is by amending or repealing the Ordinance which would have to go through the process again. She understood that Mr. Cautero and his team were looking at the facts behind the concerns expressed by the NWNA.

Ordinance 67-18 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance grants to Lee County Electric Cooperative, Inc. (LCEC), its successors and assigns, an electric franchise; imposes provisions and conditions relating to the franchise; and provides for quarterly payments to the City. (Applicant: Brought forward by Mayor Coviello)

Assistant City Clerk Bruns read the title of the Ordinance.

Public Hearing opened.

Joyce Easton congratulated Council on getting this done. She questioned what the franchise fee is used for by the City. Under what circumstances, would it be raised?

Dennie Hamilton, Executive Vice President and CEO of LCEC, appeared to deliver LCEC's endorsement of the franchise agreement.

Tim Trimble questioned where the money is going from all the LCEC participants.

Public Hearing closed.

Councilmember Stout moved, seconded by Councilmember Gunter to adopt Ordinance 67-18, as presented.

Mayor Coviello noted they worked well together and have a fair agreement going forward for our citizens. Overall the City's legal cost was almost \$600,000.

Councilmember Gunter noted he was thankful for all the people involved to allow everyone to move forward.

Councilmember Stout stated this was the reason she ran and was thankful that this is coming to an end.

Councilmember Stokes thanked the Mayor, Council, the City Manager, Staff, and LCEC for all that was done to resolve this issue.

Councilmember Nelson thanked the Mayor for all he had done to resolve this issue. She also thanked Mr. Hamilton for taking the time to explain the agreement.

Councilmember Carioscia thanked LCEC for coming to the table and getting this done right. He especially thanked the Mayor, Council, Staff, and the City Manager for all they had done to resolve this issue.

City Manager Szerlag explained that the franchise fees are used as part of our General Fund revenue source. City Council can increase or decrease the franchise in

accordance with the agreement. Public Service Tax (PST) is also a revenue source for the General Fund.

Council polled as follows: Stout, Carioscia, Cosden, Coviello, Gunter, Nelson, and Stokes voted "aye." All "ayes." Motion carried 7-0.

PERSONNEL ACTIONS

None

PETITIONS TO COUNCIL

None

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Budget Review Committee - 4 vacancies (3 Members and 1 Alternate)

Interview of applicants
Philip Boller – not present
Michael Botkin – present
Joanne Gruber – present
Gene Paul Smith – not present

Assistant City Clerk Bruns stated there were four positions available due to term expirations for three members and one alternate. There is a request for a re-appointment from Michael Botkin. Our current alternate, Gene Smith, is interested in a membership appointment. Joanne Gruber is present for appointment. Philip Boller was unable to attend today, but he has asked to be considered for appointment.

Council polled as follows:

***Stout – Botkin, Gruber, Smith, and Alternate Boller
Carioscia – Botkin, Gruber, Smith, and Alternate Boller
Cosden – Botkin, Gruber, Smith, and Alternate Boller
Coviello – Botkin, Gruber, Smith, and Alternate Boller
Gunter – Botkin, Gruber, Smith, and Alternate Boller
Nelson – Botkin, Gruber, Smith, and Alternate Boller
Stokes – Botkin, Gruber, Smith and Alternate Boller***

Councilmember Nelson moved, seconded by Councilmember Stokes to re-appoint Michael Botkin, appoint Gene Smith as regular member, and appoint Joanne Gruber as regular member to the Budget Review Committee.

Council polled as follows: Stout, Carioscia, Cosden, Coviello, Gunter, Nelson, and Stokes voted "aye." All "ayes." Motion carried 7-0.

Councilmember Stokes moved, seconded by Councilmember Gunter to appoint Philip Boller as alternate member to the Budget Review Committee.

Council polled as follows: Stout, Carioscia, Cosden, Coviello, Gunter, Nelson, and Stokes voted "aye." All "ayes." Motion carried 7-0.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Ordinance 62-18 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance declaring Lots 7-8, Block 4406, Unit 63, Cape Coral Subdivision, as unusable municipal surplus real property not projected to be used for municipal purposes; authorizing the City Manager to exchange said municipal surplus property for real property described as Lots 53-54, Block 4406, Unit 63, Cape Coral Subdivision; said

property is required for future Fire Station #12; authorizing the conveyance of the surplus real property described herein pursuant to Section 2-155 of the Code of Ordinances; authorizing and directing the Mayor and Clerk to execute a deed conveying the aforementioned surplus real property. (Applicant: Brought forward by City of Cape Coral.)

Assistant City Clerk Bruns read the title of the Ordinance.

Property Broker Andrews showed an aerial view of the site on the east side of Chiquita Boulevard, north of Veterans Parkway. She stated the City has assembled properties since 2003 within the site, and they decided to build a fire station on the site. She showed another parcel and noted they are looking to trade surplus Lots 7 and 8 for Lots 53 and 54.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Stokes moved, seconded by Councilmember Stout to adopt Ordinance 62-18, as presented.

Councilmember Carioscia inquired if there were single family homes across the street from the proposed fire station.

Property Broker Andrews stated there were single family homes to the east plus a church site, Cape Christian Fellowship, to the west. There is commercial to the south. Recently, there was an approval for an ALF (Assisted Living Facility) to be built there.

Councilmember Carioscia inquired what street the fire trucks will access.

Property Broker Andrews stated the fire trucks will pull out on to SW 22nd Street.

Councilmember Carioscia shared his concern about the trucks pulling out on to a residential area.

Fire Chief Lamb stated this is just a concept plan of the site and are far from any final planning for the structure for this site. A one-way direction on Chiquita makes it more fluid for us. It is also better to come out on one of those side streets for access. A blinking light can be placed on Chiquita. He noted they can work on different return options.

DCD Cautionero noted that since this is just a concept plan, this will be revised during the final site plan phase so that those conditions requested by Councilmember Carioscia are part of the record.

Council polled as follows: Stout, Carioscia, Cosden, Coviello, Gunter, Nelson, and Stokes voted "aye." All "ayes." Motion carried 7-0.

INTRODUCTIONS

Ordinance 44-18 Set Public Hearing Date for October 15, 2018

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article III, Personnel Rules and Regulations, Division 12, "Classifications," to amend the requirements for Council approval regarding the addition of regular full-time positions within a classification and to amend the requirements for Council approval based on the new pay grade for a reclassification. (Applicant: Brought forward by City Management).

Assistant City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for October 15, 2018 in Council Chambers.

Director Sonogo stated she would give a presentation at the public hearing and was available for any questions.

UNFINISHED BUSINESS

Water Quality – Update

Public Works Director Clinghan stated nothing much has changed since last week as far as releases from Lake Okeechobee. They are still releasing 3,000 cfs to the west and approximately 1,170 cfs to the east.

Fire Chief Lamb stated they will be deploying the partial booming this Thursday, pending some last-minute deliveries coming in. Once it is confirmed, Council will be notified. He noted they were still working with Procurement on the bubble curtain.

Utilities Director Pearson stated the City has been working with Lee County on the algae cleanup. It has been successful and getting down to the point where our rating system 1-4, we are only seeing 1's and 2's and mostly 0's where no visible algae is present. It appears to be improving by removing those nutrients and algae material. They are still working with Eco Labs on the pilot test and reviewing data that is being gathered.

Mayor Coviello discussed the special meeting held earlier today regarding a letter to be sent as well as an appeal for SFWMD to raise the minimum flows from 400 cfs up to 720 cfs. The cities of Sanibel and Fort Myers Beach have joined us in this effort, and there may be others joining us as we go through the process.

Follow Up Items Requested by Council

Mayor Coviello stated Councilmember Williams requested a discussion on Ordinance 68-18 and to potentially withdraw it from next week's meeting agenda. Additional work was requested.

City Attorney Menendez stated because City Council had set that Ordinance for public hearing, it will need Council's vote to go ahead and remove it from the October 1st meeting agenda.

Councilmember Stout moved, seconded by Councilmember Cosden to withdraw Ordinance 68-18 from the October 1, 2018 agenda as a public hearing.

Council polled as follows: Stout, Carioscia, Cosden, Coviello, Gunter, Nelson, and Stokes voted "aye." All "ayes." Motion carried 7-0.

NEW BUSINESS

None

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Stout – Topics: Last week the Charter Review Commission met when one of the members mentioned that he has been in conversation with the Supervisor of Elections and the CRC wants to keep meeting because they believe they will make a recommendation to Council to change from odd numbered years to even numbered years for our elections. Tomorrow she leaves for a week in Orlando for the Florida Commission on the Status of Women and the induction of three women into the Florida Women's Hall of Fame and in connection with this there will be a dual meeting with the Florida Chamber of Commerce. One of the presentations will be from the Miami Mayor

regarding water. She will bring a copy of the petition signed at today's earlier meeting. She spoke to Estero Mayor Boesch regarding their passing a \$25 million proposal for parks and commercial/residential use. She noted they will be selling some of the 62 acres; their final cost may be only \$10 million.

Councilmember Williams – Topics: Excused.

Councilmember Carioscia – Topics: No report

Councilmember Cosden – Topics: No report

Councilmember Gunter – Topics: Attended the Cape Coral High School IB Senior Essay Celebration Breakfast on September 20th.

Councilmember Nelson – Topics: Stated the Cape Coral High School IB Senior Essay Celebration Breakfast was a great event. Congratulations to Oasis High School Football Team on their winning streak.

Councilmember Stokes – Topics: Attended the Do the Right Thing Ceremony in Chambers. Fire Chief Lamb was the guest speaker.

Mayor Coviello – Topics: He went to another application by Eco Labs at the Cabot Canal. Went to their public presentation on their results. He attended a groundbreaking ceremony at Coral Ridge's expansion. Went to a meeting at Senator Benacquisto's office with SBA regarding the loan program that can support small businesses that are struggling with either red tide or blue green algae. He met with the owners and managers with what he thought would be named Resort at Tranquility Lakes, that is the high-end RV park, currently it is named Myriad Luxury Motorcoach Resort. There will be a groundbreaking ceremony sometime in the near future. Final budget hearing was held. Went to an uneventful MPO meeting last Friday. He issued a proclamation this afternoon at Special Populations for the USA Dance Event recently held.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney – Topic: No report

City Manager – Topic: No report

TIME AND PLACE OF FUTURE MEETINGS

A Regular Meeting of the Cape Coral City Council was scheduled for Monday, October 1, 2018 at 4:30 p.m. in Council Chambers.

A Committee of the Whole Meeting scheduled for Wednesday, October 3, 2018 at 4:30 p.m. in Council Chambers has been rescheduled to Wednesday, October 10, 2018, at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 5:37 p.m.

Submitted by,

Rebecca van Deutekom, MMC
City Clerk

Item Number: B.(1)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 118-18 Approve the piggyback of State of Florida Department of Management Services agreement with CBRE, Inc. for the purpose of tenant broker and commercial real estate consulting services for the development of the land area known as Seven Islands at a monthly cost of \$7,500 for a total annual cost of \$90,000; And authorize the City Manager or Designee to execute the contract, amendments, renewals, and any other related documents; Department: Department of Community Development; Estimated Dollar Value: \$90,000; (Government Services)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
 2. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan?

ELEMENT A: INCREASE ECONOMIC DEVELOPMENT AND REDEVELOPMENT IN THE CITY

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. On November 14, 2016, Resolution 206-16 was approved by City Council, which accepted the Vision Plan for the Northwest Cape and Seven Islands developed by CPH, Inc. and affirmed their selection of the D-1 Concept for the Seven Islands project.
2. The resolution directed City staff to proceed with a recommended work plan to determine the best development options for the properties to include a potential sale or public-private partnership proposals.
3. CBRE is the world's largest commercial real estate services provider. They have extensive experience working with local governments, including several cities in the state of Florida. CBRE has eight offices in Florida, with two in Southwest Florida – Tampa and Naples. Partnering with CBRE will provide the City a range of options and recommendations for moving forward with the Seven Islands development plan.
4. Staff is requesting to piggyback the State of Florida Department of Management Services agreement with CBRE, Inc. to advance development opportunities for the property.
5. If approved, the term of the contract will run concurrent with the State of Florida agreement. The initial agreement, from April 2014 thru April 2019, has been renewed for a five year term

through April 9, 2024 at a cost of \$7,500 monthly for a total annual cost of \$90,000. The cost can be offset by any commission CBRE earns based on the contract terms.

6. Funding: Funds are available in Government services

LEGAL REVIEW:

Agreement reviewed by Legal

EXHIBITS:

Department Memo
Memo - Executive Summary
Resolution 118-18
Presentation

PREPARED BY:

Wanda Division- Procurement Department- Finance
Roop

SOURCE OF ADDITIONAL INFORMATION:

Connie Barron, Interim Assistant City Manager
Vince Cautero, DCD Director

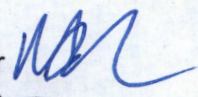
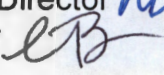
ATTACHMENTS:

Description	Type
▣ Department Memo	Backup Material
▣ Memo - Executive Summary	Backup Material
▣ Resolution 118-18	Resolution
▣ Presentation	Backup Material

MEMORANDUM

CITY OF CAPE CORAL
DEPARTMENT OF COMMUNITY DEVELOPMENT

TO: John Szerlag, City Manager

FROM: Vincent A. Cautero, Community Development Director 
Connie Barron, Interim Assistant City Manager 

DATE: October 2, 2018

SUBJECT: Seven Islands Redevelopment Project – CBRE

BACKGROUND

On November 14, 2016, Resolution 206-16 was approved by City Council, which accepted the Vision Plan for the Northwest Cape and Seven Islands developed by CPH, Inc. and affirmed their selection of the D-1 Concept for the Seven Islands project. The resolution directed City staff to proceed with a recommended work plan to determine the best development options for the properties to include a potential sale or public-private partnership proposals.

RECOMMENDATION

Staff is recommending the City engage CBRE for commercial real estate services for the Seven Islands Project in northwest Cape Coral. The City will piggyback on CBRE's existing state contract to advance development opportunities for the property.

CBRE is the world's largest commercial real estate services provider. They have extensive experience working with local governments, including several cities in the state of Florida. CBRE has eight offices in Florida, with two in Southwest Florida – Tampa and Naples.

Partnering with CBRE will provide the City a range of options and recommendations for moving forward with the Seven Islands development plan.

FUNDING

The cost for this work will be \$7,500 per month (\$90,000 annual), although these costs can be offset by any commission CBRE earns based on the contract terms with the City. Funds are available in the Government Services account of the General Fund.

Please let us know if you have any additional questions.

MEMORANDUM

CITY OF CAPE CORAL
DEPARTMENT OF COMMUNITY DEVELOPMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager 
Vincent A. Cautero, Community Development Director 
Connie Barron, Public Affairs Manager 

DATE: October 4, 2018

SUBJECT: Seven Islands Development Plan – Phase II (CBRE)

Executive Summary

City Council approved the Development Plan for Seven Islands prepared by CPH, Inc. on November 14, 2016 (Resolution 206-16). The approval selected Design Concept Plan D-1, which consists of a mix of land use including Residential; Hotel/Resort; Commercial; and public amenities such as a park and marina. The next phase of the project involves identifying and determining options for development of the property in accordance with the D-1 concept plan.

Staff recommends City Council retain the services of CBRE to perform tasks to attain this goal. CBRE is the world's largest commercial real estate services provider. They have 450 offices in 100 countries with several offices in Florida, including two in Southwest Florida (Tampa and Naples).

Scope of Services

CBRE will provide a wide range of real estate services to assist the City in moving forward the development of the Seven Islands. These services include developing a feasibility analysis; creating the official solicitation document (e.g. Memorandum of Offering, Request for Proposal); reviewing proposals from potential investors/developers; and, providing analysis and options for City staff and Council consideration.

Estimated Costs

The contract proposal from CBRE has a monthly cost for CBRE services of \$7,500. However, the contract with CBRE is a "no out-of-pocket cost" contract for the City.

CBRE will earn a commission up to 3 percent payable by the investor/developer when they achieve a commissionable outcome. This could include a sale, lease or public-partnership associated with the property and approved by City Council. The City will be reimbursed for any of the monthly costs paid to CBRE at that time. CBRE's interests will be aligned with the City's interests, and achieving the highest and best outcome will be mutually beneficial to both parties.

VAC/RC:eh (memo seven islands development plan 10-04-2018.docx)

C: Victoria Bateman, Finance Director
Wanda Roop, Procurement Manager

RESOLUTION 118 – 18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING PIGGYBACK CONTRACT PB-CM18-90/CV VIA THE STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES AGREEMENT WITH CBRE, INC. CONTRACT #DMS-12/13-007A FOR COMMERCIAL REAL ESTATE SERVICES FOR THE SEVEN ISLANDS DEVELOPMENT PROJECT; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE CONTRACT AND ANY RELATED DOCUMENTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on November 14, 2016, the City Council adopted Resolution 206-16, accepting the final consultant report for the Vision Plan for the Northwest Cape and Seven Islands, approving Design Concept D-1 as the basis for the work plan for the future development of the Seven Islands, and directing staff to proceed with the recommended work plan; and

WHEREAS, the State of Florida Department of Management Services entered into Contract #DMS-12/13-007A for commercial real estate services with CBRE, Inc., the world's largest commercial real estate services provider, with extensive experience working with local governments, including several cities in the state of Florida; and

WHEREAS, staff is requesting approval of Piggyback Contract PB-CM18-90/CV via the State of Florida Department of Management Services Agreement with CBRE, Inc. Contract #DMS-12/13-007A for Commercial Real Estate Services for the Seven Islands Development Project, for a five-year term with an estimated annual cost of \$90,000; and

WHEREAS, Section 2-144(f) of the City of Cape Coral Code of Ordinances authorizes the City to purchase goods or services under a contract awarded by another governmental entity by competitive bid; and

WHEREAS, after evaluation of the service and rates under the State of Florida Department of Management Services Contract, the Procurement Manager has made the determination required by Section 2-144(f) of the City of Cape Coral Code of Ordinances that time and expense factors make it financially advantageous for the City to purchase from a contract awarded by another governmental entity; and

WHEREAS, the Procurement Manager has considered the requirements stated in Section 2-144(f) of the Code of Ordinances in making her determination to use the State Contract; and

WHEREAS, the City Council desires to approve Piggyback Contract PB-CM18-90/CV via the State of Florida Department of Management Services Agreement with CBRE, Inc. Contract #DMS-12/13-007A for Commercial Real Estate Services for the Seven Islands Development Project, for a term to run concurrently with the State of Florida Agreement, effective through April 8, 2019, with one executed five-year renewal term valid through April 8, 2024, for an estimated annual cost of \$90,000, not to exceed budgetary limits.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. The City Council hereby approves Piggyback Contract PB-CM18-90/CV via the State of Florida Department of Management Services Agreement with CBRE, Inc. Contract #DMS-12/13-007A for Commercial Real Estate Services for the Seven Islands Development Project, for a term to run concurrently with the State of Florida Agreement, effective through April 8, 2019, with one executed five-year renewal term valid through April 8, 2024, for an estimated annual cost of \$90,000, not to exceed budgetary limits.

Section 2. The City Council hereby authorizes the City Manager or the City Manager's designee to execute the contract attached hereto as Exhibit 1, and any related documents.

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR
COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	CODEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Piggyback State of Florida-CBRE Inc

**CITY OF CAPE CORAL
PIGGYBACK CONTRACT PB-CM18-90/CV
VIA THE STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
AGREEMENT WITH CBRE, INC. CONTRACT # DMS-12/13-007A
FOR COMMERCIAL REAL ESTATE SERVICES**

This Agreement, made and entered into this ____ day of _____, 2018 by and between the **CITY OF CAPE CORAL, FLORIDA**, hereinafter called "**CITY**", and **CBRE, INC.**, located at **225 WATER STREET, SUITE 110, JACKSONVILLE, FL 32202**, hereinafter called "**CONTRACTOR**".

WITNESSETH: For and in consideration of the payments and agreements mentioned hereinafter:

1. The CONTRACTOR will provide **Commercial Real Estate Services** in accordance with the Scope & Fee Schedule prepared for the CITY referred to as **Exhibit A**, and the State of Florida Department of Management Services contract DMS-12/13-007A referred to as **Exhibit B**, attached hereto and made a part hereof.
2. The CITY will provide the CONTRACTOR with a Purchase Order for all services. Subject to the fee scheduled outlined in **Exhibit A**, CITY shall pay a monthly retainer fee in the amount of \$7,500 to the CONTRACTOR, for an annual total amount of \$90,000 under this contract.
CONTRACTOR shall credit back to the CITY any monthly retainer previously paid when a commissionable activity event occurs. CONTRACTOR shall send all payments to CITY, Attention: Senior Accounting Manager, P.O. Box 150027, Cape Coral, FL 33915-0027.
3. **Contract Term**: The term of this contract shall follow the term of the State of Florida Department of Management Services Agreement, effective through April 8, 2019, with one executed five-year renewal term valid through April 8, 2024.
4. **Invoices**: CONTRACTOR is to indicate their purchase order number on all invoices. Invoices shall be paid monthly as services are rendered.
5. **Termination for Convenience**: This Contract may be terminated for convenience by either party upon thirty (30) days prior written notice to either party. In the event of termination, the CONTRACTOR shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this Contract. Such amount shall be paid by the CITY after inspection of the work to determine the extent of performance under this Contract, whether completed or in progress.

Termination for Cause: If, for any reason, the CONTRACTOR fails to fulfill its obligation in a timely manner, or if the CONTRACTOR violates any of the covenants, agreements, or stipulations of this contract the CITY reserves the right to terminate the contract immediately and pursue all other applicable remedies afforded by law. Such termination shall be effective by delivery of notice, to the CONTRACTOR, specifying the effective date of termination. In such event, all documents, data, studies, surveys, drawings, maps, models and reports prepared by CONTRACTOR for this solicitation may become the property of the CITY. If such event does occur, then CONTRACTOR will be entitled to receive just and equitable compensation for the satisfactory work completed on such documents.

**CITY OF CAPE CORAL
PIGGYBACK CONTRACT PB-CM18-90/CV
VIA THE STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
AGREEMENT WITH CBRE, INC. CONTRACT # DMS-12/13-007A
FOR COMMERCIAL REAL ESTATE SERVICES**

6. The Term "**Contract Documents**" means and includes the following:
- a. State of Florida contract number DMS-12/13-007A and all related Amendments, attached as Exhibit B;
 - b. Commercial Real Estate Scope & Fee Schedule prepared for the CITY, attached as Exhibit A;
 - c. This Contract as well as all other documents attached hereto and/or referenced herein.

In the event of conflict between any provision of any other document referenced herein as part of the contract and this agreement, the terms of this agreement shall control.

7. **Annual Appropriation Contingency:** Pursuant to FL Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.
8. **Record Keeping:** The awarded bidder shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting principles, and the City of Cape Coral reserves the right to determine the record-keeping method in the event of non-conformity. These records shall be maintained for five (5) years, and ten (10) years on capital projects, after final payment has been made and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes

Records of the Contractor's personnel, sub-consultants, and the costs pertaining to the Project shall be kept in accordance with generally accepted accounting practices.

Contractor shall keep full and detailed accounts and financial records pertaining to the provision of services for the City. Prior to commencing work, Contractor shall review with and obtain the City's approval of the accounting procedures and records to be utilized by the Contractor on the Project. Contractor shall preserve the aforementioned Project records for a period of ten (10) years after final payment, or for such longer period as may be required by law.

9. **Public Records:** The CITY is a public agency subject to Chapter 119, Florida Statutes. The CONTRACTOR shall comply with Florida's Public Records Law. Specifically, the CONTRACTOR shall:
- a. Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service;
 - b. Upon request from the public agency's custodian of public records, provide the public agency 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 this chapter or as otherwise provided by law.

**CITY OF CAPE CORAL
PIGGYBACK CONTRACT PB-CM18-90/CV
VIA THE STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
AGREEMENT WITH CBRE, INC. CONTRACT # DMS-12/13-007A
FOR COMMERCIAL REAL ESTATE SERVICES**

- c. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
- d. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.
- e. The failure of CONTRACTOR to comply with the provisions in the Article shall constitute a default and breach of this Contract.

If the CONTRACTOR has questions regarding the application of Chapter 119, Florida Statutes, to the CONTRACTOR's duty to provide public records relating to this contract, contact the custodian of public records at: City of Cape Coral Clerk's Office - City Hall - 1015 Cultural Park Blvd. - Cape Coral, FL 33990, by phone at (239) 574-0411, by fax at (239) 242-5344, or by email at ctyclk@capecoral.net.

- 10. **Assignment:** This Contract may not be assigned except at the written consent of the CITY, and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.
- 11. **Disclosure:** The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the award or making of the agreement.
- 12. **Unauthorized Aliens:** The employment of unauthorized aliens by any CONTRACTOR is considered a violation of Section 274A (e) of the Immigration and Nationality Act. If the CONTRACTOR knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this solicitation. This applies to any sub-Contractors used by the CONTRACTOR as well.
- 13. **Administration of Contract:** The City Manager, or his representative, shall administer this Contract for the CITY.

**CITY OF CAPE CORAL
PIGGYBACK CONTRACT PB-CM18-90/CV
VIA THE STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
AGREEMENT WITH CBRE, INC. CONTRACT # DMS-12/13-007A
FOR COMMERCIAL REAL ESTATE SERVICES**

14. **Governing Law:** The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this Contract, each party shall be responsible to pay for its own reasonable costs and attorney fees.
15. **Amendments:** No Amendments or variation of the terms or conditions of this agreement shall be valid unless in writing and signed by the parties.
16. **Payments:** CITY shall make payment and CONTRACTOR shall be in receipt of all sums properly invoiced within thirty (30) days of the City's receipt of such invoice unless, within a fifteen (15) day period, CITY notifies CONTRACTOR in writing of its objection to the amount of such invoice, together with CITY'S determination of the proper amount of such invoice. CITY shall pay any undisputed portion of such invoice within such thirty (30) day period. If CITY shall give such notice to the CONTRACTOR within such fifteen (15) day period, such dispute over the proper amount of such invoice shall be resolved, and after final resolution of such dispute, CITY shall promptly pay the CONTRACTOR the amount so determined, less any amounts previously paid by CITY with respect to such invoice. In the event it is determined that CITY has overpaid such invoice, the CONTRACTOR shall promptly refund to the CITY the amount of such overpayment.
17. **Indemnity:** To the extent permitted by law (F.S. 768.28), the CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or Intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract.
18. **Invalid Provision:** The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
19. **Insurance:** Unless otherwise specified, CONTRACTOR shall, at its own expense, carry and maintain the following minimum insurance coverage, as well as any insurance coverage required by law:
 - a. Workers' Compensation Insurance with limits that comply with statutory requirements and Employer's Liability Insurance with a lower limit of \$1,000,000 per occurrence, including, without limitation, coverage for Occupational Diseases, to provide for the payment of benefits to its employees employed on or in connection with the Work covered by this Agreement and/or to their dependents.

**CITY OF CAPE CORAL
PIGGYBACK CONTRACT PB-CM18-90/CV
VIA THE STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
AGREEMENT WITH CBRE, INC. CONTRACT # DMS-12/13-007A
FOR COMMERCIAL REAL ESTATE SERVICES**

- b. Broad Form Commercial General Liability Insurance (on an occurrence basis), with a minimum combined single limit for Bodily Injury, including Death of \$1,000,000 per occurrence and for Property Damage of at least \$1,000,000 per occurrence.
 - c. Business Auto Liability Insurance with minimum Bodily Injury and Death Limit per accident of \$1,000,000 and a minimum Property Damage Limit per accident of \$1,000,000.
 - d. CONTRACTOR shall require its subcontractors to provide for such benefits and carry and maintain the foregoing types of insurance at no expense to CITY.
 - e. CITY shall be named as an "Additional Insured" under the CONTRACTOR'S General Liability Insurance Policy with respect to the services performed by the CONTRACTOR or by the OWNER.
 - f. Prior to commencing any Work under this Agreement, CONTRACTOR shall submit to CITY a certificate or certificates of insurance evidencing that such benefits have been provided, and that such insurance is being carried and maintained. Such certificates shall stipulate that the insurance will not be cancelled or materially changed without thirty (30) days prior written notice by certified mail to CITY, and shall also specify the date such benefits and insurance expire. CONTRACTOR agrees that such benefits shall be provided and such insurance carried and maintained until the Work has been completed and accepted by CITY.
 - g. Such benefits and such coverage as are required herein, or in any other document to be considered a part hereof, shall not be deemed to limit CONTRACTOR's liability under the Agreement.
20. **Entire Agreement:** This Contract constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

(Agreement executed on following page.)

**CITY OF CAPE CORAL
PIGGYBACK CONTRACT PB-CM18-90/CV
VIA THE STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
AGREEMENT WITH CBRE, INC. CONTRACT # DMS-12/13-007A
FOR COMMERCIAL REAL ESTATE SERVICES**

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials this Agreement on the date last signed as below written.

(SEAL)

ATTEST:

CITY:

City of Cape Coral, Florida

Signature: _____

Rebecca van Deutekom, MMC

Typed Name: A. John Szerlag

City Clerk

Title: City Manager

Date: _____

LEGAL REVIEW FOR CITY



for Dolores Menendez
City Attorney



Date

WITNESS FOR CONTRACTOR:

CONTRACTOR:

CBRE, Inc.

Signature: _____

Signature: _____

Typed Name: _____

Typed Name: _____

Title: _____



SCOPE

CBRE has proven process for taking properties like Seven Islands to market. The information described herein has been employed to solicit developer interest on numerous and similar mixed use projects.

While the City has already completed some of the work in Phase 1 and Phase 2, it is important that CBRE learn, in detail, what the City has accomplished and perform market oriented assessments of the property and development goals.



Phase 1: Due Diligence

CBRE will perform a market assessment and analysis of the property. This process is intended to allow the parties to understand the likely outcomes and risks associated with pursuing various marketing strategies.

CBRE will prepare a report outlining the likely value range, and recommended marketing strategies. CBRE's report will reflect stakeholder input and current market conditions and make recommendations as to specific strategies and timing/phasing of the project. Subject to the parties' input, specific activities may include:

1. Meet with internal and external stakeholders, in particular, but not limited to Planning, Public Works, Transportation, and other relevant City departments.
 - a. Work with Planning to understand any updates or changes to the previous visioning work that was conducted.
 - b. Determine specific infrastructure "must haves" and those that are preferred for inclusion in the developer solicitation
 - c. Determine the City's minimum requirements for Seven Islands for inclusion in the developer solicitation.
2. Develop a market study to determine demand and to identify specific development opportunities (for mixed-use, expanded hospitality, retail, multi-family, and office).
3. Identify and evaluate potential transaction structures.
4. Establish a recommended market price.
 - a. Consider the physical attributes of the property including location, demographics, size, and configuration
 - b. Evaluate existing appraisals and comparable sales in the market

Phase 2: Vision and Planning

Utilizing information compiled from the City's previous visioning plan, and building on it with data collected in previous tasks, CBRE will:

1. Present Phase I conclusions to the City and stakeholders.
2. Understand "links" with other local projects and initiatives.
3. Identify timelines for each real estate use (mixed-use, hospitality, retail, residential).
4. Prepare an Offering Memorandum ("OM") to be distributed to the market.

SCOPE



Phase 3: Market Engagement

Armed with information gathered in previous phases, CBRE will collaborate with the City to develop and implement an OM process to engage prospective investors and/or developers by performing the following tasks:

1. Develop an OM template that details the selection process, respondent qualification criteria, project approach, value parameters, etc.
2. Create a prospective investor, developer, owner list based upon market specialization, financial capability, and compatibility with the City's goals for the project.
3. Oversee the OM process .
 - a. Hold pre-bid conference
 - b. Disseminate documents; contact respondents for clarifications; answer questions; collect submissions
 - c. Review and qualify selection team
 - d. Critically review ability to deliver
4. Work with the City's selection team, assess overall submission quality.
 - a. Evaluate project design and respondent expertise
 - b. Perform detailed financial analysis and conduct meetings with finalists
5. Oversee 'Best and Final Offer' process.
 - a. Understand guarantees and security
 - b. Develop Letters of Intent/term sheet with a top selected proposer
6. Review final agreements for adherence to business terms.

Phase 4: Proposal Evaluation, Partner Selection, Transaction Execution

CBRE will evaluate all proposals on a like-kind basis and participate in the respondent due diligence and selection process considering the following:

- a. Submission quality including objective and subjective criteria
- b. Interviews with proposal teams
- c. Proposer financial strength
- d. Risk issues for all parties
- e. Perform Financial analysis of all proposals received

CBRE will assist with negotiating and executing all necessary documentation including but not limited to:

- a. Letter of Intent
- b. Land Leases
- c. Development and Operating Agreements
- d. Common area and/or required easements

Phase 5: Post Transaction Services

At the request of the City, CBRE may act as the Parties' representative after contract execution. At the Parties' request, services may include:

1. Oversee the leasing and/or management
2. Project/Construction Management

FEE SCHEDULE



FEE FOR DEVELOPMENT ADVISORY SERVICES

The City shall pay CBRE a monthly retainer of \$7,500. The OM timeline is expected to be 12 -15 months, therefore CBRE's fee will be paid on a monthly basis. The total fee to be paid to CBRE for Development Advisory Services shall be paid by the Developer and equal to three percent (3%) of the "Total Value of the Project." Total Value of the Project is defined as all hard and soft costs of the project including but not limited to; the value of the land plus infrastructure, design, and construction costs as proposed by Developer.

The Developer shall pay the fee within Thirty (30) days of execution of all development agreements between the City and Developer. CBRE shall credit back to the City any monthly retainer previously paid at such time as CBRE is paid by Developer. CBRE will specify the three percent (3%) fee arrangement and payment terms in any Offering Memorandum ("OM") issued by CBRE on the City's behalf and stipulate that said fee is to be paid by the developer as a condition for consideration of the Developer's proposal by the City.

SERVICE	PAID BY	AMOUNT	TIMING
Consulting services for marketing, OM process and bid analysis	City	\$7,500 / Month	Payable monthly as services are rendered
Development advisory brokerage	Developer	3% of total project cost	30 days of execution of development agreement

SCENARIO/EXAMPLE:

One of two outcomes occur:

1. The City selects a qualified Developer, and CBRE earns a commission of 3%. In this case, the monthly retainer is credited back to the City in lieu of the earned commission.
2. Economic Development Initiatives In many cases, the public entity seeks to target and attain certain economic development goals of the City. This can manifest itself as housing, retail, revitalization efforts for blighted areas, job growth, etc. When CBRE is engaged to assist in achieving these broader goals our compensation is calculated not just on the value of the land being sold or leased, but the broader economic activity generated by CBRE's efforts. In this case, the 3% success fee is based upon the total project value including land, infrastructure, and all hard and soft costs of the development. For example, if the Developer plans a \$10M development investment, CBRE would be paid a success fee of 3% or \$300,000 by the Developer.



TENANT BROKER AND REAL ESTATE CONSULTING SERVICES

Contract By and Between
CBRE, Inc.
And the
State of Florida
Acting Through the
Department Of Management Services
DMS-12/13-007A

CONTRACT

This Contract ("Contract"), effective the date of full execution ("effective date"), is, between CBRE, Inc. ("Contractor"), a Corporation with an office at 225 Water Street, Suite 110, Jacksonville, Florida 32202, and the State of Florida, Department of Management Services (the "Department"), with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950 (each a "Party" and collectively, the "Parties"). Upon effective date of this Contract, contract DMS-06/07-115A, is replaced in full by this Contract. All new transactions shall be in accordance with this Contract.

NOW THEREFORE, in consideration of the premises and mutual covenants set forth herein, the Parties agree as follows:

Section 1	Definitions
----------------------------	--------------------

1.1 Definitions.

"Credited Services" means those real estate consulting services which are funded by Service Credit Hours.

"Deliverables" means those actions, items, or materials delivered as part of the performance of the Services by Contractor as defined in this Contract.

"Eligible User" means any of the various state officers, State Agencies, departments, school boards, commissions, divisions, bureaus, councils and any other unit of organization, however designated, of state government and any other instrumentality of the State of Florida including the state courts, the state legislature, and the state university system including all governmental agencies, as defined in Section 163.3164, F.S., which have a physical presence within the State of Florida and any independent nonprofit college or university that is located within the State of Florida and is accredited by the Southern Association of Colleges and Schools.

"Engagement Checklist" means the list of desired services and is Appendix 1 to this contract.

"Purchase Order" means the document consistent with Section 287.058(1), Florida Statutes, used by an Eligible User to make a purchase under the Contract.

"Request for Space Need (RSN)" means an electronic submitted request, by an agency to DMS, to begin to address space needs.

"Scope of Services" means an official request for services sought that clearly establishes all tasks that the contractor is required to perform; outlines the project needs; identifies quantifiable, measurable, and verifiable units of deliverables; as well as time frames for performance and costing structure. For leasing transactions, the Scope of Services should take the form of an Engagement Checklist.

"Services" means the services assigned to Contractor as provided in this Contract.

"Service Credit Hours" means hours accrued pursuant to Section 2.4.1 below.

“State” means the State of Florida.

1.2 Rules of Interpretation.

In this Contract, unless otherwise indicated, or otherwise required by the context, the following rules of interpretation shall apply:

- (a) reference to, and the definition of, any document (including any exhibits) shall be deemed a reference to such document as it may be amended, supplemented, revised, or modified in the method prescribed herein;
- (b) all references to a “Section,” “Appendix,” or “Exhibit” are to a Section, Appendix, or Exhibit of this Contract;
- (c) Section headings and other captions are for the purpose of reference only and do not limit or affect the content, meaning, or interpretation of the text;
- (d) defined terms in the singular shall include the plural and vice versa, and the masculine, feminine, or neuter gender shall include all genders;
- (e) the words “hereof,” “herein” and “hereunder,” and words of similar import, shall refer to this Contract as a whole and not to any particular provision of this Contract;
- (f) the words “include,” “includes,” and “including” are deemed to be followed by the phrase “without limitation;” and
- (g) any reference to a governmental entity or person shall include the governmental entity’s or person’s authorized successors and assigns.

Section 2

Scope of Services and Compensation

2.1. Services.

The following Services shall be provided by Contractor in exchange for compensation as set forth in Section 2.3 below:

2.1.1. Lease Transaction Services.

Contractor shall provide Eligible Users with the technical expertise to complete commercial lease and real estate transactions. Prior to the commencement of Services for leases, Contractor shall ensure that a Purchase Order has been issued in accordance with Section 4.1, and for State Agencies an RSN has been approved in accordance with either an Engagement Checklist or an appropriate Scope of Services. (see Appendix 1).

For each lease transaction, Contractor shall provide, at a **minimum**, the items set forth on the Engagement Checklist or the items as indicated on a scope of work attached to a Purchase Order. The services will be completed in accordance with the performance standards and metrics established under Section 2.5 below.

Should it be requested and approved through the Contract Manager, an Eligible User may be allowed to use accumulated credit hours, at a quoted rate, for any or all of these activities.

Lease Transaction Services to be provided per this Contract are to include the following:

- (a) Review, validation, and recommendation regarding the suitability of boundaries or the desirable area for a lease location that meets the Eligible User's needs using quantitative data;
- (b) Review, validation, and recommendation regarding the primary criteria for evaluating legitimate potential space and documentation of such criteria in the Engagement Checklist or documented scope of services;
- (c) For markets where such information is readily available, a summary of rental rate trends, vacancy trends, and absorption trends for a period as agreed upon and stipulated in the Engagement Checklist or documented scope of services;
- (d) Identification of all state-owned or leased real property, within a defined radius, as reported on publicly-available state databases, as agreed upon and stipulated in the Engagement Checklist or documented scope of services;
- (e) Identification of lease-action options including a pro/con analysis of each option and a projected cost per occupant for each option;
- (f) Assessment of proposed options compared to recommendations of most recent Master Leasing Report and Strategic Leasing Plan;
- (g) Development or review of intended lease documents and identification of changes that could broaden competition and potential negotiated cost savings;
- (h) Distribution of procurement documents via the method and to the extent agreed upon and stipulated in the Engagement Checklist or Scope of Work;
- (i) Review and validation, prior to publishing, of all anticipated responses to formally submitted procurement questions;
- (j) Participation at all vendor/bidder conferences or meetings;
- (k) Independent assessment of all procurement responses to determine bidder responsiveness, degree of completion of response, and technical evaluation of response;
- (l) Recommendation as to which bidder the Eligible User should negotiate and the rationale for such opinion;
- (m) Market analysis inclusive of all comparable facilities within a proximity to the subject facility as agreed upon and stipulated in the Engagement Checklist or Scope of Work;
- (n) A summary detailing the negotiation;
- (o) Analysis of bidders' responses to identify the facility and lease terms and conditions that the Contractor recommends are in the best interest of the state for the Eligible User to select;
- (p) Review, validation, and recommendation of modifications to final lease documents prior to submission to selected bidder;
- (q) Routing of lease documents for appropriate approval;
- (r) Lease transaction service close out review with Eligible User using Engagement Checklist to verify and validate completion of all agreed upon services.
- (s) Partnership with Eligible Users and landlords to assist with the monitoring of tenant build out.
- (t) Guide the landlord on the process for payment of the commission to the Eligible User.

2.1.2. Portfolio Strategy Services.

To the extent requested by the Department, and in accordance with this Contract, Contractor may be requested to assist and participate in the development and implementation of annual Strategic Leasing Plan(s) and Master Leasing Report(s) (collectively, the "Plan"). These services shall include:

- (a) Attendance and participation in a portfolio strategy-planning workshop no less than 6 months prior to submission date of the Plan with prior reasonable notice to the Contractor. This workshop shall address the following:
 - 1. Project timeline for development of the Plan;
 - 2. List of data required for development of the Plan;
 - 3. Review of progress on prior year's Plan;
 - 4. Validation of goals of prior year's Plan for inclusion in current Plan;
 - 5. Project team meeting schedule;
 - 6. Assignment of project team member responsibilities.
- (b) Summary of key environmental factors for consideration of impact on portfolio;
- (c) Analysis of market rent trends, vacancy, and absorption;
- (d) Analysis of market areas of concern and opportunity;
- (e) Analysis of portfolio supply and demand;
- (f) Summary of strategic plans for consideration against the Plan;
- (g) Editorial review of drafts of the Plan;
- (h) Plan implementation to the extent that implementation activities are considered Lease Transaction Services.

2.1.3. Real Estate Services.

An Eligible User may purchase additional services related to real estate management, support, operations, or other similarly related services. The Eligible User will provide a detailed Scope of Services, timelines for performance, business strategies, and desired pricing model for the needed service. Related real estate consulting and transactional services include, but are not limited to, relocation services, project management services, acquisition services, sale, lease, or disposition of properties, trading or swapping of properties, strategic consulting, real estate financial services, facilities management services, etc. Tenant Brokers will provide the Eligible User a quote in the format/method desired by the Eligible User which can be either a commission based quote, a flat fee for services quote, or an hourly rate quotes at the rates at or below those indicated in this contract.

INDEPENDENT MARKET ANALYSIS (IMA): An Eligible User may request an IMA that is independent from a lease transaction and will be paid directly by the Eligible User separate from any transaction. An IMA will consist of evaluating current Eligible User needs and obtaining a minimum of three (3) comparable current properties in the market that are equally leveraged to be similar to the current Eligible User need. If the Eligible User needs a full service lease that includes a build out, the comparable should be estimated to include those rates (not triple net). This service will be paid as indicated in Section 2.3.

BROKER OPINION OF VALUE or BROKER PRICE OPINION (BOV/BPO): An Eligible User may request a Broker of Opinion Value for a specific property. A BOV/BPO shall be an indication of the current market price for a particular parcel of land, building, or combination of land and building that takes into account current area rates; value of similar surrounding properties; asking prices; local and regional sold prices; demographic reports; the costs associates with getting the property ready for sale, and the costs of any needed repairs. This service will be paid as indicated in Section 2.3.

The Eligible User shall issue a Purchase Order or a Scope of Services to Contractor for real estate consulting services. State Agencies are required to use a Purchase Order.

An Eligible User may negotiate directly with any one contractor for consulting services, but the Department encourages Eligible Users to request quotes from the other contractor awarded this bid.

Contractor will not charge and shall not be entitled to payment for any real estate consulting services that result in or are incidental to a lease transaction for which compensation is paid under Section 2.3.

2.2. Eligible User's Right to Commission.

Whenever Contractor provides Services under 2.1.1., Contractor or the Eligible User shall negotiate a commission ("Commission"), in accordance with Section 2.3. Contractor hereby assigns to the Eligible User all of Contractor's rights, title and interest to any Commission. All commissions rates stated in 2.3 are ceiling rates; lower compensation rates may be established per transaction with the Contractor and with an Eligible User.

Contractor will use reasonable efforts to ensure that any Commission owed to Contractor resulting from Contractor providing services under Section 2.1.1 of this Contract will be directed to the Eligible User for disbursement to Contractor, in accordance with Chapter 255, Florida Statutes.

If a landlord wrongfully withholds a Commission, the Parties and the Eligible User will cooperate in the diligent pursuit of collection.

The Contractor may not submit a request for Commission reimbursement (invoice) to the Eligible User until and unless the Commission is paid to the Eligible User in accordance with this paragraph.

Moneys paid by a landlord to the Eligible User are not subject to the charges imposed under Section 215.20, Florida Statutes.

DMS has the authority to negotiate with the Contractor for a cap on commissions per Service or more broadly.

2.3. Contractor Compensation.

2.3.1. There is no Contractor compensation in excess or in addition to those payments established herein for Services.

2.3.1. Compensation for Lease Transaction Services.

As compensation for performing the Lease Transaction Services allowed under this Agreement, Contractor shall receive the Commission paid by the landlord through the Eligible User as indicated below. All payments for Services shall be made as indicated on the Purchase Order.

Table 1 - Commission Schedule

Type of Lease Agreement Negotiated	Maximum Compensation Rate	
New leases ¹	Total Annual Rent of the Base Term of the Lease	Maximum Rate
	\$ 0 - \$ 500,000	3.50%
	\$ 500,001 - \$2,500,000	3.25%
	\$ 2,500,001 - \$4,500,000	3.00%
	\$ 4,500,001 - \$6,499,999	2.75%
	\$ 6,500,000 and over	2.50%
Lease renewal, lease modifications, stay-in-place lease, lease extension, lease expansion	2% of the rent to be paid for the term of the particular lease renewal, modification, extension, expansion, or stay-in-place negotiated. ²	
All leases for warehouse, hangar or storage space	2% of the sum of the annual rent to be paid over the initial term of the lease for leases 0-5,000 square feet Leases over 5,001 square feet follow the new lease chart above.	
Independent Market Analysis	\$ <u>225.000</u> per IMA	
Broker Opinion of Value or a Broker Price Option - Undeveloped Properties*	\$ <u>500.00</u> per BOV/BPO	
Broker Opinion of Value or a Broker Price Option - Developed Properties	\$ <u>250.00</u> per BOV/BPO	

*"Undeveloped properties" is defined as property that contains no structures.

Rates in excess of those established in Table 1 are not authorized. Contractor will not charge and shall not be entitled to payment for any consulting services that result in or are incidental to a lease transaction for which compensation is paid under Section 2.3.

Commissions received by the Eligible User on behalf of Contractor shall be paid to Contractor as indicated herein. However, under no circumstances shall Commissions become payable by Eligible User until such payments have been remitted to the Eligible User by the landlord.

Commission installments are paid as follows:

New leases:

50% upon full execution of the lease documents by the landlord the Eligible User and the Department; and 50% upon occupancy by the Eligible User of the leased premises.

¹ At DMS's discretion and approval, a lease that has been substantially restructured to decrease the effective rental rate for leased space, resulting in a notable reduction in the overall lease costs in accordance with the objectives established in the annual *Strategic Leasing Plan*, can be considered a "new lease" for the purposes of compensation.

² If the existing lease term is incorporated in a new transaction, such term (or value) shall be excluded from the commission calculation.

Renegotiated/Modified Leases:

Should the lease be in the same location and thereby not require a move on the part of the Eligible User, the commission shall be paid 100% at time of full lease execution by the landlord, the Eligible User, and Department.

All Other Lease Transaction Services

Payment will be made as indicated on the Purchase Order.

2.3.2. Compensation for Portfolio Strategic Services.

Consulting services shall be priced on an hourly or fee-for-service basis, neither of which shall exceed the hourly rates identified by the Contractor and reflected in Table 2 below.

Table 2 – Labor Rate Schedule

CBRE, INC.		
<i>Position</i>	<i>Rate</i>	<i>Per Unit</i>
Facilities Management/Sourcing	\$	165.00/ Hr
Preventive Maintenance /Work Order System	\$	165.00/ Hr
Workplace Strategies	\$	165.00/ Hr
Organization and Process	\$	165.00/ Hr
Energy	\$	165.00/ Hr
Energy Procurement Systems	\$	165.00/ Hr
Valuation and Advisory	\$	295.00/ Hr
All other CBRE consultants will be billed at a blended rate	\$	165.00/ Hr
GENSLER (subcontractor)		
<i>Position</i>		
Space Management	\$	165.00/ Hr
CARL WALKER, INC (subcontractor)		
<i>Position</i>		
Parking	\$	165.00/Hr

2.3.3. No Payment for Expenses.

Contractor shall not be entitled to reimbursement of any costs or expenses incurred in the course of performing the Services, including costs associated with travel, couriers, meeting preparation, or meeting attendance, except by prior and specific written agreement with the Eligible User. Costs associated with travel are subject to section 112.061, Florida Statutes

2.3.4. No Other Compensation.

Contractor may not receive any other compensation for Services that are rendered under this Contract. All terms relating to the compensation of Contractor shall be as specified in this Contract and may not be supplemented or modified absent prior amendment to this Contract consistent with the terms of the solicitation.

2.4. Service Credit Hours.

As of the effective date of this Contract, the Department begins with two hundred (200) Service Credit Hours to be used by the Department for portfolio strategy services and real estate consulting services as identified in this Contract. Utilization of Service Credit Hours shall be tracked using Appendix 2 to this Amendment, entitled "Service Credit Hours Accounting Form."

The Contractor agrees to issue all Service Credit Hours to the Department upon receipt of agreed payments for any of the service categories identified in the Contract. The Department may use Service Credit Hours, at its discretion, for any Services, and may allocate those credit hours to user agencies for use on specific projects.

2.4.1. Accrual of Service Credit Hours.

In addition to those stated above, Service Credit Hours are also accrued as follows:

- (a) One (1) Service Credit Hours shall be accrued by the Department on the Contract Effective Date and each year thereafter, on the anniversary month and day the contract was effective; and
- (b) One Service Credit Hour shall be accrued by the Department for each \$1,667.00 received by Contractor under this Contract.

2.4.2. Use of Service Credit Hours.

The Department may use Service Credit Hours for the benefit of individual Eligible Users as payment for any Service provided for in the Contract at the rate of one Service Credit Hour for one hour of Service. To initiate utilization of Service Credit Hours, the Department will complete and submit to Contractor a task order using Appendix 3 to this Contract, entitled "Credit Hour Direct Order Request & Approval Form."

Unused Service Credit Hours will carry over to subsequent contract years and shall survive the expiration or termination of this Contract for 90 days. The Contractor shall maintain a detailed accounting of Service Credit Hour accrual and usage and shall report accrual and usage to the Department monthly, by using Appendix 2 to this Contract.

2.5. Performance Standards.

In providing the services per this Contract, Contractor shall be required to meet or exceed the following performance standards:

2.5.1. General Performance Standards.

- (a) Contractor shall work under the direction, supervision, and authority of the Eligible User, subject to the statutes and rules governing lease procurements;
- (b) Contractor will receive training from the Department concerning the rules governing general leasing and the procurement of leases;
- (c) Contractor will provide all labor, materials and supplies necessary to perform the Services;
- (d) Contractor must maintain an office in Florida and shall establish an Account Management Team to work directly with Eligible Users. This team shall consist of a minimum of one senior account executive and other licensed tenant brokers;
- (e) Tenant brokers must comply with all applicable provisions of chapter 475, Florida Statutes;

- (f) The Contractor shall deliver all Services in a professional, skillful manner in accordance with the standards and quality prevailing among first-rate, nationally-recognized firms in the industry and in accordance with this Contract;
- (g) Contractor shall provide the Department written updates on transactions in process of all Services under this Contract monthly. At its sole discretion, the Department may approve alternate update frequencies.

2.5.2. Lease Transaction Services Performance Deliverables.

- (a) Contractor shall ensure completion, in sufficient detail to document the full expectations of a subject lease transaction, of an Engagement Checklist or documented scope of services for each transaction under Section 2.1.1. Contractor shall distribute copies of Appendix 1 to this Contract, entitled the "Tenant Broker Engagement Checklist," to the appropriate representatives of the Eligible User and to the respective account manager with the Department.
- (b) Contractor shall complete the tasks agreed to during the initial engagement and documented on the Tenant Broker Engagement Checklist to meet, or exceed, the expectations of the Eligible User.
- (c) Upon completion of a subject lease transaction, Contractor should conduct a performance review with the Eligible User to verify/validate completion of tasks agreed upon at the time of the completion of Tenant Broker Engagement Checklist, or as mutually amended. Contractor will ensure documentation of the performance review and distribution of copies of the completed Tenant Broker Engagement Checklist to appropriate representatives of the Eligible User and the Department.

2.5.3. Portfolio Strategy Services Performance Deliverables.

Unless otherwise agreed to in writing, Contractor shall deliver all Portfolio Strategy Services to the Department within seven calendar days of the Department's formal request.

2.5.4. Satisfaction Surveys.

The Department shall conduct periodic customer-satisfaction surveys in the form of Tenant Broker Evaluation forms to monitor Contractor's performance. The customer-satisfaction survey will be the Tenant Broker Evaluation form, which will be required for each transaction.

- (a) Contractors shall encourage Eligible Users to correctly complete the evaluation form.
- (b) The Department shall provide Contractor with copies of the evaluation responses received on a quarterly basis.
- (c) Where evaluation form indicates performance expectations were not met (grade of D or lower), Contractor shall provide a written statement explaining Contractor's position on the assessment of the Eligible User and an intended course of action to ensure satisfactory completion of expectation in future transactions.

2.6. Acceptance of Services.

Within twenty (20) calendar days of receipt of each Deliverable to the Eligible User, the Eligible User shall give written notification of acceptance or rejection (with requirements for resubmission) to Contractor. Failure of the Eligible User to deliver notification of acceptance or rejection shall constitute an acceptance by the Eligible User by default.

2.7. Rejected Services.

Contractor shall have five (5) calendar days to correct any item rejected by the Eligible User for nonconformance with agreed upon performance standards.

Within five (5) calendar days of Contractor's resubmission, the Eligible User shall deliver written notification of acceptance or rejection (with reasonable specificity for rejection) to Contractor. At the discretion of the Eligible User, rejection of a resubmitted item due under the Services of this Contract may constitute a default of the Contract pursuant to Section 7 of this Contract.

2.8. Non-Exclusivity.

Nothing in this Contract shall be interpreted to exclude the Department from providing Services the same as or substantially similar to the Services for an Eligible User.

Nothing in this Contract shall be interpreted to restrict any Eligible User from hiring third parties to perform services the same as or substantially similar to the Services. However, once Contractor has begun performing Services hereunder, Contractor shall not be replaced without prior notice and due cause. If appropriate notice is provided, Contractor shall not be entitled to any Commission or other compensation for the Services.

Section 3

Contract Administration

3.1. Contract Managers.

Each Party will designate a Contract Manager whose responsibility shall be to oversee the Party's performance of its duties and obligations pursuant to the terms of this Contract. This person shall at all times have the skills, experience and resources necessary to manage the Contract. A Party may replace its Contract Manager at any time upon written notification (by email or otherwise) to the other Party.

As of the Effective Date, the Department's Contract Manager is the Bureau Chief, Real Property Leasing, Division of Real Estate Development and Management, 4050 Esplanade Way, Suite 315, Tallahassee, FL 32399.

Contractor shall have its brokers meet in person with the Contract Manager annually to provide information as requested by the Contract Manager and work toward resolving any operational issues. The Department and contractor's Contract Managers will meet at least once a year to review contract performance, contract deliverables, training, contract gaps and/or clarifications. The meeting will be scheduled in Tallahassee and at a date and time as mutually agreeable.

3.2. Contractor's Account Management Team.

3.2.1. Account Managers.

Contractor shall designate Contractor's primary account manager ("Account Manager") dedicated to the Department. The Account Manager (or designee) shall be available to the Department from 8:00 a.m. until 5:00 p.m., Monday through Friday, excluding State holidays. The Account Manager must have sufficient experience and authority to resolve any conflicts arising from the delivery of Services under this Contract.

3.2.2. Contractor's Representative.

Contractor shall designate Contractor's representatives ("Contractor's Representatives") dedicated to an Eligible User for each transaction performed under Lease Transaction Services. Contractor's Representatives (or designees) shall be available to the Eligible User and the Department from 8:00 a.m. until 5:00 p.m., Monday through Friday, excluding State holidays. Contractor's Representatives must have sufficient technical experience and authority to carry out all agreed upon Lease Transaction Services.

3.3. Employees.**3.3.1. No Joint Employees.**

Neither Party shall be deemed a joint employer of the other's employees, each Party being responsible for any and all claims by its employees. Neither Party's employees shall be deemed "leased" employees of the other for any purpose.

3.3.2. Subcontractors.

Contractor is responsible for the acts or omissions of all Subcontractors used by Contractor in the performance of Services. Contractor shall not be allowed to subcontract or assign any of its duties and obligations hereunder without the prior written consent of the Department, and the Department must approve all subcontracts. The State shall have no liability of any kind for subcontractor claims, demands, loss, damage, negligence, or any expense relating, directly, or indirectly, to Subcontractors.

3.3.3. Removal or Replacement of Employees and Subcontractors for Cause.

The State may refuse access to or require replacement of any Contractor employee, Subcontractor, or agent for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Department's security or other requirements. Such action shall not relieve Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of Contractor's employees, Subcontractors, or agents.

3.3.4. Non-Discrimination and Equal Opportunity.

Florida is a state rich in its diversity and is dedicated to fostering the continued development and economic growth of small and minority/women owned businesses. Central to this initiative is the participation of a diverse group of vendors doing business with the State. The State maintains data to establish benchmarks from which to measure supplier diversity in State contracting. Vendors who contract with the State are obligated to provide reasonable information from time to time related to the use of minority/women-owned businesses. The Department will inform Contractor of those obligations as they arise and Contractor will have a reasonable time to comply.

3.3.5. Employment of State Workers.

During the term of this Contract, Contractor shall not knowingly employ, subcontract with, or sub-grant to any person (including any non-governmental entity in which such person has any employment or other material interest as defined by Section 112.312(15), Florida Statutes) who is employed by the State or who has participated in the performance or procurement of this Contract, except as provided in Section 112.3185, Florida Statutes.

3.3.6. Background Screening.

In addition to any background screening required by the Contractor as a condition of employment, the Contractor warrants that it will conduct a criminal background screening of, or ensure that such a screening is conducted for, each of its employees, subcontractor personnel, independent contractors, leased employees, volunteers, licensees, or other persons, hereinafter referred to as "Person" or "Persons," operating under their direction with access to State of Florida data. "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network. "Data" means a representation of information, knowledge, facts, concepts, computer software, computer programs, or instructions, whether said information is confidential information or personal information. Data may be in any form, including but not limited to, in storage media, stored in the memory of the computer, in transit or presented on a display device, or a hard copy. The Contractor shall ensure that the background screening is conducted on all Persons directly performing services under the Contract whether or not the Person has access to state of Florida Data, as well as those persons who are not performing services under the Contract but have access, including indirect access, to State of Florida Data.

The minimum background check process shall include a check of the following databases through a law enforcement agency or a Professional Background Screener accredited by the National Association of Professional Background Screeners or a comparable standard:

Social Security Number Trace; and
Criminal Records (Federal, State and County criminal felony and misdemeanor, national criminal database for all states which make such data available);

The Contractor agrees that each Person will be screened as a prior condition for performing services or having access to State of Florida Data. The Contractor is responsible for any and all costs and expenses in obtaining and maintaining the criminal background screening information for each Person described above. The Contractor shall maintain documentation of the screening in the Person's employment file.

The Contractor is required to submit a written report to the Department's Contract Manager within fifteen (15) days from the start of the contract listing those Persons who have been screened, those Persons with Criminal Findings who have been removed from performing services or having access to State of Florida Data, and those Persons with Criminal Findings that the Contractor has allowed to continue providing services or allowed access to State of Florida Data through the process described in A 1. above. The report by the Contractor shall at a minimum include the name of the Person, the title of the Person's position, a description of the job, and a description and date of the Criminal Finding and, where applicable, an updated status of the court proceeding or ultimate disposition.

1. Disqualifying Offenses/ Criminal Finding

A "Criminal Finding" is defined as a misdemeanor or felony conviction, plea of nolo contendere, plea of guilty, or adjudication of guilt withheld record for any disqualifying offense listed below. If at any time it is determined that a Person has a Criminal Finding within the last ten (10) years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that Person from any position with access to State of Florida Data or directly performing services under the Contract. The disqualifying offenses are:

Computer related or information technology crimes
Fraudulent practices, false pretenses and frauds, and credit card crimes
Forgery and counterfeiting

Violations involving checks and drafts
Felony theft

If the Contractor removes a Person from a position under this provision due to a Criminal Finding, it may obtain information regarding the incident and determine whether that Person should continue providing services under the Contract or have access to State of Florida Data. The Contractor shall consider the following factors only in making the determination: i) the nature and gravity of the offense, ii) the amount of time that lapsed since the offense, iii) the rehabilitation efforts of the person, and iv) the relevancy of the offense to the job duties of the Person. During the process of collecting the information and making a decision, the Contractor shall not allow the Person to perform services or have access to state of Florida Data.

2. Self-Disclosure

The Contractor shall ensure that all Persons have a responsibility to self-report to the Contractor within three (3) calendar days a Criminal Finding or an updated court disposition of a Criminal Finding. The Contractor shall notify the Department's Contract Manager within 24 hours of all details concerning any Criminal Finding or updated court disposition of such Criminal Finding as reported by a Person. The Contractor shall immediately assess whether to disallow that Person access to any State of Florida Data or from directly performing services under the contract. Additionally, the Contractor shall require that the Person complete an annual certification that they have not received any additional Criminal Findings and shall maintain that certification in the employment file.

3. Refresh Screening

The Contractor shall ensure that all background screening is refreshed every five (5) years from the time initially performed for each Person during the Term of the Contract.

4. Duty to Provide Secure Data

The Contractor shall maintain the security of State of Florida Data including, but not limited to, a secure area around any display of such Data or Data that is otherwise visible. The Contractor shall also comply with all other state and federal rules and regulations regarding security of information.

5. Department's Ability to Audit Screening Compliance and Inspect Locations

The Department reserves the right to audit the Contractor's background screening process upon two days prior written notice to the Contractor during the Term of the Contract. The Department shall have the right to inspect the Contractor's work area and/or location upon two business days prior written notice to the Contractor to ensure that access to the State of Florida Data is secure and in compliance with the Contract and all applicable state and federal rules and regulations.

6. Audit Rights

The Department shall have the right to audit compliance with this Section at any time, and Contractor and its Subcontractors shall cooperate with this audit process.

Section 4

Service Orders and Financial Management

4.1. Procurement Documentation.

LEASE TRANSACTION SERVICES:

The Contractor **shall not** deliver or furnish **any** leasing transaction services under this Contract until an approved RSN is received from the Department and either a Purchase Order or an approved Credit Hour Direct Order is received from the Eligible User. All Purchase or Direct Orders shall:

- (a) Bear the contract number DMS 12/13-007A; and
- (b) Be placed by the Eligible User directly with the Contractor; and
- (c) Be deemed to incorporate by reference the terms of this Contract;.
- (d) Contain performance standards for all deliverables with associated time frames;
- (e) Will have a completed Engagement Checklist or an Eligible User defined Scope of Services; and
- (f) Will have a DMS approved RSN on file before work can begin.

Any discrepancy between the Contract terms and the terms stated on the Purchase Order, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Eligible User.

The Contractor must receive Purchase Orders no later than thirty days prior to the last day of the Contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the Contract. Timely Purchase Orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions thereof shall survive the termination of the Contract.

Within four (4) business days of receiving a Purchase Order or Direct Order, the Contractor will provide the Eligible User with a written acknowledgement that the Contractor either accepts or rejects the Purchase Order, stating with reasonable specificity reasons for rejecting a Purchase Order. The Contractor shall not reject a Purchase Order or Direct Order unless the Order contains terms that impose unreasonable burdens, represent a conflict of interest, or are inconsistent with other provisions of this Contract.

OTHER REAL ESTATE SERVICES:

Requests from an Eligible User for services other than leasing transaction services shall be documented by a Purchase Order, Scope of Services, or other written agreement which clearly establishes specific tasks the Contractor is required to perform, outlines the request desired, period of performance, specific deliverables that must be provided and accepted prior to payment, specific criteria that will be used to determine the contractor's successful performance, payment type (commission, flat fee, or hourly) and financial consequences that the Eligible User will apply if the Contractor fails to perform in accordance with the contract. This includes the use of a broker for IMA, or BOV/BPO.

4.2. Invoicing and Payment.

4.2.1. Invoices.

Invoices shall contain the Contract Number, Purchase Order Number, and Contractor's Name. The Eligible User may require any other information from Contractor that the Eligible User deems necessary to verify any amount owed under the Contract. At the Eligible User's option, Contractor may be required to invoice electronically pursuant to set guidelines. The Contractor may supply electronic invoices in lieu

of paper-based invoices for those transactions processed through the MyFloridaMarketplace System. Electronic invoices shall be submitted through the Ariba Supplier Network (ASN) in one of the following mechanisms – EDI 810, cXML, or web-based invoice entry within the ASN.

4.2.2. Payment.

Payment shall be made in accordance with sections 215.422 and 287.0585 and 255.25 of the Florida Statutes, which govern time limits for payment of invoices. Time limits do not begin until Contractor submits a properly completed invoice received after the submission of the actual commission check from the Landlord to the Eligible User. Invoices that must be returned to Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by Eligible Users. An Eligible User's delay in payment shall not constitute a breach of the Contract and shall not relieve Contractor of its obligations to the Department or to other Eligible Users.

4.2.3. MyFloridaMarketPlace Fee.

The Department has instituted MyFloridaMarketPlace, a statewide eProcurement System. Pursuant to section 287.057(23), Florida Statutes, all payments shall be assessed a Transaction Fee of one percent (1.0%), which Contractor shall pay to the State.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Contractor shall receive a credit for any Transaction Fee paid by Contractor for the purchase of any Deliverable(s) if such Deliverable(s) is rejected or returned to Contractor through no fault, act, or omission of Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when a Deliverable is rejected, returned, or declined, due to Contractor's failure to perform or comply with the requirements of this Contract.

Failure to comply with these requirements shall constitute grounds for declaring Contractor in default and recovering reprocurement costs from Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

4.2.4. No Surcharge on Eligible Users.

Monies paid to Contractor are exempt from any charge imposed under Section 287.1345, Florida Statutes.

4.2.5. Disputed Invoices.

If an Eligible User reasonably and in good faith disputes that any portion of any amount claimed by Contractor is payable or has been erroneously paid, as the case may be, then the Eligible User will timely pay any undisputed portion of the amount and will provide Contractor with written notice specifying the disputed amount and the basis for the dispute in reasonable detail. Upon resolution of the disputed portion, any amounts owed to Contractor shall be paid within thirty (30) calendar days after the date such amounts were agreed upon. If payment is not available within forty (40) business days, measured from the latter of the date the invoice is received, or the services are received, inspected and approved, an interest penalty will be due at a rate as established pursuant to Section 55.03(1) of the Florida Statutes on the unpaid balance from the expiration of such forty (40) calendar day period until such time as the

warrant is issued to Contractor. Invoices returned to Contractor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the Eligible User.

4.3. Taxes.

The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on Contractor or for any taxes levied on employees' wages.

4.4. Audit Rights.

The Department reserves the right to inspect, at any reasonable time with prior notice, the equipment and other facilities of Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

Contractor recognizes and acknowledges Florida's broad public records law and therefore agrees, upon reasonable notice, to provide the State with reasonable access to audit, inspect, and copy all records and information, including records and information stored electronically, related to this Contract that are public record under Chapter 119, Florida Statutes, and section 24, Article I of the Florida Constitution, and which have not been exempt. Without limiting the class of those authorized to perform an audit, Contractor acknowledges that the State Comptroller (and its successor), the State Auditor General, and the Department's Inspector General may conduct audits. The following records are specifically excluded from inspection, copying, and audit rights under this Contract: (i) financial records of Contractor that are unrelated to this Contract, (ii) documents created by and for the State or other communications related thereto that are confidential attorney work product or subject to attorney-State privilege, unless those documents would be required to be produced for inspection and copying by the State under the requirements of Chapter 119, Florida Statutes, and section 24, Article I of the Florida Constitution, (iii) information of Contractor that is confidential, proprietary, or is a trade secret, and (iv) personal and financial data exchanged as required by this Contract, to the extent generally protected by law. Contractor shall be responsible for any taxes or any other liabilities imposed as a result of such audits and inspections. The State will use reasonable efforts to minimize the number and duration of such audits or inspections conducted and conduct such audits and inspections in a manner that will minimize the disruption to Contractor's business operations. The State shall be responsible for the costs associated with the audit review. Information disclosed during any such audit is subject to the requirements of Chapter 119, Florida Statutes, and section 24, Article I of the Florida Constitution.

Section 5

Damages for Delay

Contractor acknowledges that its failure to meet an agreed upon deadline for delivery of services other than brokerage services will damage the Eligible Users but that by their nature such damages are impossible to ascertain presently and will be difficult to ascertain in the future. The issues involved in determining the amount of damages will be multiple and complex, and will be dependent on many and variant factors, proof of which would be burdensome and require lengthy and expensive litigation, which the Parties desire to avoid. Accordingly, the Parties agree that it is in the Parties' best interests to agree upon a reasonable amount of liquidated damages, which are not intended to be a penalty and are solely intended to compensate for unknown and unascertainable damages

Accordingly, liquidated damages shall be assessed on the Contractor at a rate of \$100.00 per calendar day for each calendar day the Contractor fails to complete agreed upon work after expiration of the time allowed by the State or Eligible User, subject to the *force majeure* provisions of section 9 below. Regardless of whether the time for completion of work (other than brokerage services) is stipulated in hours, calendar days, working days or business days, delay days shall be counted in calendar days. Allowing Contractor to finish the work, or any part of it, after the expiration of the time allowed, including extensions of time granted to Contractor, shall in no way act as a waiver of the liquidated damages due under this Contract.

Nothing in this section shall be construed to make Contractor liable for delays that are beyond its reasonable control. Nothing in this section shall limit the Eligible Users' right to pursue its remedies for other types of damages.

Section 6

Insurance

6.1. Insurance Coverage.

6.1.1. General Requirements.

No later than five (5) calendar days after execution of this Contract, Contractor shall, at its own expense, secure and maintain the insurance coverage outlined below. This Contract shall not limit the types of insurance Contractor may desire to obtain or be required to obtain by law. The limits of coverage under each policy shall not be interpreted as limiting Contractor's liability and obligations under this Contract. Providing and maintaining adequate insurance coverage is a material obligation of Contractor and is of the essence of this Contract. Performance may not commence on this Contract until such time as insurance is secured by Contractor and approved by the Department. Such approval will not be unreasonably withheld or delayed.

A certificate reflecting the continuing coverage of all such policies shall be delivered to the Department prior to the time such insurance is required and at least thirty (30) days prior to the expiration of any such policies. Such policies shall bear an endorsement stating that the insurer agrees to notify the Department not less than thirty (30) days in advance of the effective dates of any change in coverage or cancellation. All insurance carriers shall be, at the minimum, rated "A VII" by A.M. Best or an equivalent rating by a similar insurance rating service.

Contractor is responsible for first dollar defense coverage. All general liability policies shall provide defense in addition to the policy limits. In respect to the total limits of liability required, any combination of primary and/or umbrella coverage may satisfy those totals. However, if an umbrella is used, coverage must be at least as broad as the primary coverage. Also, all of the policies set forth below shall contain an endorsement stating that coverage's are primary to the extent Contractor is liable under the Contract.

6.1.2. Commercial General Liability.

Contractor shall have comprehensive general liability insurance against any and all claims for injuries to persons or damage to property. Such insurance shall have combined single limits, per occurrence of not less than one million dollars (\$1,000,000), and not less than two million dollars (\$2,000,000) in the aggregate. Said insurance shall include coverage for operations and shall name the State as additional named insured.

6.1.3. Workers' Compensation Insurance.

Contractor shall have Workers' Compensation Insurance for all employees connected with the Services. Such insurance shall comply fully with the Florida Workers' Compensation law.

6.1.4. Comprehensive Automobile Liability.

Contractor shall have contractual coverage and automobile liability coverage for owned, hired, and non-owned vehicles, and equipment. The policy shall have combined single limits, per occurrence, for bodily injury and property damage of not less than one million dollars (\$1,000,000).

6.1.5. Professional Liability Insurance.

Contractor shall have professional liability insurance coverage, including errors and omissions coverage, to cover all professional services to be provided by Contractor under this Contract. The amount of coverage obtained shall be one million dollars (\$1,000,000) per occurrence with a two million dollar (\$2,000,000) yearly aggregate. If occurrence coverage is not available, claims-made coverage with a three-year tail coverage shall be provided for the same amounts and aggregate as detailed above.

6.2. Subcontractor Insurance Coverage.

Contractor shall require each of its subcontractors to secure and maintain the insurance coverage's set forth in subparagraphs 6.1.2, 6.1.3 and 6.1.4 above except that Contractor shall also be a named insured. Such coverage may be reduced or waived when approved in writing by the Contract Manager with the consent of the Department since certain subcontractors have potentially less exposure in liability than other subcontractors, depending on the nature of their work under this Contract. In no event may a subcontractor self-insure unless it obtains the prior written consent of the Department.

6.3. Deductible Amounts.

Contractor may choose the amount of deductible for any of the insurance coverage required above, but in no event shall such deductible for each occurrence exceed ____ percent of the required yearly aggregate limit of coverage. *[If blank, the limit will be 5%].*

6.4. Self-Insurance.

Except as agreed in a separate writing, no "self-insurance" coverage shall be acceptable unless Contractor is licensed or authorized to self-insure for a particular coverage in the State of Florida, or is an insured member of a self-insurance group that is licensed to self-insure in the State of Florida.

Section**7****Default and Remedies****7.1. Contractor Events of Default.**

The following list is non-exhaustive. Any one or more of the following events shall constitute an "Event of Default" on the part of Contractor:

- (a) Contractor fails to pay any sum of money required hereunder within thirty (30) calendar days after receipt of written notice that the same is due; or

- (b) Contractor fails to provide the Services required under this Contract or fails to meet any of the performance metrics established in accordance with Section 2; or
- (c) Contractor employs an unauthorized alien in the performance of any work under this Contract; or
- (d) Contractor fails to correct Contractor's work that the State has rejected as unacceptable or unsuitable; or
- (e) Contractor unilaterally discontinues the performance of the work required under this Contract; or
- (f) Contractor fails to resume work that has been discontinued within a reasonable time after notice to do so; or
- (g) Contractor fails to promptly pay any and all taxes or assessments imposed by and legally due the State or federal government; or
- (h) Contractor made or has made a material misrepresentation or omission in any materials provided to State; or
- (i) Contractor commits any material breach of this Contract; or
- (j) Contractor transfers ownership in violation of this Contract; or
- (k) Contractor utilizes a subcontractor in the performance of the work required by this Contract which has been placed on the State's Convicted Contractors List; or
- (l) Contractor is suspended or is removed as an authorized contractor by any state or federal agency or Contractor is convicted of a felony.

7.2. State Remedies in the Event of Default.

If Contractor commits an Event of Default, the Department shall provide Contractor with written notice (by regular mail, hand delivery, overnight delivery, email, facsimile, or any other reasonable means), stating the nature of the default and providing a time certain for correcting it. The notice will also provide that, should Contractor fail to perform within the time provided, Contractor will be found in default and removed from the Department's approved vendor list. Unless Contractor corrects its failure to perform within the time provided, or unless the Department determines on its own investigation that the Contractor's failure is legally excusable, the Department shall find Contractor in default and shall issue a second notice stating (i) the reasons Contractor is considered in default, (ii) that the Department will reprocure or has reprocured the commodities or services, and (iii) the amount of the reprocurement costs if known. Reprocurement costs may include both administrative costs and costs or price increases incurred or to be incurred as a result of the reprocurement.

The time allowed for correcting an Event of Default shall be ten (10) calendar days after receipt of written notice thereof; provided, however, if the obligation is of a nature that it could not reasonably be performed within ten (10) calendar days, such 10-day period may, at the Department's discretion, be extended so long as the Contractor begins performance within such 10-day period and thereafter diligently and continuously pursues performance, all being subject to Force Majeure.

If Contractor fails to correct an Event of Default, the State is entitled to any one or all of the following remedies:

- (a) Termination of this Contract, in whole or in part, with Contractor being entitled to payment only for completed Services (not for any pending lease transactions).
- (b) Termination of any or all other contracts with Contractor.

- (c) Pursuit of equitable relief and/or damages against Contractor to collect any actual damages, hold-over rents, liquidated damages, procurement costs, or other sums owed by Contractor hereunder.

Except for defaults of Contractor's subcontractors at any tier, Contractor shall not be liable for any damages if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Contractor and the subcontractor, and without the fault or negligence of either, Contractor shall not be liable for any damages for failure to perform, unless the subcontracted services or supplies were reasonably obtainable from other sources in sufficient time for Contractor to meet the required delivery schedule. If, after termination, it is determined that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Department. The rights and remedies of the Department in this clause are in addition to any other rights and remedies provided by law or under this Contract.

7.3. State Events of Default.

Any one or more of the following events shall constitute an "Event of Default" on the part of the State:

- (a) The State fails to timely pay all non-disputed amounts due under this Contract. The cure period for failure to pay shall be forty-five (45) calendar days from receipt of notice of failure to pay, unless State law allows a longer period to pay; or
- (b) The State breaches any other material obligation under this Contract. The cure period for a material breach by the State shall be forty-five (45) calendar days from receipt of notice of material breach.

7.4. Contractor Remedies in the Event of Default.

If the State fails to cure an Event of Default within the prescribed time, then the Contractor shall provide the State with a second written notice ("Termination Notice") reciting that Contractor intends to pursue termination of this Contract. The Termination Notice will not be effective unless it references this subsection 7.4. If the State fails to cure the Event of Default within ninety (90) calendar days from receipt of the Termination Notice, then the Contractor may terminate the Contract and recover the costs it actually incurred for authorized Services satisfactorily performed. To recover such costs, Contractor shall submit to the Department, within sixty (60) calendar days of termination, a request for payment of such amounts. Requests submitted later than sixty (60) calendar days after termination will not be honored and will be returned unpaid. In the event of termination, the Contractor shall work with the State in good faith to phase out the Services pursuant to section 8.5 below.

7.5. Exclusive Remedies.

The remedies provided and available to the State and Contractor in this Contract shall be (i) the exclusive remedies hereunder; (ii) in lieu of all other claims for reimbursement or payment, including but not limited to lost profits, consequential or indirect damages, office overhead, or costs for accelerating performance; and (iii) distinct, separate and cumulative remedies such that the election of one remedy shall not be construed as a waiver of any other remedy.

7.6. State May Cure Contractor Defaults.

If Contractor commits an "Event of Default" in the performance of any term, provision, covenant or condition on its part to be performed hereunder, the State may, upon notice to Contractor after the expiration of any curative periods for which provision is made in this Contract, perform the same for the account and at the reasonable expense of Contractor. If, at any time and by reason of such default, the State is compelled to pay, or elects to pay, any sum of money or do any act which will require the payment of any sum of money, or is compelled to incur any expense in the enforcement of its rights hereunder or otherwise, such sum or sums, with a rate of interest if not established herein then as statutorily set by the State Comptroller (or successor), which together shall be repaid to the State by Contractor promptly when billed therefor.

Section 8

Termination Provisions

8.1. Term and Renewal.

The "Term" of this Contract shall be for a five (5) year period commencing upon the Effective Date. Subject to Chapter 287 of the Florida Statutes, and upon mutual written agreement, the Parties may renew the Contract, in whole or in part, for a total period not exceed 5 years on the same terms, conditions and prices set forth herein. Any renewal shall be in writing and signed by both parties. The Department shall provide written notice to Contractor regarding its intent to renew this Contract at least thirty (30) days prior to expiration. The Department shall rely on several factors in making the determination to renew including, but not limited to, satisfactory performance evaluations by the Department and the availability of funding. This Contract may not be renewed if Contractor has failed to substantially comply with any of the Contract requirements.

Upon the effective date of termination of this Agreement for any reason, the authority created hereby shall immediately cease, and Contractor shall have no further right to act as agent for the Department or otherwise perform or be paid for any Lease Transaction Services with respect to the period following the effective date of such termination.

Within fifteen (15) days subsequent to expiration or termination of this Agreement, Contractor shall furnish the Department, in writing (i) a list of prospects/landlords with whom Contractor has been negotiating a Lease Transaction, (ii) identification of the properties under consideration by each of the aforesaid prospects, and (iii) identification of the Eligible User. In the event a prospect appearing on the list enters into a contract subsequent to the date of said expiration or termination and a commission would otherwise be due, Contractor shall be entitled to receive a commission as provided herein, but only if the RSN is approved before the date of expiration or termination of this Agreement. If Contractor fails to provide such a list to the Department within fifteen (15) days subsequent to the date of expiration or termination the Department shall not be liable for any such compensation.

8.2. Suspension of Work.

The Department may in its sole discretion suspend any or all activities under this Contract, at any time, when in the best interests of the State to do so. The Department shall provide Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Contractor shall comply with the notice. Within ninety (90) days, or any longer period

agreed to by Contractor, the Department shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate this Contract in accordance with Section 8.3. Suspension of work shall not entitle Contractor to any additional compensation.

8.3. Termination for Convenience.

The Department, by written notice to Contractor, may terminate the Contract in whole or in part when the Department determines in its sole discretion that it is in the State's interest to do so. Contractor shall not perform any Services after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any.

If this Contract is terminated for convenience, the Department shall: (1) notify the contractor and shall, (2) notify all Eligible Users. For all work in progress, Eligible Users that have entered into contracts may choose to allow the contractor to complete current contracted work at agreed upon costs/rates and time frames or the Eligible User may cancel services being rendered. Should an Eligible User cancel work in progress the Eligible User shall reimburse Contractor for reasonable costs actually incurred in connection with the work. Contractor shall submit to the Eligible User, within sixty (60) calendar days of termination, a request for payment of such amounts. Requests submitted later than sixty (60) calendar days after termination will not be honored and will be returned unpaid.

8.4. Termination for Cause.

This Contract may be terminated for cause pursuant to Section 7 above.

8.5. Interim Services.

For a period of up to one hundred eighty (180) days after termination of the Contract, the Department may elect to purchase Interim Services from Contractor. Interim Services shall mean all of the same Services provided by Contractor in the month immediately preceding the termination. The Department shall pay Contractor for such Interim Services at a rate equal to the amount the Department paid the Contractor during the month immediately preceding termination of the Contract for those Services. Each month, Contractor shall provide the Department with a proper invoice, in accordance with Section 4, for the Services provided during the previous month. Contractor agrees to provide sufficient experienced personnel during the period of time Interim Services are being performed to support the State. If the scope of Services needed by the Department is reduced by the Department, Contractor agrees to negotiate in good faith on a reduction of the costs charged the Department for Interim Services.

Section 9

General Provisions

9.1. Advertising.

Contractor shall not publicly disseminate any information concerning this Contract without prior written approval from the Department, including, but not limited to mentioning this Contract in a press release or other promotional material, identifying the Department or the State as a reference, or otherwise linking Contractor's name and either a description of this Contract or the name of the State or the Department in any material published, either in print or electronically, to anyone except potential or actual authorized subcontractors.

9.2. Annual Appropriations.

The State's performance and obligation to pay under this Contract are contingent upon an annual appropriation by the Legislature.

9.3. Assignment; Change of Control.

Contractor shall not sell, assign, or transfer any of its rights, duties or obligations under this Contract, or under any Purchase Order, without the prior written consent of the Department. The Department may assign the Contract with prior written notice to Contractor of its intent to do so.

Contractor agrees not to transfer more than 49.9% of its interests without prior written notice to the Department. By execution of this Contract, Contractor represents that it has no knowledge of any plan to transfer more than 49.9% of its interests.

9.4. Antitrust Assignment.

Contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State. Therefore, Contractor hereby assigns to the State any and all claims for such overcharges as to goods, materials, or services purchased in connections with this Contract.

9.5. Compliance with Laws.

Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State, and local agencies having jurisdiction and authority, including Section 475.278, Section 255.25, and Chapter 287 of the Florida Statutes and Chapters 60A-1 and 60H of the Florida Administrative Code. By way of further non-exhaustive example, Contractor shall comply with section 247A(e) of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of such laws shall be grounds for Contract termination.

Any changes in existing statute or regulation, or the promulgation of new regulations or the issuance of new statutes, shall not entitle Contractor to any extension of time, term, or increase in compensation. Upon mutual agreement, the Parties may amend the Contract in response to any changes.

9.6. Dispute Resolution.

The Parties acknowledge that efforts should always be made to avoid disputes through good communication and prompt requests for clarification and information. However, if a dispute arises under this Contract involving a State government entity, the Parties agree that the following procedures shall be the sole and exclusive procedures for resolution.

- (a) Executive Level Negotiations. The Contractor and the Eligible User will attempt in good faith to resolve any dispute arising out of or relating to this Contract (a "Dispute"), promptly by negotiation between executives of each side who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for administration of the Services at issue. The Department's Director of Real Estate Development and Management shall be included in the negotiations to help mediate the Dispute. To the extent permitted by law, all negotiations shall be treated as confidential settlement negotiations for purposes of discovery and admissibility in a later legal action.

- (b) Legal Action. The Contractor and Eligible User will allow for at least thirty (30) days of executive level negotiations, commencing on the date the aggrieved party provides formal notice of the Dispute to the other party. If a Dispute is not resolved within this timeframe, the Eligible User shall reduce its decision to writing and serve a copy on Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, Contractor files with the Eligible User a petition for administrative hearing. The Eligible User's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.
- (c) Venue; Governing Law; Waiver of Jury Trial. The exclusive venue of any legal or equitable action that arises out of or relates to this Contract shall be the appropriate state court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

This Section shall survive termination of this Contract.

9.7. Cooperative Purchasing.

Pursuant to their own governing laws, and subject to the agreement of Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Such purchases are independent of this Contract, and the Department shall not be a party to any transaction between the Contractor and any other purchaser. Notwithstanding the foregoing, Contractor shall report and pay the fee as required by Section 4.2.3 for all transactions accomplished through the establishment of this Contract.

9.8. Force Majeure, Notice of Delay, and No Damages for Delay.

Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Contractor's control. In case of any delay Contractor believes is excusable, Contractor shall promptly notify the Department in writing of the delay or potential delay and describe the cause of the delay. No claim for damages, other than for an extension of time, shall be asserted against the Department. Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Department for direct, indirect, consequential, impact or other costs, expenses or damages arising because of delay, disruption, interference, or hindrance from any cause whatsoever.

9.9. Employment Eligibility Verification.

Pursuant to state of Florida Executive Order No.: 11-116, Contractor is required to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the Contractor during the Contract term. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to this Contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the Contract term.

9.10. Further Assurances.

The Parties will, without any additional consideration, execute and deliver any further legal instruments and perform any acts that are or may become necessary to effectuate the purposes of this Contract.

9.11. Indemnification.

Contractor hereby assumes entire responsibility and liability for any and all damages or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether employees of Contractor or otherwise, and to all property caused by, resulting from, arising out of or occurring in connection with any wrongful act or omission of Contractor, Contractor's employees, or Contractor's agents in connection with this Contract. If any claims for such damage or injury are made or asserted, Contractor agrees to indemnify, defend, and save harmless, the State, its officers, agents, servants, and employees from and against any and all such claims, and further from and against any and all loss, cost, expense, liability, damage, or injury, including legal fees and disbursements, that the State, its officers, agents, servants, or employees may directly or indirectly sustain, suffer, or incur as a result thereof. Upon request, Contractor shall assume the defense of any action at law or in equity which may be brought against the State, its officers, agents, servants or employees, arising by reason of such claims and shall pay the amount of any judgment that may be entered against them, individually, jointly or severally, in any such action.

Contractor also agrees to assume responsibility for, hold harmless, defend, and indemnify the State for payment of any expenses, costs (including delay costs), damages, penalties, taxes or assessments, including counsel fees and costs of defense, which may be imposed or incurred (a) under any Federal, State, or local law, ordinance or regulation with respect to any compensation of any person employed by Contractor; (b) under any Federal, State, or local law, ordinance or regulation with respect to discrimination in employment by Contractor on the basis of race, color, religion, sex, or national origin; (c) under any Federal, State, or local law, ordinance or regulation with respect to any claims or civil actions alleging deprivation of right, privilege, or immunity secured by the United States Constitution and laws pursuant to 42 USC Section 1983; and (d) under any Federal or State law relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right.

Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

9.12. Right of Setoff.

The State may, in addition to other remedies available to it at law or equity and upon notice to Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against the State. The State may set off any liability or other obligation of Contractor or its affiliates to the State against any payments due Contractor under any contract with the State.

9.13. Independent Contractor Status of Contractor.

Contractor, together with its agents, subcontractors, officers and employees, shall have and always retain under this Contract the legal status of an independent contractor, and in no manner shall they be deemed employees of the State or deemed to be entitled to any benefits associated with such employment. During the term of this Contract, Contractor shall maintain at its sole expense those benefits to which its employees would otherwise be entitled to by law, including health benefits, and all necessary insurance for its employees, including workers' compensation, disability, and unemployment insurance, and provide

the Department with certification of such insurance upon request. Contractor remains responsible for all applicable federal, state, and local taxes, and all FICA contributions.

9.14. Lobbying and Integrity.

Contractor represents that it did not lobby the legislative, judicial or executive branches, including any State Agency, on any aspect of this Contract during the procurement process (i.e., from the time the Contract solicitation documents were released until this Contract was executed). Any misrepresentation in this regard may constitute grounds for the disqualification of Contractor and termination of this Contract.

In accordance with Section 216.347, Florida Statutes, Contractor may not expend any State funds for the purpose of lobbying the legislative, judicial or executive branches, or any State agency. This restriction does not apply to actions taken by Contractor to provide any information relating to any aspect of this Contract, if requested by legislative, judicial or executive branch, or any State agency.

Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

Upon request of the Department's Inspector General, or other authorized State official, Contractor shall provide any type of information the Inspector General deems relevant to Contractor's integrity or responsibility. Such information may include, but shall not be limited to, Contractor's business or financial records, documents, or files of any type or form that refer to or relate to this Contract. Contractor shall retain such records for at least three years after the expiration of the Contract. Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

9.15. Loss of Data.

In the event of loss of any State Data or record where such loss is due to the negligence of Contractor or any of its subcontractors or agents, Contractor shall be responsible for recreating such lost Data in the manner and on the schedule set by the Department, in addition to any other damages the State may be entitled to by law or this Contract.

9.16. Notices.

All notices under this Contract shall be served upon the Department by certified mail, return receipt requested, by reputable courier service, or delivered personally to each of the following:

Department of Management Services
Christina Espinosa, Contract Administrator
Departmental Purchasing
4050 Esplanade Way, Suite 335 Tallahassee, FL 32399-0950

Department of Management Services
Beth Sparkman, Bureau Chief
Division of Real Estate Development and Management
4050 Esplanade Way, Suite 315E
Tallahassee, FL 32399-0950

All notices under this Contract to be served upon Contractor shall be served by certified mail, return receipt requested, by reputable courier service, or delivered personally to:

CBRE, Inc.
William Gulliford, III, Managing Director
225 Water Street, Suite 110
Jacksonville, Florida 32202

And copied to:

CBRE, Inc.
Lee Ann Korst, Account Director
311 E. Park Avenue
Tallahassee, FL 32301

The Parties agree that any change in the above-referenced address or name of the contact person shall be submitted in a timely manner to the other Party. All notices and other communications under this Contract shall be in writing and shall be deemed duly given either (i) when delivered in person to the recipient named above, (ii) upon confirmation of courier delivery to the intended recipient, or (iii) three (3) business days after mailed by certified U.S. mail, return receipt requested, postage prepaid, addressed by name and address to the Party intended.

9.17. Public Records.

If, under this contract, the Contractor is providing services and is acting on behalf of the Department as provided under section 119.011(2), Florida Statutes, the Contractor, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

- (i) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the service;
- (ii) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;
- (iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law;

(iv) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements, and all records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

The Department may unilaterally cancel this Contract for refusal by the Contractor to allow public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt from s. 24(a) of Art. I of the State Constitution and section 119.07(1), Florida Statutes.

9.18. Rights to Contract Materials and Databases.

Contractor agrees that all documents and materials prepared by Contractor for purposes of this Contract shall be the sole property of the Department and shall be available to the Department at any time. Upon removal of references to Contractor, the Department shall have the right to use the same without restriction and without compensation to Contractor other than that specifically provided by this Contract.

Contractor shall provide the Department with all documents, materials, data, notes, photographs, files, recordings and any other material, regardless of the physical form, made or received in connection with the Services provided under this Contract. All electronic records must be provided in a format that is compatible with the information technology systems of the Department.

Except as expressly provided above, Contractor shall retain all right, title and interest in any and all intellectual property: (i) created by Contractor prior to this Agreement, including without limitation Contractor's proprietary software programs and processes for providing services; (ii) created by Contractor during the term of this Contract in the normal course of business for Contractor's clients generally.

9.19. Security and Confidentiality.

Contractor, and its employees, subcontractors and agents, shall comply fully with all security and administrative procedures and requirements of the State in performance of this Contract. Contractor, and all subcontractors and agents, may be required to provide certification on an annual basis that they, and their employees, have complied with all State and Department security and administrative procedures and requirements. The certification must be signed by an executive of each company.

Notwithstanding any provision of this Contract to the contrary, Contractor shall provide immediate notice to Department in the event it becomes aware of any security breach, any unauthorized access to State Data (even by persons or companies with legitimate access), any unauthorized transmission of State Data (whether or not to people with legitimate access to the data), or of any allegation or suspected violation of the above, regardless of its source.

Except as required by law or legal process and after notice to the Department, Contractor shall not divulge to third parties any confidential information obtained by Contractor or its agents, subcontractors, officers, or employees in the course of performing the Services, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State. Contractor shall not be required to keep confidential information or material that is publicly available through no fault of Contractor, material that Contractor developed independently without relying on the State's confidential information or material that is otherwise obtainable under State law as a public record. To ensure confidentiality, Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

9.20. Accounting Records

The Contractor shall establish and maintain accounting records. The Contractor shall permit and shall require its contractors, subcontractors, and agents to permit the State's Auditor General or the Department's authorized representatives to, upon statutory or otherwise reasonable notice to the Contractor, and during normal business hours, inspect, and audit all work, books, accounts, materials, payrolls, and records pertaining to this Contract to ensure compliance with applicable laws and rules.

9.21. PUR 1000

The PUR 1000 (10/06) is incorporated into this Contract as terms and conditions.

9.22. Scrutinized Companies List

In executing this Contract, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to section 287.135(5), Florida Statutes, the Contractor agrees the Department may immediately terminate the Contract for cause if the Contractor is found to have submitted a false certification or if the Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the Contract.

9.23. Geographic Location Of Data And Services

The State of Florida requires that all Data generated, used, or stored by Contractor pursuant to the prospective Contract will reside and remain in the continental U.S. and will not be transferred outside of the continental U.S. The state of Florida also requires that all services provided under the Contract, including call center or other help services, will be performed by persons located in the continental U.S.

9.24. Waiver.

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

9.25. Representations and Warranty of Ability to Perform.

Contractor represents that all written information relating to its ability and qualifications to perform the Services that was provided by Contractor to the Department in response to the Invitation to Negotiate No. DMS 12/13-007 dated March 18, 2013, remains true in all material respects. Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish Contractor's ability to satisfy its Contract obligations. Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. Contractor shall immediately notify the Department in writing if its ability to perform is compromised in any manner during the term of this Contract.

9.26. Entire Contract.

This Contract constitutes the full and complete agreement of the Parties and supersedes any prior contracts, arrangements and communications, whether oral or written, with respect to the subject matter hereof. Each Party acknowledges that it is entering into this Contract solely on the basis of the representations contained herein, and for its own purposes and not for the benefit of any third party.

As incorporated by reference the ITN as released and the Contractors full response to that action are part of this contract and are binding hereto.

9.27. Modification of Terms.

This Contract may only be modified upon mutual written agreement of the Department and Contractor. No oral agreements or representations shall be valid or binding upon the Department or Contractor. Contractor may not unilaterally modify the terms of this Contract by incorporating terms onto Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Department's acceptance of Service or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

Notwithstanding the above, the Department may unilaterally require, by written order, changes altering, adding to, or deducting from the Services, provided that such changes are within the general scope of the Contract. The Department may make an equitable adjustment in the Contract price or schedule if the change affects the cost or time of performance.

9.28. Severability.

If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent it is not in violation of law, or is not otherwise unenforceable, and all other provisions shall remain in full force and effect.

9.29. Execution in Counterparts; Authority to Sign.

This Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Each person signing this Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

THIS SPACE INTENTIONALLY LEFT BLANK.

SO AGREED:

STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES

By: 
Stacy Arias, Deputy Secretary

4.9.14
Date

CBRE, INC

By: 
William Gulliford, Managing Director

4.8.14
Date

THIS SPACE INTENTIONALLY LEFT BLANK.



DMS Tenant Broker Contract (DMS 12/13-007A) Appendix 1: Tenant Broker Engagement Checklist

Engagement Title:

Eligible User:

Contractor:

The Contractor and the Eligible User shall use this checklist (or other appropriate scope of work) to define and confirm all deliverables, and if the deliverable will be in written form and expected due dates. Eligible Users may add such information to this form as needed.

LEASE PRE-WORK		Is Required		Date Due
		Yes	No	
1.	Determine/validate desired boundaries against business drivers.			
2.	Determine/validate primary decision criteria for selection of an "award."			
3.	Present summary of market rates, vacancy and absorption (current and tend) as defined below: a. Scope of summary (e.g. within 5 miles, All class B, etc.) b. Period for trend data c. Additional market information requested			
4.	List all state owned and leased real property with a radius defined here, as reported on publicly available state database and all excess space available. Radius: _____			
5.	Provide a written assessment identifying preliminary courses of action for lease with pro/con assessment and projected cost per occupant of each potential action.			
6.	Review and summarize subject lease action "fit" with recommendations in most recently submitted DMS Master Leasing Report and Strategic Leasing Plan.			
7.	Draft, review, and provide recommendations of any lease terms that may vary from approved lease forms (Section 60H-1.003, F.A.C.)			
8.	Draft, review, and provide recommendations of any lease terms that may vary from approved lease forms (Section 60H-1.003, F.A.C.)			
PROCUREMENT				
1.	Review and provide recommendations on, or draft, procurement documents.			
2.				
3.	Distribute procurement documents and associated notices as follows: _____			
4.	Assist the agency in responding to bidders questions.			
5.	Participate in bidder conferences/meetings.			
6.	Provide a written synopsis of each bid received to determine its adherence to the bid criteria and assist in the identification of "responsive" bids.			
7.	Create tour evaluation packages for site evaluators and conduct all site tours.			
8.	Provide an updated market rate analysis.			
9.	Serve as "Lead Negotiator" for the top site or site(s).			
10.	Provide updates on negotiation activities and interactions with bidders at following interval(s): _____			
11.	Provide summary of evaluations and recommended bidder to whom Eligible User should award in accordance with selection criteria.			
12.	Obtain a signed Commission Agreement.			
LEASE EXECUTION				
1.	Review and provide recommendations on, or draft, lease documents			
2.	Route lease documents to ensure complete execution			
PROJECT CLOSE OUT				
1.	Conduct lease transaction service close out review with Eligible User using Engagement Checklist to verify/validate completion of all agreed upon services.			



DMS Tenant Broker Contract (DMS 12/13-007A)

Appendix 2:

Service Credit Hours Accounting Form

The Tenant Brokers shall use this form to provide a monthly accounting of credit hours

Year	Contract Service Credit Hours	Accrued Service Credit Hours
FY 2013-2014		
FY 2014-2015		
FY 2015-2016		
FY 2016-2017		
FY 2017-2018		
Subtotal		
Total		

Summary of Service Credit Hours Expended			
Description of Service	Eligible User	Date	Hours Used
Total Hours Expended			

Remaining Available Credit Hours	
----------------------------------	--

By: _____

_____ Date

Print Name: _____



DMS Tenant Broker Contract (DMS 12/13-007A) Appendix 3: Credit Hour Direct Order Request & Approval Form

The Tenant Brokers and the Eligible Users shall use this form to define and confirm the scope of work/services; propose the approach and work products to be delivered, as well as the credit hours that will be used to provide them; and provide authorization to provide the requested work or services.

If additional space is required to provide necessary detail and specificity within sections A or B below, other documents may be included within these section by explicit reference therein.

Requested Service

A. Summary of Desired Work Product(S) / Service(S)	
<i>Eligible User Information</i>	[Name and Position/Title Agency]
<i>Short Descriptive Title for Work</i>	
<i>Scope of Work</i>	[Brief overview of services being requested]
<i>Specific Milestones or Deliverables</i>	
<i>Period of Performance</i>	

B. Tenant Broker Proposal to Accomplish Work	
<i>Proposed Work Breakdown</i>	
<i>Proposed Credit Hours Allocated</i>	
<i>Proposed Timeline</i>	
<i>Tenant Broker Information</i>	[Name and Position/Title Company]

C. DMS Acceptance & Authorization to Proceed	
<i>Approved to Proceed</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Date</i>	
<i>Approver's Name & Signature</i>	

CONTRACT NO.: DMS-12/13-007A
BETWEEN
THE DEPARTMENT OF MANAGEMENT SERVICES
AND
CBRE, INC.

AMENDMENT NO.: 1

THE PARTIES agree to amend Contract No. DMS-12/13-007A (the Contract), effective upon execution, as follows:

1. Section 2.3.1 Contractor Compensation, is replaced in its entirety to read as follows:

2.3.1 There is no Contractor compensation in excess or in addition to those payments established herein for Services.

2.3.1 Compensation for Lease Transaction Services and Portfolio Strategy Services.

The compensation for performing the Lease Transaction Services allowed under this Agreement, Contractor shall receive either the Commission paid by the subject landlord through the Eligible User as indicated below. Payments shall be made based on the aggregate of each of the amounts of the gross base rent of the lease. (For example: a five (5) year lease (base term) with a total obligation of \$2,765,432 will have a commission bill as follows: the first \$0 - \$500,000 bills at 3.5%, the next \$500,001 - \$2,500,000 will bill at 3.25% and the last \$2,500,00 - \$2,765,432 will bill at 3.0%). All payments for lease transaction services as well as any other services procurement under this contract must be evidenced by either a purchase order or a two party written Commission Agreement.

Table 1 - Commission Schedule

Type of Lease Agreement Negotiated	Maximum Compensation Rate	
New leases ¹	Total Aggregate Gross Base Rent of the Base Term of the Lease as indicated above	Maximum Rate
	The first \$ 0 - \$ 500,000	3.50%
	The next \$ 500,001 - \$2,500,000	3.25%
	The next \$ 2,500,001 - \$4,500,000	3.00%
	The next \$ 4,500,001 - \$6,499,999	2.75%
	The next \$ 6,500,000 and over	2.50%
Lease renewal, lease modifications, stay-in-place lease, lease extension, lease expansion	2% of the rent to be paid for the term of the action. ²	

¹ At DMS's discretion and approval, a lease that has been substantially restructured to decrease the effective rental rate for leased space, resulting in a notable reduction in the overall lease costs in accordance with the objectives established in the annual *Strategic Leasing Plan* can be considered a "new lease" for the purposes of compensation.

² If the existing lease term is incorporated in a new transaction, such term (or value) shall be excluded from the commission calculation.

Type of Lease Agreement Negotiated	Maximum Compensation Rate
All leases for warehouse, hangar or storage space	2% of the sum of the annual rent to be paid over the initial term of the lease for leases 0-5,000 square feet Leases over 5,001 square feet follow the new lease chart above.
Independent Market Analysis	\$ <u>225.00</u> per IMA
Broker Opinion of Value or a Broker Price Option - Undeveloped Properties*	\$ <u>500.00</u> per BOV/BPO
Broker Opinion of Value or a Broker Price Option - Developed Properties	\$ <u>250.00</u> per BOV/BPO

*Undeveloped properties is defined a property that contains no structures.

Rates in excess of those established in Table 1 are not authorized.

Commissions received by the Eligible User on behalf of Contractor shall be paid to Contractor as indicated herein. However, under no circumstances shall Commissions become payable by Eligible User until such payments have been remitted to the Eligible User by the subject landlord.

Commission installments are paid as follows:

New leases:

50% upon full execution of the lease documents by the landlord the Eligible User and DMS; and 50% upon occupancy by the Eligible User of the leased premises.

Renegotiated/Modified Leases:

Should the lease be in the same location and thereby not requiring a move on the part of the Eligible User the commission shall be paid 100% at time of full lease execution by the landlord the Eligible User and DMS.

All Other Actions

Payment will be made as indicated on the purchase order or contract document.

2. This Amendment sets forth the entire understanding between the Parties with regard to the subject matter hereof. All other terms and conditions of the Contract and shall remain in full force and effect.


SO AGREED by the Parties' authorized representatives on the dates noted below:

DEPARTMENT OF MANAGEMENT SERVICES


Stacy Arias, Deputy Secretary

7/29/14
Date

CBRE, INC.


Signature

William I. Gulliford, III
Print Name and Title
Managing Director

July 14, 2014
Date



The DP200 shall be completed accompanied by the final contract documents. Renewal Amendments shall also be accompanied by a Market Analysis Memo.

General Information

Document Type	Amendment 2/Renewal 1	Division	REDM
Agreement Title	TB & Real Estate Consult. Services	Annual Agreement Amount	\$ N/A – no cost
Agreement Number	DMS-12/13-007A	Total Agreement Amount (initial term and renewal)	\$N/A – no cost
Contractor Name:	CBRE, Inc.	Amount of this amendment	\$N/A – no cost
Procurement Method:	ITN	Payment Method (fixed rate, cost reimbursement, etc):	No Cost

Description of Purchase

Description: Amendment 2 renews the contract for five years beginning April 9, 2019. The Tenant Broker contract provides lease transactions services, portfolio strategy services and real estate services.

Authority for this agreement: Section 255.249 Florida Statutes

Budget authority for this agreement: N/A – No Cost Contract

Term Years	Start Date	Current End Date	Renewal Years Remaining
10 years	4/9/2014 Renewal 4/9/2019	4/8/2019 Renewal 4/8/2024	0 years

Verification of required provisions

The following information is contained in the attached documents, or required action has been taken.

Provision	Authority	Confirm Yes or No
OPB approval has been sought and given through the DMS CFO	Office of the Governor Memo #12-019 reinstating Executive Order 11-01	N/A
Contracts shall not include cost of living increases or pricing increases that exceed the current budget authority in either the initial or renewal term.	s. 216.311, F.S.	N/A
If services are performed statewide, the performance standards and financial consequences are reviewed on a regional or site basis and not measured in the aggregate.	s. 287.058 (e) and (h), F.S.	Yes (Sec. 5)
Completed DFS's Contract Checklist Attached (with page numbers)	Multiple	Yes
Contractor acting on behalf of state: Contracts, public records transfer to state	s.119.0701, F.S	Yes
Preferred-pricing clause annual affidavit for contracts modified after 7/1/10	s. 216.0113, F.S.	Yes
Required utilization of E-Verify system	Executive Order 11-116	Yes
Vendor is not on scrutinized vendors lists (value > \$1M)	s.287.135, F.S.	Yes
Specific appropriation is identified in contracts with a value greater than \$5M	s.216.313, F.S.	N/A
Contract attestation completed (value >\$1M)	State Purchasing memo	N/A

Required Documents before rendering of services

Is a performance bond or letter of credit required before rendering of services? No

Is a warrant of security required before rendering of services? No

Savings

Yes/No	Description	Savings over the life of the contract
N/A	No cost to Agency	N/A

Approvals

	Signature	Date
Contract Manager (REDM):	<u>Michelle Stevens</u>	<u>6/5/18</u>
Bureau Chief, O&M / Leasing (REDM):	<u>Michelle Stevens</u>	<u>6/5/18</u>
Division Budget Coordinator (REDM):	<u>Dana Vellert</u>	<u>6/6/18</u>
Bureau Chief, BBSS (REDM)	<u>Dana Vellert</u>	<u>6/6/18</u>
Director / Deputy Director (REDM):	<u>Tom A Ben</u>	<u>6/6/18</u>
Contract Administrator (DP):	<u>Ashley B</u>	<u>6/7/18</u>
Purchasing Director / Deputy Director (DP):	<u>Chase Dyal</u>	<u>6/11/18</u>
Office of the General Counsel (OGC):	<u>[Signature]</u>	<u>6/13/18</u>
Budget (CFO):	<u>Kalvin</u>	<u>6/14/18</u>

Final Approval (choose one signature below, based on annual contract value)

Secretary (all values):	_____	_____
Chief of Staff (all values):	_____	_____
CFO (\$10 million or less):	_____	_____
Division Director (\$500k or less, contract assignments, or amendments correcting a scrivener's error):	<u>Thomas A Ben</u>	<u>6/19/18</u>
Senior Director of Executive Operations (Interagency Agreements)	_____	_____

Scope of Work Does the agreement clearly:	Yes, No or N/A	Page number
establish the tasks to be performed by the provider?	Yes	3-6
sufficiently identify activities/services?	Yes	3-6
identify qualitative standards?	Yes	9-11
contain documentation requirements?	Yes	15

Comments, if necessary:

Deliverables Does the agreement clearly have deliverables that:	Yes, No or N/A	Page number
divided into quantifiable, measurable, and verifiable units that must be received and accepted before payment is made?	Yes	3-10
are related to the scope of work?	Yes	3-10
specify required level of service to be performed?	Yes	3-10
specify the criteria for evaluating successful completion of each deliverable?	Yes	10
identify the amount of compensation for each major deliverable?	Yes	Amend. 1 (1-2)

Comments, if necessary:

Financial Consequences	Yes, No or N/A	Page number
Does the agreement specify the financial consequences that the agency must apply if the provider fails to perform in accordance with the contract?	Yes	17-18

Financial Assistance	Yes, No or N/A	Page number
If the agreement is with a recipient or sub-recipient of state or federal financial assistance: does it include the provisions required by CFOM #4 (05-06)?	N/A	

Additional Legal Requirements Does the agreement reference or contain the relevant provisions of s. 287.058, F.S.?	Yes, No or N/A	Page number
That bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper pre-audit and post-audit thereof.	N/A	
That bills for any travel expenses be submitted in accordance with s. 112.061. A state agency may establish rates lower than the maximum provided in s. 112.061.	Yes	16
Allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt from s.24(a) of Art. I of the State Constitution and s. 119.07(1).	Yes	29
Specifying the criteria and the final date by which such criteria must be met for completion of the contract.	N/A	
Specifying that the contract may be renewed for a period that may not exceed 3 years or the term of the original contract, whichever period is longer, specifying the renewal price for the contractual service as set forth in the bid, proposal, or reply, specifying that costs for the renewal may not be charged, and specifying that renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds. Exceptional purchase contracts pursuant to s.287.057(3)(a) and (c) may not be renewed.	Yes	22
Addressing the property rights of any intellectual property related to the contract and the specific rights of the state regarding the intellectual property if the contractor fails to provide the services or is no longer providing services.	N/A	

Annual Appropriation Contingency Statement	Yes, No or N/A	Page number
Does the agreement reference or contain the provisions of s. 287.0582, F.S.?	Yes	24

**CONTRACT NO.: DMS-12/13-007A
BETWEEN
FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
AND
CBRE, INC.**

**AMENDMENT NO.: 2
(RENEWAL NO.: 1)**

This Amendment to Contract No.: DMS-12/13-007A (the "Contract") is by and between the State of Florida acting through the Florida Department of Management Services (the "Department") and CBRE, Inc. (the "Contractor"), collectively known as the "Parties".

Therefore, the Parties agree to amend the Contract as follows:

1. Pursuant to Section 8.1. Term and Renewal, the Contract is renewed for five (5) years beginning April 9, 2019, and ending April 8, 2024.
2. Section 9.17. Public Records, is hereby revised to add subitem (v) as follows:

(v) IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS PROVIDED FOR THE CONTRACT MANAGER.

3. Section 9.22. Scrutinized Companies List, is hereby revised to read as follows:

If the Contract exceeds \$1,000,000.00 in total, not including renewal years, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List created pursuant to sections 215.473, F.S. and 215.4725 F.S., respectively, or is participating in a boycott of Israel. Pursuant to section 287.135(5), F.S., and 287.135(3), F.S., Contractor agrees the Department may immediately terminate the Contract for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel during the term of the Contract.

4. Section 9.30. Cooperation with the Inspector General, is hereby incorporated into the Contract as follows:


9.30. Cooperation with the Inspector General

Pursuant to section 20.055(5), Florida Statutes, contractor and any subcontractors understand and will comply with their duty to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

5. This Amendment is hereby made a part of this Contract. All other terms and conditions of the Contract shall remain in full force and effect. Except as otherwise expressly set forth herein, the terms and conditions contained in the Contract and subsequent amendments are unchanged. This Amendment sets forth the entire understanding between the Parties with regard to the subject matter hereof.
6. This Amendment is effective April 9, 2019.

SO AGREED by the Parties' authorized representatives on the dates noted below:

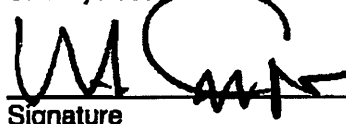
FLORIDA DEPARTMENT OF MANAGEMENT SERVICES



Tom Berger, Director
Real Estate Development and Management
6/19/18

Date

CBRE, INC.



Signature
William J. Gulliford III, Sr Managing Director

Print Name and Title
6.18.18

Date

MARKET ANALYSIS MEMORANDUM
Departmental Purchasing

DATE: June 4, 2018
TO: Dave Zeckman, Chief of Staff
THROUGH: Lance Dyal, Departmental Purchasing Director *LD*
FROM: Tom Berger, Director, Division of Real Estate Development and Management *QAB*
SUBJECT: DMS-12/13-007A - Tenant Broker - Market Analysis

Background

The Department of Management Services currently contracts with CBRE, Inc., and Savills Studley Occupier Services, Inc. (formerly Vertical Integration, Inc.) to assist the State in making more efficient and economical use of current and proposed sector lease agreements. Specifically, the current vendors:

1. Act as the State's tenant brokers to competitively negotiate and develop private sector lease agreements;
2. Provide space management services using the State's recommended space utilization standards;
3. Provide tenant representation services for the State during the term of a lease from lease negotiation through tenant build out and move in;
4. Help identify strategic opportunities for reducing occupancy costs through the consolidation, relocation, reconfiguration, capital investment and the selling, building or acquisition of space; and
5. Outline any additional real estate related services or concepts for adding value to the State's processes.

The initial contract term is five (5) years, with up to five (5) years' of renewals as authorized by section 287.059(13), Florida Statutes. The current contracts expire April 8, 2019. *CSA*

Techniques and methods used to conduct the market research

- ☒ Searched FACTS for other agency contracts <https://facts.fldfs.com/Search/ContractSearch.aspx>
- ☒ Searched for and reviewed similar contracts in the State of New York, State of California, State of Texas and Florida counties, schools, and cities
- ☐ Reviewed procurements lists for RESPECT of Florida and PRIDE
- ☐ Searched Office of Supplier Diversity certified vendor directory <https://osd.dms.myflorida.com/directories>
- ☒ Searched U.S. General Services Administration Federal Government Interagency Contract Directory (ICD) <https://www.contractdirectory.gov/contractdirectory/>
- ☒ Personal knowledge procuring or previous purchases of similar or identical types of supplies or services
- ☒ Searched the Internet
- ☐ Reviewed recent Market Research (dated, title) to meet similar requirements
- ☐ Contacted industry trade associations or similar associations
- ☐ Reviewed catalogs, other product literature published by manufacturers, distributors, and dealers or available on-line
- ☐ Conducted a Request for Information (RFI)
- ☒ Reviewed an IBISWorld procurement report
- ☐ Reviewed Thomas Register (commodity only) <http://www.thomasnet.com/>
- ☐ Consumer Price Index
- ☐ Other (state):

The Industry and Potential Vendors

Instructions: This section should reflect the current information you are aware of in the industry. Include information such as:

- *Who are the main vendors in this industry?*
- *Are there mostly national/international vendors supplying these commodities or services and who are they?*
- *Are these larger companies or mostly smaller vendors, which may change how you develop your solicitation to ensure small businesses can compete for the contract?*
- *Are there any Certified Minority Businesses that supply this commodity/service?*
<https://osd.dms.myflorida.com/directories>
- *This information can be found in an IBISWorld report, vendor statistics table.*



Industry information should include items such as:

- *How strong is the industry?*
- *Are there any changes or trends that may affect this action?*
- *Has there been anything in the news about this industry?*
- *This information can be found in an IBISWorld report, price trends, price drivers, and regulation.*

Commissions for commercial real estate brokerage services were trending upward between 2014 and 2017, as demand for commercial real estate brokerage services increased. Many businesses require commercial buildings to facilitate their operations, so growth in the number of businesses in recent years has fueled demand for brokers to negotiate sales and lease agreements. Moreover, brokers have incurred greater costs during this period, primarily due to the rising cost of professional services. During the three (3) years to 2020, commission rates for commercial real estate brokerage services are forecast to increase 0.4 percentage points. Key price drivers include overhead costs-professional services, average wages-real estate sales and brokerage, number of businesses, access to credit and value of private nonresidential construction.

<u>Vendor Statistics</u>	<u>US Product Market Share (%)</u>
CBRE Group, Inc.	<5%
Jones Lang LaSalle, Inc.	<5%
Realogy Holdings Corporation	<5%
BGC Partners, Inc.	<5%
Colliers International Property Consultants, Inc.	<5%
Cushman & Wakefield, Inc.	<5%
NAI Global	<5%
Savills Studley, Inc.	<5%
Eastdil Secured	<5%
Marcus & Millichap, Inc.	<5%

Buyer Power Score

The IBISWorld Buyer Power Score is a weighted score based on a number of quantitative and qualitative criteria associated with buying a product or service. The score is calculated between 1 and 5, with 1 signifying low buyer power and 5 meaning high buyer power. The more power a buyer has the greater leverage they have to get lower prices and better contract terms. The market for commercial real estate brokerage services has a buyer power score of 3.1 out of 5, reflecting mixed negotiation conditions for buyers and brokers.

Life Cycle Factor – Commercial Real Estate Brokerage Services Characteristics

Price Trend: The price of commercial real estate brokerage services fluctuates in accordance with macroeconomic conditions. In the past three (3) years, the price of services has been rising in concert with economic growth, which has been fueling demand for commercial real estate brokerage services. This upward trend in demand for services is forecast to continue during the three years to 2020, fueling additional growth in commission rates. However, the high fragmentation in the market allows buyers to leverage the ample availability of suppliers in order to elicit favorable commission rates, providing some relief to buyers.

Product Change: Providers of commercial real estate brokerage services use listing services and their negotiation expertise to aid buyers with the sales and leasing process. Although the scope of these services may vary across suppliers, the underlying services have not changed substantially during its life cycle.

Distribution Scope: The distribution scope in the commercial real estate brokerage services market strongly correlates with the distribution of the US population. The wide distribution enables buyers to choose from a multitude of suppliers, which allows buyers to compare multiple bids from vendors.

Marketing Trends: Vendors allocate an estimated 5.5% of revenue on marketing to distinguish their services from competitors' offerings. The relatively standard services across the market encourage vendors to differentiate themselves from their competitors to attain business. Furthermore, marketing is used to capture new markets.

Pricing Analysis

In order to determine a fair market price, the following contract prices are noted.

Source of Information	Pricing	Notations
State Contracts		
State of New York http://ogs.ny.gov/bu/pc/		Contract with CBRE available upon request
State of California http://www.documents.dgs.ca.gov/pd/contracts/ContractIndexListing.pdf		Unable to find contractual information
State of Texas http://www.window.state.tx.us/procurement/		Unable to find contractual information.
Team Georgia, State of Georgia http://doas.ga.gov/state-purchasing/team-georgia-marketplace Log-in Info User Name: tgmquest as ID and password		Unable to find contractual information
State of Ohio http://procure.ohio.gov/proc/currentcontracts.asp		In-house real estate/agency tenant services
State of Pennsylvania http://www.emarketplace.state.pa.us/		Unable to find contractual information
Federal Contracts		
GSA Schedule 70 (IT Only) http://gsa.gov/portal/content/104506	N/A	N/A
Purchasing Cooperatives		
NASPO / Value Point http://www.naspovaluepoint.org/#!/current-contracts/search	N/A	N/A
U.S. Communities http://www.uscommunities.org/	N/A	N/A
Florida Counties, Cities or Public School Districts		
City of Orlando http://cms.cityoforlando.net/Home/Contracts	Cities and counties utilize the Department's current Tenant Broker contracts.	
Miami Dade County https://www.miamidade.gov/DPMww/SearchContracts.aspx		
Broward County public schools http://www.broward.k12.fl.us/supply/districtcontracts/contract-listing.html		
Hillsborough County public schools (commodity only) http://www.sdhc.k12.fl.us/doc/205/form-commoditysearch		
Industry Market Research Reports		
Industry Benchmarking Reports, such as IBISWorld (Contact DP for the IBISWorld Procurement reports)	See IBISWorld report attached	

Risk Assessment



This section should include any risk factors that the procurement team and executive team need to be aware of, such as industry risks, or supply chain risks, not DMS operational risks.

This information can be found in an IBISWorld report, supply chain risks.

No risk associated with renewing the current contract.

Special Circumstances or Other Information

This section should include any special situation or handling that applies uniquely to this project.

- *Unique statutory requirements*
- *Industry-wide laws or regulations to purchases of the commodity or service*
- *Customary terms and conditions governing commercial sales of the product, including:*
 - *Warranties*
 - *discounts*
 - *shipping & handling*
 - *license agreements*



HB 5003 – Implementing the 2018-2019 General Appropriations Acts per **Section 47** requires the Department of Management Services (DMS) and agencies to utilize a tenant broker to renegotiate private lease agreements, in excess of 2,000 square feet, expiring before June 30, 2021. This section expires on July 1, 2019.

Recommendation

Renew each vendor's contract for five (5) years beginning April 9, 2019, and ending April 8, 2024.

Renewal Period Pricing

- There is no cost to the agency.

Commercial Real Estate

Development Advisory Services

October 10, 2018

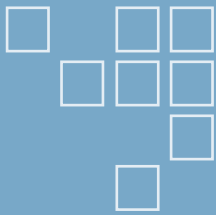


WELCOME TO
THE CITY OF
CAPE CORAL

CBRE

CBRE

Local and Global Market Presence



FLORIDA MARKET PRESENCE

- Established in 1978
- Florida's leading commercial real estate service provider
- Eight offices throughout Florida
- 900± commercial real estate professionals throughout Florida

SOUTHWEST FLORIDA MARKET PRESENCE

- Tampa presence for over 35 years
- 236± employees
- Full range of commercial real estate services
- Professionals with in-depth local market knowledge
- Naples office opened over two years ago



CBRE

CBRE IS **THE WORLD'S LARGEST** COMMERCIAL REAL ESTATE SERVICES PROVIDER.

80,000

Employees



450

Offices

SALES

25,575 \$217.3B

Transactions Value

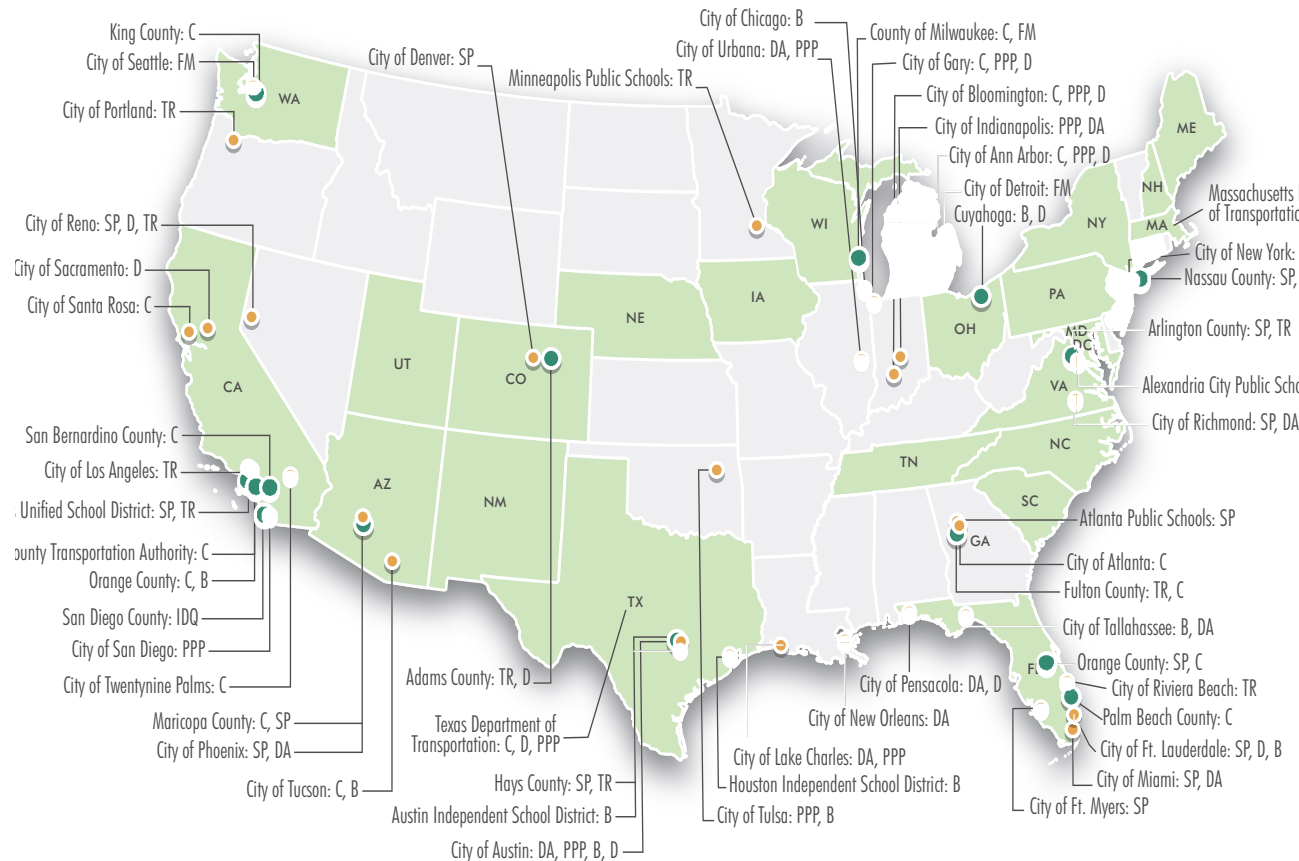
LEASING

62,525 \$120.3B

Transactions Value



CBRE: PUBLIC INSTITUTIONS AND EDUCATION SOLUTIONS



The services we most frequently provide our state and local government clients include the following:

- Acquisition and disposition of government property
- Real estate portfolio planning and management
- Evaluation and structure of public-private partnerships
- Development advisory and financial modeling
- Special purpose buildings: City Hall/laboratory and data centers/government centers
- Economic development studies
- Highest and best-use studies
- RFP development, distribution, and analysis
- Energy/sustainability consultations
- Asset valuations
- Construction cost estimating
- Facility management
- Construction / project management
- Tenant Representation
- Landlord Representation

Understanding the Project



7 Islands Concept

DESIGN CONCEPT PLAN D-1

As a result of significant community input and visioning, City Council approved Concept D-1 as its preferred redevelopment concept for 7 Islands.

RESIDENTIAL

MF / Condo / Apartment	924 Units
SF / Fish Houses	71 Units
Total Units	995 Units

HOTEL / RESORT

Meeting Space	240 Rooms
	25,000 SF

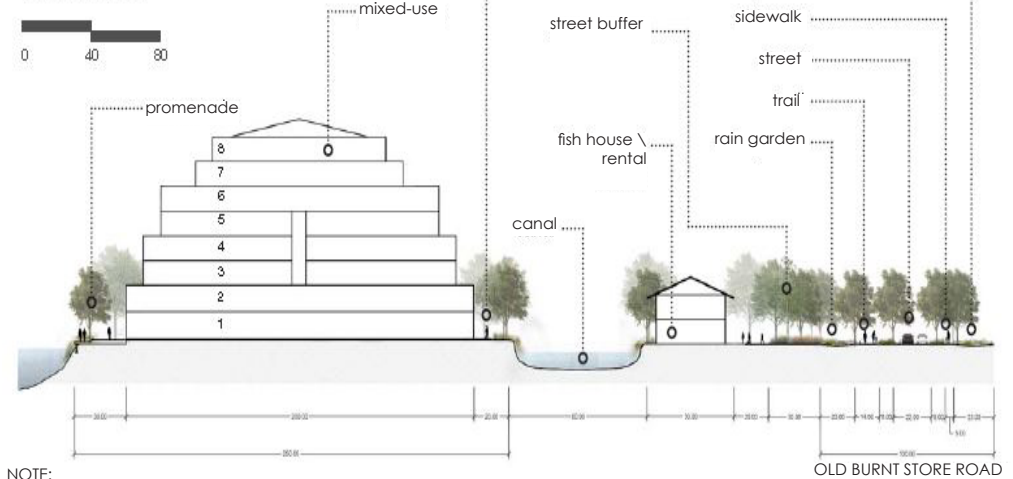
COMMERCIAL

45,000 SF

AMENITIES

Community Center
Park
Public Marina + Launch
Boat Slips/Marina

SECTION



NOTE:

- + Cross Section illustrates greatest number of floors proposed
- + Overall concept consists of 1-8 story buildings



CBRE Marketing Capabilities



The Power of the Platform: CBRE Local Marketing Capabilities PR/Advertising

- » Press release on new listing
- » Social media campaign

Virtual Events

- » Launch 360 degree virtual tours
- » Virtual tours to decision makers

Collateral

- » Project fact packages

Direct Mail

- » Flyer mailing to brokers

Email Campaigns

- » E-mail blasts
- » Bi-weekly digital brochure mailer
- » Broker blast
- » CBRE Global Corporate Services and specialty services groups

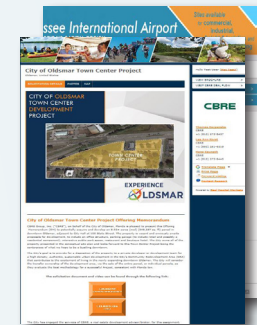
SAMPLE EMAIL CAMPAIGNS



SAMPLE PROPERTY BROCHURE



SAMPLE WEBSITE



CBRE DEAL FLOW

CBRE Deal Flow offers a simple process to set-up, launch and execute listings. Sellers get consistent investor activity reports; investors have a simple CA signing process and virtual deal room experience; and your deals "flow" through the stages of a disposition.

Deal Flow features a map that shows where interested capital is coming from across the world, enabling us to better track interest and enhance strategic reporting with Sellers.

www.cbredealfow.com



Development Advisory Process



DEVELOPMENT ADVISORY PROCESS

Most development advisory projects are comprised of tasks split into two phases:

1) Pre-RFP and 2) Market Engagement / Project Execution

Phase 1: Pre-RFP



Formulation - Vision for the project, early capital commitments are made by the public sector.



Feasibility - Financial analysis and objectives evaluated, tested and confirmed.



Planning - Site evaluation, political assessments, master planning, phasing and budgets, business plan.

Phase 2: Market Engagement / Project Execution



Procurement (RFI / RFQ / RFP) - A carefully crafted solicitation sent to potential private-sector partners that highlights project vision and goals, agency risk / reward profile, public financing options, and potential transaction structures.



Partner Selection - Proposals from private-sector valuated and partner is selected.



Implementation - Design completed and partner fulfills agreement. Agency and Partner(s) manage communications and political process.



Operation - Monitoring and contract maintenance.

DEVELOPMENT ADVISORY KEY ADVANTAGES

- » Transfers risk from the agency to a private sector partner
- » Reduces agency capital burden; generates revenue
- » Allows agency access to the best practices (construction management, private sector procurement) and market knowledge (feasibility, competitive pool) of the private sector
- » Allows for development / re-purposing of under-or-non-performing assets
- » Produces incremental cash flow, increased amenities, and synergistic development
- » Increases the chance for success and speed of project delivery

THE BENEFITS OF BEING REPRESENTED BY A DEVELOPMENT ADVISOR

An advisor's focused management of the process will:

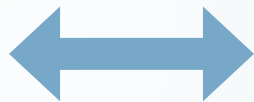
- » Broaden the pool of potential developers
- » Ensure the execution of a competitive yet feasible transaction
- » Minimize the project risk
- » Help keep the project on time, within budget and in line with the project's mission

Offering Memorandum Process and Timeline



PROCESS

- » Create developer solicitation
- » Pre-marketing begins
- » Release solicitation
- » Receive bid responses
- » Short list proposers
- » Award to selected developer



TIMELINE

- » Contract approval – end of 2018
- » Early 2019
- » Mid-February, 2019
- » June, 2019
- » July, 2019
- » September, 2019

Next Steps



Hire CBRE

Prepare project goals and solicitation format (RFQ / RFP)

Assemble consulting team members and allied professionals

- a. Site engineer
- b. Land use attorney
- c. Architect

Complete site assessment of Concept D-1 including economic model

- a. Create a value proposition for the buyer
- b. Confirm timing and condition of site on delivery to buyer

Profile ideal buyer

- a. Single developer
- b. Multiple developers

Prepare developer solicitation and marketing materials



CBRE Compensation Agreement



FEE FOR DEVELOPMENT ADVISORY SERVICES

The City shall pay CBRE a monthly retainer of \$7,500. The RFQ timeline is expected to be 12 -15 months, therefore CBRE's fee will be paid on a monthly basis. The total fee to be paid to CBRE for Development Advisory Services shall be paid by the Developer and equal to three percent (3%) of the "Total Value of the Project." Total Value of the Project is defined as all hard and soft costs of the project including but not limited to; the value of the land plus infrastructure, design, and construction costs as proposed by Developer.

The Developer shall pay the fee within Thirty (30) days of execution of all development agreements between the City and Developer. CBRE shall credit back to the City any monthly retainer previously paid at such time as CBRE is paid by Developer. CBRE will specify the three percent (3%) fee arrangement and payment terms in any Offering Memorandum ("OM") issued by CBRE on the City's behalf and stipulate that said fee is to be paid by the developer as a condition for consideration of the Developer's proposal by the City.

SERVICE	PAID BY	AMOUNT	TIMING
Consulting services for marketing, RFQ process and bid analysis	City	\$7,500 / Month	Payable monthly as services are rendered
Development advisory brokerage	Developer	3% of total project cost	30 days of execution of development agreement

SCENARIO/EXAMPLE:

One of two outcomes occur:

1. The City selects a qualified Developer, and CBRE earns a commission of 3%. In this case, the monthly retainer is credited back to the City in lieu of the earned commission.
2. Economic Development Initiatives In many cases, the public entity seeks to target and attain certain economic development goals of the City. This can manifest itself as housing, retail, revitalization efforts for blighted areas, job growth, etc. When CBRE is engaged to assist in achieving these broader goals our compensation is calculated not just on the value of the land being sold or leased, but the broader economic activity generated by CBRE's efforts. In this case, the 3% success fee is based upon the total project value including land, infrastructure, and all hard and soft costs of the development. For example, if the Developer plans a \$10M development investment, CBRE would be paid a success fee of 3% or \$300,000 by the Developer.

Your CBRE Team



LEE ANN KORST

T: +1 850 251 9319

leeann.korst@cbre.com

CBRE, Inc. | Licensed Real Estate Broker

JOB TITLE: First Vice President, Southeast Regional Manager, (PIES)

EXPERIENCE: Lee Ann has 20 years of experience in commercial real estate. Currently, she manages contracts for the States of Florida, Tennessee and South Carolina. She has managed the State of Florida account since 2011 and led the CBRE team responsible for the Real Estate Optimization Plan that identified \$70 million to \$100 million in annual savings for the State. Since 2014, she has co-led CBRE's team in creating a comprehensive strategic plan for the State of South Carolina's 8.1 million-square-foot portfolio of 360 owned and leased properties.

EDUCATION/LICENSES:

- » Licensed Real Estate Sales Person, Florida
- » Oglethorpe University, Master of Business Administration,
- » Illinois State University, Bachelor of Science in Management and Quantitative Methods

.....



JEFFREY GAGE

T: +1 239 330 7665

jeffrey.gage@cbre.com

CBRE, Inc. | Licensed Real Estate Broker

JOB TITLE: Senior Vice President, CBRE | Capital Markets Investment Properties

EXPERIENCE: Jeffrey Gage, CCIM, SIOR, MRICS, is a Senior Vice President based in CBRE's Naples, FL office providing leading edge real estate services for clients on a local, regional and global basis. Jeff's approach is strategic and with passion. By exploring and understanding the client's needs, he develops and executes a customized plan that delivers the desired outcome, on time, and on budget.

His strong background in finance, engineering, construction, development and project management, mitigates risk, and helps Jeff deliver creative solutions supported by his in-depth understanding of market fundamentals. Since 1985 Jeff has negotiated lease and sale transactions in excess of 8.5 million sq. ft. with a market value of over \$2 billion.

EDUCATION

- » Union College; Bachelor of Science; Engineering, Business, Economics

Your CBRE Team



MICHAEL MCSHEA
T: +1 202 585 5775
michael.mcshea@cbre.com

CBRE, Inc. | Licensed Real Estate Broker

.....

JOB TITLE: Executive Vice President, Public Institutions & Education Solutions (PIES)

EXPERIENCE: Mike has more than 20 years of experience providing development advisory, strategic planning, brokerage and other associated real estate services to clients including government entities nationwide. His current and recent state clients include Florida, Maryland, South Carolina, Alabama, Arizona, Michigan, Colorado and Pennsylvania.

EDUCATION/LICENSES:

- » Bachelor of Science in Business and Management, University of Maryland



SARAH FRIEDFELD
T: +1 202 585 5645
sarah.friedfeld@cbre.com

JOB TITLE: National Business Development Manager, CBRE | Public Institutions & Education Solutions (PIES)

EXPERIENCE: Sarah has over 10 years of experience leading business development and project implementation on topics ranging from international aid to commercial real estate. With a background in international development consulting, project management, and US federal government contracting, Sarah brings a keen eye for detail, process, and strategy for accomplishing complex tasks. Her approach includes interviews, research, and analysis to ensure that proposed solutions deliver exceptional outcomes for taxpayers and public entities. Since joining CBRE, Sarah has delivered winning proposals for the City of Oakland, City of San Diego, State of California, State of Tennessee, Metropolitan Washington Airports Authority, Arlington County, and others. Her current assignments include the strategic planning and marketing of a 22-acre redevelopment site in downtown Mobile, AL, and supporting the sale of 424 acres and the ground lease of another 228 acres, all in Northern Virginia adjacent to Dulles International Airport.

EDUCATION & ACHIEVEMENTS

- » Bachelor of Arts, International Affairs, James Madison University
- » Master of Business Administration, George Washington University
- » Licensed Real Estate Salesperson, Virginia
- » CBRE 2018 Employee of the Year, Washington, DC

Your CBRE Team



TESS FLEMING
T: +1 904 633 2607
tess.fleming@cbre.com

CBRE, Inc. | Licensed Real Estate Broker

JOB TITLE: Client Services Specialist, Public Institutions & Education Solutions (PIES)

Experience: Tess Fleming joined CBRE in May 2015, and serves as Client Services Specialist for the Public Institutions and Education Solutions group (PIES), out of CBRE's Jacksonville Florida office, and supports the SE region. Tess is responsible for creating client proposals, presentation development, request for proposals, and offering memorandums for public sector clients. Tess has created marketing materials for the City of Miami, City of Mobile, City of Ft. Lauderdale, RFP development for Las Olas Marina and Miami Riverside Center. Tess brings more than 10 years in real estate experience, and 20 years of account management and administrative support

EDUCATION/LICENSES:

- » Associate of Arts, Florida State College of Jacksonville
- » BAS, Supervision and Management, Florida State College of Jacksonville
- » Real Estate License – State of Florida

.....

Thank You



PRESENTED BY:

LEE ANN KORST

SE Regional President
CBRE | Public Institutions &
Education Solutions
311 East Park Ave
Tallahassee, FL 32301
T: 850.251.9319
E: leeann.korst@cbre.com

JEFFREY GAGE

Senior Vice President
CBRE | Advisory & Transaction
Services
527 Henley Drive
Naples, FL 34104
T: 239.330.7665
E: jeffrey.gage@cbre.com

MICHAEL MCSHEA

Executive Vice President &
Co-Founder
CBRE | Public Institutions &
Education Solutions
750 9th Street N.W. Suite 900
Washington, DC 20001
T: 202.669.2580
E: michael.mcshea@cbre.com

CBRE, Inc. | Licensed Real Estate
Brokers

CBRE © 2018 All Rights Reserved. All information included in this letter/proposal pertaining to CBRE—including but not limited to its operations, employees, technology and clients—are proprietary and confidential, and are supplied with the understanding that they will be held in confidence and not disclosed to third parties without the prior written consent of CBRE. This letter/proposal is intended solely as a preliminary expression of general intentions and is to be used for discussion purposes only. The parties intend that neither shall have any contractual obligations to the other with respect to the matters referred herein unless and until a definitive agreement has been fully executed and delivered by the parties. The parties agree that this letter/proposal is not intended to create any agreement or obligation by either party to negotiate a definitive lease/purchase and sale agreement and imposes no duty whatsoever on either party to continue negotiations, including without limitation any obligation to negotiate in good faith or in any way other than at arm's length. Prior to delivery of a definitive executed agreement, and without any liability to the other party, either party may (1) propose different terms from those summarized herein, (2) enter into negotiations with other parties and/or (3) unilaterally terminate all negotiations with the other party hereto.

WELCOME TO
THE CITY OF
CAPE CORAL

CBRE

Item Number: B.(2)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 216-18 Award RFP-HR18-118/KS for Employee Benefits for Self Insured Medical Administrative Services (ASO), Prescription Benefit Management (PBM), Medical Insurance Stop Loss, Group Term Life with Accidental Dismemberment, Long Term Disability, Employee Assistance Program, Dental and Vision to the following firms: In respect to Medical-Self-Insured Health Insurance Administrative Services Only (ASO); Prescription Benefit Management (PBM); Self Insured Health Insurance Claims Stop Loss to Blue Cross and Blue shield of Florida, Inc. (Florida Blue). In respect to Group Term Life with Accidental Death and Dismemberment Insurance; Long Term Disability and Employee Assistance Program award to Blue Cross and Blue Shield of Florida (Florida Combined Life); In respect to Dental award to Blue Cross and Blue Shield of Florida (Florida Combined Life) and In respect to Vision award to Vision Services Plan Insurance Company (VSP) and authorize the City Manager to execute the contracts, renewals, amendments and related documents; Department: Human Resources; Estimated Dollar Value: \$18,496,922

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision?
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. The City has offered insurance coverage to its employees as a Fully funded plan. In 2016, the City moved to a self-insured status for these coverages wherein Florida Blue, via a competitive solicitation was awarded the administrative services only (ASO) and stop-loss provider (re-insurance) for a specified period of time.
2. On August 8, 2018, a Request for Proposal, RFP-HR18-118/KS, for the plan year beginning on January 1, 2019 for City of Cape Coral and Charter School Active employees, retirees and their dependents (not including the IAFF Fire represented employees) was issued for Self Insured Medical Administrative Services (ASO), Prescription Benefit Management (PBM), Medical Insurance Stop Loss, Group Term Life with Accidental Dismemberment, Long Term Disability, Employee Assistance Program, Dental and Vision
3. On August 29, 2018, fourteen (14) proposals were received for the Employee Benefits

Request for Proposal RFP-HR18-118/KS from the following firms, in alphabetical order, Aetna Life Insurance Company, Advantica Insurance Company, Avesis Third Party Administrators, Inc., Blue Cross Blue Shield of Florida, Inc. (Florida Blue), Cigna Health and Life Insurance Company, EyeMed Vision Care, LLC, Hartford Life and Accident Insurance Company, Humana Insurance Company, Minnesota Life Insurance Company, Standard Insurance Company, Rx Benefits, Inc., United Concordia Insurance Company, Vision Service Plan Insurance Company, WellDyneRx LLC.

4. The Gehring Group along City Staff evaluated and request approval for the following recommendation: **Blue Cross and Blue Shield of Florida, Inc. (Florida Blue)** Medical & Pharmacy-Self -insured Health Insurance (ASO); Stop Loss Insurance; **Florida Combined Life Insurance Company** Group Term Life/Accidental Death & Dismemberment (AD&D) Insurance; Long Term Disability Insurance; Voluntary Group Term Life Insurance; Employee Assistance Program (EAP); Dental Insurance; **Vision Service Plan insurance Company (VSP)**; Vision Insurance
5. The agreements, if approved, will be as follows: Self Insured Medical to include Administrative Services (ASO) and Pharmacy Benefits Management (PBM) to Blue Cross Blue Shield (Florida Blue) for a term of five (5) years with one additional three (3) year term; Self Insured Health Insurance Claims Stop Loss to Blue Cross Blue Shield (Florida Blue) for a one (1) year contract with an additional two (2) – one-year renewal term; Group Term Life with Accidental Death and Dismemberment Insurance, Long Term Disability and Employee Assistance Program (EAP) to Florida Combined Life for a period of three (3) years with one (1) additional three (3) year term; Dental Insurance to Florida Combined Life for a period of two (2) year with and additional two (2) – two (2) year renewal period; Vision to Vision Service Plan Insurance Company (VSP) for a four (4) year contract with two (2) additional two (2) year renewal period.
6. Funding:
For the plans covered by the City, the cost is covered by the City's self-funded insurance plan; For Dental and Vision – the cost are paid by the City employees and retirees

LEGAL REVIEW:

EXHIBITS:

Memo - 2019 Benefits RFP recommendation
Resolution 216-18
Cape Coral 2019 RFP recommendation memo
Current to Proposed carrier with contract periods

PREPARED BY:

Wanda Division- Procurement Department- Finance
Roop

SOURCE OF ADDITIONAL INFORMATION:

Lisa Sonogo, HR Director

ATTACHMENTS:

Description

Type

- | | | |
|---|---|-----------------|
| ▣ | Memo - 2019 Benefits RFP recommendation | Backup Material |
| ▣ | Resolution 216-18 | Backup Material |
| ▣ | Cape Coral RFP recommendation memo | Backup Material |
| ▣ | Current to Proposed Carrier with contract periods | Backup Material |

MEMORANDUM

CITY OF CAPE CORAL HUMAN RESOURCES DEPARTMENT

TO: John Szerlag, City Manager
Wanda Roop, Procurement Manager

FROM: Lisa Sonego, Human Resources Director
Victoria Bateman, Financial Services Director
Christopher Phillips, Budget Administrator
Jill Ramirez, Benefits Manager

DATE: October 5, 2018

SUBJECT: Recommended Medical and Pharmacy ASO and Stop Loss Insurance, Group Term Life, Accidental Death & Dismemberment, Long-Term Disability Insurance and Employee Assistance Plan (RFP-HR18-118/KS)

In the spirit of the City's mission, vision and core values, we present recommendations for employee benefits beginning January 2019 which allow for cost avoidance for the City. The favorable rates that were secured during the 2018 RFP process are due to various parameters such as a robust City wellness program, claims experience, and avoiding upwards of a 20% increase if the City had a fully funded plan structure versus the self-funded structure that has been in place since 2016. This path of success continues with a recommendation of a stay to current medical insurance premiums which are paid by both the City and the employee and slight increases to dental and vision insurance premiums; which when selected, are both 100% paid by the employee.

Background

The City has contracted with Florida Blue for their employees' and retirees' group medical and prescription plans since 1996. In 2016, the City moved to a self-insured status for these coverages wherein they continued to utilize Florida Blue as their administrative services only (ASO) and stop-loss provider (re-insurance) after a request for proposal (RFP) was performed and formal recommendations through the Selection Advisory Committee (SAC) were received.

In 2017, the City contracted with VOYA/ReliaStar for stop loss/re-insurance coverage and renewed with the provider again for 2018.

In 2015 the City contracted with Florida Combined Life to provide basic group term life insurance for their employees and retirees with accidental death and dismemberment and long-term disability for active employees only. Within this

contract, Florida Combined Life paid for the City's employee assistance plan provided by New Directions Behavioral Health.

Recommendation

The City submitted a Request for Proposal for the plan year beginning on January 1, 2019 for City of Cape Coral and Charter School active employees, retirees and their dependents (less the IAFF Fire represented employees) for:

- Self-Insured Medical ASO & Prescription Benefit Management (PBM),
- Medical Insurance Stop-Loss Insurance,
- Dental Insurance,
- Vision Insurance,
- Group term life insurance with accidental death and dismemberment
- Long Term Disability, and
- Employee Assistance Plan services – often coordinates with Medical plan

Previous Requests for Proposals & a competitive bid were performed for plan years 2014, 2016 and 2017 as outlined below:

- RFP for 2014 plan year for Dental, Life Insurance, and EAP. Carrier changes for all requested plans.
- RFP for 2016 plan year for medical, prescription and dental insurance, group Medicare plans and employee assistance plan. Florida Blue was chosen to serve as the ASO & Stop Loss provider and no other carrier changes.
- Competitive bid for 2017 stop loss provider resulted in a carrier change.

Gehring Group, the City's Benefits Brokerage firm, analyzed the submitted proposals for this RFP process affecting plan years 2019 through 2023 for certain carriers. An evaluation committee reviewed the proposal information wherein they presented the original findings, final carrier negotiations, and then final recommendations.

Self-Insured Health Insurance Administrative Services Only (ASO) and Prescription Benefit Management (PBM): The City received proposals from three carriers for ASO and PBM. Two additional carriers proposed PBM services based on carve-out coverage from ASO.

The evaluation committee and Gehring Group recommend the City accept the proposal of Florida Blue which is the incumbent carrier. The below rates are a reduction in our current cost of \$46.65 per employee per month (PEPM). The below rates include a \$1 discount PEPM if we include their stop-loss proposal with this contract.

Contract Term

Staff respectfully requests approval for a five-year contract for ASO and PBM services with the following cost structure (based on PEPM):

- 2019 thru 2020 - \$45.15 PEPM

- 2021 thru 2022 - \$46.75 PEPM
- 2023 - \$48.35 PEPM

Staff also respectfully requests approval to extend this contract for up to one additional three-year contract term if renewal rates and structure are conducive to City's budget affordability features in place at the time.

Self-Insured Health Insurance Claims Stop-Loss: The City received proposals from the same three carriers as ASO and PBM. Stop-Loss insurance was included as a whole in the proposals; however, this is an annual renewal. This would necessitate separate Resolution and contract term approval.

The evaluation committee recommends the City accept the proposal of Florida Blue. This will offer cohesion with respect to possible reimbursements to the plan for individual claims over \$200,000 per plan year and monthly aggregate claims threshold. The below rates include a reduction from our current Individual Single Premium of \$47.85 PEPM and Individual Family Premium of \$100.76 PEPM for an approximate annual savings of \$159,486.00. The aggregate premium is an increase from our current \$2.14 PEPM with an approximate annual increase of \$12,006.00.

Contract Term

Staff respectfully requests approval for a one-year contract for Stop-Loss insurance with the following cost structure based on a per employee per month (PEPM) fee:

- Individual Single Premium - \$37.60 PEPM
- Individual Family Premium - \$97.99 PEPM
- Aggregate Premium - \$2.72 PEPM

This self-insured health plan coverage is subject to annual renewal. Staff also respectfully requests approval to extend this contract for up to two additional one-year contract terms if renewal rates and structure are conducive to City's budget affordability features in place at the time.

The Benefits Manager and Gehring Group suggest no rate change from current 2018 which will result in an approximate Fiscal Year cost of \$20,145,492.96. This projection includes ASO and PBM fees, Stop-Loss insurance premiums and claims. The suggested annual plan year cost for 2019 breakdown is noted below:

- Employer: \$17,124,211.44
- Employee: \$3,021,281.52

Additional off-sets offered by Florida Blue include:

- Wellness Funding of \$150,000 year (2019 - 2023);
- \$37,500 Contribution per year for additional City Benefit Division staff;

- Additional Wellness funding of \$100,000 for 2018 and \$175,000 for 2019. These funds will be applied to offset dental premiums through wellness programming.

Fund Availability

The total cost for the ASO, claims and stop-loss costs are budgeted and covered by the City's self-funded insurance plan, which is business unit 500500; wherein interfund service payments are made by the operating funds to the internal service fund for employer contributions. Employee contributions for dependent coverage are processed through bi-weekly payroll processing and retiree payments from pension deduction or individual direct payment.

Group Term Life with Accidental Death and Dismemberment Insurance: The City received proposals from four carriers.

Group Term Life insurance is an employer-paid benefit in which all active Classification I employees and grandfathered retirees are enrolled. The Accidental Death and Dismemberment coordinates with the group term life insurance for active Classification I employees only.

The evaluation committee and Gehring Group recommend that City accept the proposal of Florida Combined Life which is the incumbent carrier and includes a premium decrease of 14.2%. This would result in a potential annual savings of \$189,452 to current premiums.

Contract Term

Staff respectfully requests approval to enter into a three-year contract with this provider with additional approval to extend this contract for one additional three-year contract if renewal rates and structure are conducive to City's budget affordability features in place at the time.

Fund Availability

The estimated annual cost for group term life insurance and accidental death and dismemberment is \$1,149,001.00. The costs are budgeted and paid by the operating funds to the internal service fund.

Long Term Disability: The City received proposals from three carriers.

Long Term Disability is an employer-paid benefit automatically applied to all active Classification I employees except sworn and certified Police and Fire employees whose disability coverage and subsequent stipulations for eligibility is included in their Pension Plan.

The evaluation committee and Gehring Group recommend that City accept the proposal of Florida Combined Life which is the incumbent carrier and includes a premium decrease of 9.1%. This would result in a potential annual savings of \$22,371 to current premiums.

Contract Term

Staff respectfully requests approval to enter into a three-year contract with this provider with additional approval to extend this contract for one additional three - year contract if renewal rates and structure are conducive to City's budget affordability features in place at the time.

Fund Availability

The estimated annual cost for group term life, accidental death and dismemberment insurance is \$223,710. The costs are budgeted and paid by the operating funds to the internal service fund.

Employee Assistance Program (EAP): The City received proposals from four carriers.

The evaluation committee and Gehring Group recommend that City accept the proposal of Florida Combined Life offering New Directions Behavioral Health which is the incumbent carrier. The cost for this benefit is free in coordination with Florida Combined Life's Long-Term Disability coverage.

Contract Term

Staff respectfully requests approval to enter into a three-year contract which coordinates with Florida Combined Life Long Term Disability. Additional approval to extend this contract for one additional three -year contract if renewal rates and structure are conducive to City's budget affordability features in place at the time.

Fund Availability

N/A

Dental Insurance: The City received proposals from five carriers.

Dental insurance is an employee-paid benefit which requires a formal election or enrollment at new hire eligibility, during open enrollment or within 30 days of a qualifying event.

The evaluation committee and Gehring Group recommend that City accept the proposal of Florida Combined Life.

Contract Term

Staff respectfully requests approval to enter into a two-year contract with this provider with additional approval to extend this contract for two additional two-year contracts if renewal rates and structure are conducive to City and their employees' affordability features in place at the time.

Fund Availability

These costs are paid by the City employees and retirees.

Vision Insurance: The City received proposals from seven carriers.

Vision insurance is an employee-paid benefit which requires a formal election or enrollment at new hire eligibility, during open enrollment or within 30 days of a qualifying event.

The evaluation committee and Gehring Group recommend that City accept the proposal of Vision Service Plan (VSP) who are the incumbent.

Contract Term

Staff respectfully requests approval to enter into a four-year contract with this provider with additional approval to extend this contract for two additional two-year contracts if renewal rates and structure are conducive to City and their employee's affordability features in place at the time.

Fund Availability

These costs are paid by the City employees and retirees.

Medicare plans and pricing are regulated by federal and state government, plan information becomes available late October. These plans are therefore presented to Council in November for the following calendar year.

RESOLUTION 216 - 18

A RESOLUTION OF THE CITY OF CAPE CORAL, FLORIDA, AWARDING CONTRACTS FOR EMPLOYEE INSURANCES AND BENEFITS TO BLUE CROSS AND BLUE SHIELD OF FLORIDA, INC. (FLORIDA BLUE) FOR PHARMACY BENEFITS MANAGEMENT (PBM), SELF-INSURED MEDICAL ADMINISTRATIVE SERVICES ONLY (ASO), AND STOP LOSS INSURANCE; TO FLORIDA COMBINED LIFE INSURANCE COMPANY FOR GROUP TERM LIFE/ACCIDENTAL DEATH & DISMEMBERMENT (AD&D) INSURANCE, LONG TERM DISABILITY INSURANCE, VOLUNTARY GROUP TERM LIFE INSURANCE, DENTAL INSURANCE, AND EMPLOYEE ASSISTANCE PROGRAM (EAP); AND TO VISION SERVICE PLAN INSURANCE COMPANY (VSP) FOR VISION INSURANCE; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACTS AND ANY FUTURE RENEWALS BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 8, 2018, REQUEST FOR PROPOSAL #RFP-HR18-118/KS was issued for Self Insured Medical Administrative Services Only (ASO); and

WHEREAS, on August 29, 2018, the City received fourteen (14) proposals; and

WHEREAS, after evaluation of the proposals by the City and the Gehring Group, Blue Cross and Blue Shield of Florida, Inc. (Florida Blue), Florida Combined Life Insurance Company, and Vision Service Plan Insurance Company (VSP), were ranked as the top responsive responsible proposers meeting the requirements and specifications outlined in the RFP; and

WHEREAS, staff recommends awarding contracts to Blue Cross and Blue Shield of Florida, Inc. (Florida Blue) for pharmacy benefits management (PBM), medical administrative services only (ASO) and stop loss insurance; to Florida Combined Life Insurance Company for group term life/accidental death & dismemberment (AD&D) insurance, long term disability insurance, voluntary group term life insurance, dental insurance, and employee assistance program (EAP); and to Vision Service Plan insurance company (VSP) for vision insurance, for an estimated annual total cost to the City of \$18,496,922; and

WHEREAS, the City Council desires to authorize the City Manager to enter into contracts for employee insurance and benefits.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby awards the following contracts and terms:

- A. To Blue Cross and Blue Shield of Florida, Inc. (Florida Blue) for self-insured medical including Pharmacy Benefits Management (PBM), Medical Administrative Services Only (ASO) for a term of five years with one renewal option for a term of three years; and
- B. To Blue Cross and Blue Shield of Florida, Inc. (Florida Blue) for stop loss insurance for a term of one year with two additional renewal options for a term of one year each; and
- C. To Florida Combined Life Insurance Company for Group Term Life with Accidental Death & Dismemberment (AD&D) insurance, Long Term Disability insurance, and Voluntary Group Term Life insurance, and Employee Assistance Program (EAP) for a term of three years with one additional renewal option for a term of three years; and
- D. To Florida Combined Life Insurance Company for Dental Insurance for a term of two years with two additional renewal options for a term of two years each; and
- E. To Vision Service Plan insurance company (VSP) for vision insurance for a term of four years with two additional renewal options for a term of two years each.

Section 2. The City Council hereby authorizes the City Manager to enter into the above-referenced contracts for an estimated annual total cost to the City of \$18,496,922, and authorizes the City Manager or his designee to execute the contracts.

Section 3. The City Council hereby authorizes the City Manager to approve any renewals of the contracts as specified in Section 1. above, and authorizes the City Manager or his designee to execute any future contract documents associated with such renewals, should the City Manager deem it to be in the best interest of the City.

Section 4. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

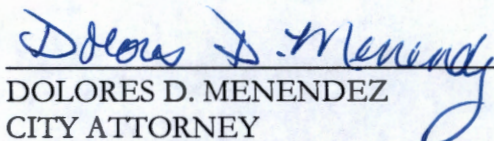
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Award RFP-Employee Insurances and benefits
10/2/18
10/9/18

Kim Swartz, Senior Buyer
City of Cape Coral
Cape Coral, FL 33915

Subject: 2019 Employee Benefits RFP Recommendation

In June 2017, Gehring Group and City Staff had a meeting to discuss the timeline and strategy for the 2019 calendar year. At this meeting, procurement advised that a majority of the lines of coverage's contracts with the City were set to expire the end of 2018. It was mutually agreed upon that it would be in the City's best interest to market all lines of coverages in August 2018 in order to ultimately present a recommendation to Council in October. This timing would ensure a thorough implementation of coverage, proper BenTek programming, and timely Open Enrollment meetings in the beginning of November. The following lines of coverages were included in the Request for Proposal (RFP):

- Health Administrative Only Services (ASO)
- Pharmacy Benefit Management (PBM)
- Stop Loss Insurance
- Medicare Advantage & Supplement
- Dental Insurance
- Vision Insurance
- Basic Life / A&DD Insurance
- Supplemental Life Insurance
- Long Term Disability
- Employee Assistance Program

With extensive collaboration between the City's Staff and Gehring Group, a request for proposal was released, facilitated, and received with a due date of August 29th. Through this process, the City received competitive proposals from 16 separate carriers. On September 11th, Gehring Group presented a thorough evaluation to the City's committee that consisted of rate and premium comparison, plan design enhancement and decrements, network provider discount analysis, network disruption analysis, value adds, caveat evaluation, and carrier experience and service information. After review of the proposals and information, finalists were selected to submit their Best and Final Offers (BAFO) by 3:00 p.m. on September 18th.

After much review and analysis of the offers, Gehring Group is recommending the following:

- **ASO/PBM/Stop Loss:** As discussed, there are many factors that come into play when analyzing these lines of coverages. With all of these factors considered, we are recommending that the City remain with Florida Blue/Prime for ASO/PBM services and transition the stop loss coverage from VOYA to Florida Blue. This will result in a \$178,530 reduction to the City's current fixed costs with no disruption to employees and staff. This offers also includes \$150,000 in wellness funds and \$37,500 in onsite Customer Service Representative funds per year. The City will also realize the added benefit of automatic stop loss reimbursements without the delay of filings through an external vendor. We are also recommending the City remain with the current health insurance plan design and no change to funding rates or employee contributions. Final stop loss rates will be available in late October.
- **Medicare Advantage and Supplement:** As Florida Blue was the only respondent, we recommend remaining with Florida Blue. Firm 2019 rates will be available in October.
- **Dental:** After discussion with the City's staff and learning about the current frustrations with the incumbent's (Humana) billing and account management process, we are recommending that the City transition the dental coverage to Florida Combined Life at an overall increase to rates of 18.4% with a 24-month rate guarantee. FCL is offering an additional implementation credit of \$25,000, \$100,000 additional wellness for 2018, and an additional wellness of \$175,000 for 2019. This provides the City with an additional \$300,000 in funds from 2018-2020. To help offset the increase in dental rates, we are recommending that this additional amount be applied to the dental PPO premium and only increase the employee rates by 4%. Also, employee disruption will remain minimal due to no change to the plan design and low network interruption.

-
- **Vision:** Due to the fact that Cigna will not offer a standalone vision plan and VSP's proposal of enhanced benefits and rates below our projection, we are recommending the City remain with VSP.
 - **Life & Long Term Disability:** We are recommending the City remain with FCL for Basic Life/AD&D, Supplemental Life, and Long Term Disability. Keeping these benefits together allows for enhanced transition of care and coordination of benefits. FCL's proposal is at no change to plan design and decreased overall cost to the City of \$211,823.
 - **EAP:** As this line of coverage is embedded in FCL's long term disability policy at no charge, we are recommending the City remain with FCL's EAP coverage.

If the City chooses to implement these recommendations, total estimated City costs will decrease by an estimated \$480,175 vs. the 2018 costs.

Regards,

Dustin Kuehn

Dustin Kuehn
Senior Benefits Consultant, Gehring Group

COVERAGE TYPE	CURRENT CARRIER	PROPOSED CARRIER	CONTRACT	RENEWAL APPROVALS
Administrative Services Only (ASO) with Prescription Benefit Management (PBM)	Blue Cross and Blue Shield of Florida	Blue Cross and Blue Shield of Florida	2019 thru 2023	2024 thru 2026
Stop-Loss Insurance	VOYA/ReliaStar	Blue Cross and Blue Shield of Florida	2019 thru 2021	2020 and 2021
Dental Insurance	Humana	Florida Combined Life	2019 thru 2020	2021 thru 2024
Vision Insurance	Vision Service Plan (VSP)	Vision Service Plan (VSP)	2019 thru 2022	2023 thru 2026
Life Insurance with Accidental Death & Dismemberment	Florida Combined Life	Florida Combined Life	2019 thru 2021	2022 thru 2024
Voluntary Life Insurance	Florida Combined Life	Florida Combined Life	2019 thru 2021	2022 thru 2024
Long Term Disability	Florida Combined Life	Florida Combined Life	2019 thru 2021	2022 thru 2024
Employee Assistance Plan	New Directions Behavioral Health thru Florida Combined Life	New Directions Behavioral Health thru Florida Combined Life	2019 thru 2021	2022 thru 2024

Item Number: B.(3)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 217-18 Award Bid# ITB-PW18-105/KS for Generator and Pump Repair, Maintenance and Installation Services to LJ Power Inc., located in Jupiter, FL as the lowest responsive, responsible bidder at the unit price stated in the bid documents for an estimated annual amount of \$181,358 not to exceed budgetary limits and authorize the City Manager or Designee to execute the contract, renewals and amendments within his authority; Department: Public Works; Estimated Annual Dollar Value \$181,358; (General Fund/W&S)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT B: ENHANCE FINANCIAL SUSTAINABILITY DURING ALL ECONOMIC TIMES

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. The City of Cape Coral owns and operates over 170 stationary and mobile generators of various sizes throughout the City. Maintenance to these assets are limited to routine preventative actions, while repairs, replacements and installations are contracted out services. Several Departments such as Public Works and Utilities rely on the services to maintain associated certifications and accreditations.
2. On June 13, 2018, Invitation to Bid ITB-PW18-105/KS for Generator and Pump Repair, Maintenance and Installation Services was issued.
3. On July 20, 2018, four (4) bid submittals were received for the Generator and Pump Repair Maintenance and Installation Services from the following firms: CJ's Sales and Service of Ocala, Inc., Cummins, Inc., dba Cummins Power South, L.J. Power Inc. and RCS & Company, Inc.
4. Staff recommends awarding to L.J. Power, Inc., as the lowest responsive responsible bidder having met the requirements and specifications outlined in the bid documents.
5. If approved, the term of the contract will be for one (1) year with three (3) additional one-year

renewal periods.

6. Funding: This is a budgeted item and each division account will be charged accordingly within the General Fund accounts

LEGAL REVIEW:

Contract reviewed by Legal

EXHIBITS:

Department Memo

Resolution 217-18

Bid Tabulation – ITB-PW18-105/KS

PREPARED BY:

Wanda

Roop

Division- Procurement

Department- Finance

SOURCE OF ADDITIONAL INFORMATION:

Paul Clinghan, Public Works Director

Jeff Pearson, Utilities Director

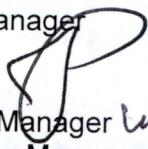





ATTACHMENTS:

Description	Type
▣ Department Memo	Backup Material
▣ Resolution 217-18	Resolution
▣ Bid Tabulation - ITB-PW18-105/KS	Backup Material

MEMORANDUM

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

TO: John Szerlag, City Manager
Victoria Bateman, Finance Director
Wanda Roop, Procurement Manager

FROM: Jeff Pearson, Utilities Director 
Pat Long, Water Reclamation Manager 
Andy Fenske, Water Production Manager 
Richard Jones, Maintenance Supervisor 
Paul Clinghan, Public Works Director 
Mark Ridenour, Facilities/Projects Manager 

DATE: Sept 10, 2018

SUBJECT: Bid Acceptance: ITB-PW18-105/KS, Generator and Pump Repair, Maintenance and Installation Services

This memorandum provides the technical evaluation and bid acceptance recommendation for the subject contract.

The City of Cape Coral owns and operates over 170 stationary and mobile generators of various sizes. Maintenance to these assets are limited to routine preventative actions, while repairs, replacements and installations are contracted out services. The previous contract had expired, and the City is working under a bridge agreement to provide limited services. Several Departments rely on this contract to maintain associated certifications and accreditations.

The subject solicitation was advertised on June 13, 2018 and bids were received by July 20, 2018. DemandStar identified fifteen (15) planholders interested in the solicitation. The City received four (4) qualifying and acceptable bids.

Bidders provided documentation that they are all capable of meeting the required technical specifications. Except for one bidder providing a deviation for response time availability, no significant deviations were noted. Price among the bidders was evaluated, as shown in Table 1. Two (2) bidders were relatively close to current pricing; however, one bidder was significantly lower than all others.

LJ Power Incorporated is recommended for award of the subject contract.

Table 2 identifies anticipated City of Cape Coral costs for the base year and optional years.

PC/MR:ha
Attachment

C: Rigo Chacon, Project Manager I

Table 1, Bidder Pricing

Vendor	Pricing (Base)	Pricing (Base+ 3)
CUMMINS, INC	\$335,736.00	\$1,390,524.00
CJ'S SALES & SERVICE OF OCALA, INC	\$224,002.16	\$896,008.64
RCS & COMPANY, INC	\$1,236,780.00	\$4,947,120.00
LJ POWER, INC	\$181,358.00	\$725,432.00

Labor Rates (Repairs/Installation)				
Type	CUMMINS	CJ'S	RCS & CO	LJ POWER
Standard Labor Rate (Normal Business Hours)	\$134.00	\$90.00	\$120.00	\$85.00
Specialized Labor Rate (After Hours and Holidays)	\$200.00	\$120.00	\$120.00	\$127.50
Emergency Labor Rate	\$266.00	\$135.00	\$180.00	\$127.50

Material (Percentage above Cost)				
Parts (Filters, Fans, Lubrication, Oil, Etc)	30%	20%	15%	15%

Table 2, Anticipated Annual Costs

Description	Cost (* estimated)
Maintenance Operations	\$181,358
Material	\$30,000*
Repairs	\$90,000*
Installations	\$25,000*
	\$326,358

RESOLUTION 217 - 18

A RESOLUTION OF THE CITY OF CAPE CORAL, FLORIDA, AWARDING A BID FOR GENERATOR AND PUMP REPAIR, MAINTENANCE AND INSTALLATION SERVICES TO L.J. POWER, INC.; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT AND SUBSEQUENT RENEWALS BY THE CITY MANAGER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on June 13, 2018, INVITATION TO BID (ITB) #PW18-105/KS was issued for Generator and Pump Repair, Maintenance and Installation Services for over 170 stationary and mobile generators of various sizes throughout the City; and

WHEREAS, four (4) bids were submitted and opened on July 20, 2018; and

WHEREAS, the term of the contract is for one (1) year with three (3) optional one-year renewals; and

WHEREAS, the City Manager recommends the award to L.J. Power, Inc., as the lowest qualified responsible and responsive bidder meeting the requirements and specifications set forth in the invitation to bid, in the estimated annual amount of \$181,358; and

WHEREAS, the City Council desires to award the bid for Generator and Pump Repair, Maintenance and Installation Services to L.J. Power, Inc., and to authorize the City Manager to approve the renewal of the contract for up to three additional one-year periods, if the City Manager deems the renewals to be in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City hereby awards the bid for Generator and Pump Repair, Maintenance and Installation Services to L.J. Power, Inc., in the estimated annual amount of \$181,358.

Section 2. The City Council hereby authorizes the City Manager to enter into a contract between the City of Cape Coral and L.J. Power, Inc., for Generator and Pump Repair, Maintenance and Installation Services, and authorizes the City Manager to execute the contract. A copy of the contract is attached hereto as Exhibit 1.

Section 3. The City Council hereby authorizes the City Manager to approve the renewal of the contract for three (3) additional one-year periods and authorizes the City Manager to execute any future contract documents associated with such renewal(s), should the City Manager deem it to be in the best interest of the City.

Section 4. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:


COVIELLO
GUNTER
CARIOSCIA
STOUT

NELSON
STOKES
WILLIAMS
COSDEN

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2018.

REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Bid Award-LJ Power Inc

**CITY OF CAPE CORAL
GENERATOR AND PUMP REPAIR, MAINTENANCE
AND INSTALLATION SERVICES
CONTRACT # ITB-PW18-105/KS**

THIS CONTRACT is made this _____ day of _____, 2018 by and between the **CITY OF CAPE CORAL, FLORIDA**, hereinafter called "**CITY**", and **L.J. POWER, INC**, located at 407 Commerce Way Suite 2B Jupiter, FL 33458 doing business as a corporation, hereinafter called "**CONTRACTOR**".

WITNESSETH: For and in consideration of the payments and agreements mentioned hereinafter:

1. The CONTRACTOR will provide Generator Pump Repair, Maintenance and Installation Services in accordance with the Contract Documents.
2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the completion of the services described in the Contract Documents. Time is of the essence in the performance of this Contract.
3. The CONTRACTOR will commence work as required by the CONTRACT DOCUMENTS within 10 calendar days after the receipt of the written Notice to Proceed.
4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS for the following prices listed on the CONTRACTOR'S Official Bid Proposal Form during the term of the contract more, specifically **Exhibit A** hereto and made a part hereof.
5. The **term** of the contract to be awarded as a result of this bid shall be for one (1) year starting on effective date above and may be **renewed** for three (3) additional, one-year periods upon mutual agreement by the City and the Contractor.
6. Termination: This Contract may be terminated by the City for its convenience upon thirty (30) days prior written notice to the Contractor. In the event of termination, the Contractor shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this Contract. Such amount shall be paid by the City after inspection of the work to determine the extent of performance under this Contract, whether completed or in progress.
7. Annual Appropriation Contingency: The City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.
8. The Term "Contract Documents" shall include this Contract, addenda, Contractor's Bid except when it conflicts with any other contractual provision, the Notice to Proceed, the Bonds, and the Bid Package prepared and issued by the City. In the event of conflict between any provision of any other document referenced herein as part of the contract and this Contract, the terms of this Contract shall control.
9. Entire Agreement: This agreement constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal. In the event of conflict between any provision of any other document referenced herein as part of the contract and this agreement, the terms of this agreement shall control.

**CITY OF CAPE CORAL
GENERATOR AND PUMP REPAIR, MAINTENANCE
AND INSTALLATION SERVICES
CONTRACT # ITB-PW18-105/KS**

10. Assignment: This Contract may not be assigned except with the written consent of the CITY, and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.
11. Disclosure: The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the award or making of the Contract.
12. Administration of Contract: The Public Works Director or his representative, shall administer this Contract for the CITY.
13. Governing Law: The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this Contract, each party shall be responsible to pay for its own reasonable costs and attorney fees.
14. Amendments: No Amendments or variation of the terms or conditions of this Contract shall be valid unless in writing and signed by the parties.
15. Payments: The CITY shall make payment and CONTRACTOR shall be in receipt of all sums properly invoiced within thirty (30) days of the City's receipt of such invoice unless, within a fifteen (15) day period, CITY notifies CONTRACTOR in writing of its objection to the amount of such invoice, together with CITY'S determination of the proper amount of such invoice. CITY shall pay any undisputed portion of such invoice within such thirty (30) day period.

If CITY shall give notice to the CONTRACTOR within a fifteen (15) day period, of dispute over the proper amount of such invoice shall be resolved, and after final resolution of such dispute, CITY shall promptly pay the CONTRACTOR the amount so determined, less any amounts previously paid by CITY with respect to such invoice. In the event it is determined that CITY has overpaid such invoice, the CONTRACTOR shall promptly refund to the CITY the amount of such overpayment.

16. Contractor's Representations: In order to induce CITY to enter into the Contract CONTRACTOR makes the following representations:

CONTRACTOR has been familiarized with the Contract Documents and the nature and extent of the work required to be performed, locality, local conditions, and Federal, State, and Local laws, ordinances, rules and regulations that in any manner may affect costs, progress or performance of the work.

CONTRACTOR has made or caused to be made examinations, investigations and tests and studies as deemed necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract.

Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

**CITY OF CAPE CORAL
GENERATOR AND PUMP REPAIR, MAINTENANCE
AND INSTALLATION SERVICES
CONTRACT # ITB-PW18-105/KS**

CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.

CONTRACTOR has given CITY written notice of all conflicts, errors or discrepancies that have been discovered in the CONTRACT DOCUMENTS and the written resolution thereof by CITY is acceptable to CONTRACTOR.

17. Indemnity: To the extent permitted by law (F.S. 768.28), the CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and any persons employed or utilized by CONTRACTOR in the performance of this Contract.
18. Damage Liability: The awarded CONTRACTOR shall be responsible for all claims filed for damage to private property, windows, screen enclosures, real estate signs, etc. Additionally, the CONTRACTOR shall be responsible for damage to all public property or utility property, fire hydrants, catch basins, guy wires telephone pedestals, etc. Copies of all damage claims shall be submitted to the Procurement Division.
19. Invalid Provision: The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
20. Record Keeping: The awarded bidder shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting principles, and the City of Cape Coral reserves the right to determine the record-keeping method in the event of non-conformity. If a Public Construction Bond is required records shall be maintained for ten

(10) years, after final payment has been made and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

Records of the Contractor's personnel, sub-consultants, and the costs pertaining to the Project shall be kept in accordance with generally accepted accounting practices.

Contractor shall keep full and detailed accounts and financial records pertaining to the provision of services for the City. Prior to commencing work, Contractor shall review with and obtain the City's approval of the accounting procedures and records to be utilized by the Contractor on the Project. Contractor shall preserve the aforementioned Project records for a period of ten (10) years after final payment, or for such longer period as may be required by law.

21. Public Records

Pursuant to Florida Statute §287.058 (1) (c), this contract may be unilaterally cancelled by the City if the Contractor, refuses to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this contract, unless the records are exempt from disclosure.

**CITY OF CAPE CORAL
GENERATOR AND PUMP REPAIR, MAINTENANCE
AND INSTALLATION SERVICES
CONTRACT # ITB-PW18-105/KS**

22. Insurance: Without limiting its liability under this contract, CONTRACTOR shall procure and continuously maintain, without interruption, at its own expense the following insurance (limits and specifications) during the life of this Contract:
- a. Worker's Compensation Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws. The policy must include Employer's Liability with a minimum limit of \$1,000,000.00 for each accident.
 - b. Comprehensive General Liability coverage shall have minimum limits of \$1,000,000.00 per occurrence, combined single Limit for Bodily Injury Liability and Property Damage Liability. This shall include Premises and/or Operations; Independent Contractors and Products and/or Completed Operations; Broad Form Property Damage; and Contractual Liability Endorsement.
 - c. Business Vehicular Liability coverage shall have minimum limits of \$1,000,000.00 per occurrence. Combined Single Limit for Bodily Injury Liability, and Property Damage Liability. This shall include Owned Vehicles, Hired and non-Owned Vehicles and Employees Non-Ownership.
 - d. The City shall be listed as an Additional Insured on all policies. In the event the insurance coverage expires prior to completion of the project, a renewal certificate shall be issued 30 days prior to said expiration date. The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy.
 - e. Unless otherwise specified, it shall be the responsibility of the proposing firm to ensure that all sub-contractors comply with the same insurance requirements herein. All certificates of insurance must be on file with and approved by the City before the commencement of work activities. Waivers of subrogation shall also be provided upon approval of the applicable insurers.
 - f. The proposing firm shall "flow down" the requirements of this provision to all sub-contractors.
 - g. The limits of insurance required above must be retained throughout the term of the contract. The proposing firm must notify the City immediately if any of the required coverage limits are reduced due to claim activity or for any other reason.

23. Background Investigations

In order to comply with the requirements of the Jessica Lunsford Act., Level 2 Screening is required of all sub-contracted employees who meet one or more of the following requirements; 1) contractor's employees are at the school when students are present or, 2) contractor's employees have direct contact with students or, 3) contractor's employees have access to or control of school funds.

Level 2 screening includes fingerprinting, statewide criminal and juvenile justice records checks through the Florida Department of Law Enforcement (FDLE) and Federal Criminal records checks through the Federal Bureau of Investigation (FBI). Any certificate issued by a Law Enforcement Agency must clearly indicate that the employee has successfully passed a Level 2 Screening background investigation. All costs associated with level 2 screening shall be borne by the vendor or subcontractor.

Upon completion of Level 2 Screening, any results indicating an employee has been found guilty of, regardless of adjudication or have entered a plea of nolo contendere or guilty to, any crime in Florida Statue 435.04(2), or any other comparable statute of another state, or of the federal government, including, but not limited to, crimes involving moral turpitude, multiple felonies, or crimes against children,

**CITY OF CAPE CORAL
GENERATOR AND PUMP REPAIR, MAINTENANCE
AND INSTALLATION SERVICES
CONTRACT # ITB-PW18-105/KS**

shall not be permitted to perform work for the Charter School Authority, on the Charter School Campus.

The results of such shall be provided to the City of Cape Coral and the Charter School Administrator or his designee for approval prior to the employee being assigned to the Charter School campus. Furthermore, the Charter School Administrator or his designee has the right, at his sole discretion, to reject any employee deemed incompetent, careless, insubordinate, or in any way objectionable, or any personnel whose actions may be contrary to the public interest or inconsistent with the best interests of the Charter School Authority. In such a case it shall be the responsibility of the contractor, at no additional cost to the Charter School Authority or the City of Cape Coral, to provide a suitable replacement and documentation of Level 2 Screening for that individual.

Failure to complete Level 2 Screening shall be considered a material breach of Contractor's duties and responsibilities entitling the Charter School Authority to terminate any business relationship with the vendor or Contractor immediately. In addition, all vendors and contractors will be required to indemnify and hold harmless the Charter School Authority, its officers, agents, and employees from any liability in the form of physical injury, death, or property damage resulting from your failure to comply with the requirements of the Jessica Lunsford Act.

(this section intentionally left blank)

**CITY OF CAPE CORAL
GENERATOR AND PUMP REPAIR, MAINTENANCE
AND INSTALLATION SERVICES
CONTRACT # ITB-PW18-105/KS**

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials this Contract in one counterpart which shall be deemed an original on the date last signed as below written.

(SEAL)
ATTEST:

Rebecca van Deutekom

City Clerk

CITY:

CITY OF CAPE CORAL

A. John Szerlag

City Manager

Date

CONTRACTOR:

L.J. Power, Inc.
Company

Signature

Larry Davis

Name

President

Title

10/5/18

Date

LEGAL REVIEW: *[Signature]*

PR Dolores Menendez
City Attorney

10/4/18

EXHIBIT A*Generator and Pump Repair, Maintenance and Installation Services**ITB-PW18-105/KS*

**OFFICIAL
BID
PROPOSAL
PAGE 2 OF 10**

Prospective bidders shall submit a list of the proposed technicians with their resumes and references to work on the City's equipment. In the event of new personnel being hired during the course of the contract, the Contractor will be required to submit the resumes and references of the new employee.

Prospective bidders shall submit a list of references, including the contact person that the proposed technicians have performed generator repair service.

ANNUAL PRICING – YEAR ONE					
ANNUAL MAINTENANCE/INSPECTION					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	98	150.00	\$14,700 -	1	\$ 14,700 -
100-299	43	150.00	\$ 6,450 -	1	\$ 6,450 -
300-499	8	150.00	\$ 1,200 -	1	\$ 1,200 -
500-699	13	150.00	\$ 1,950 -	1	\$ 1,950 -
700-899	3	150.00	\$ 450 -	1	\$ 450 -
900+	14	150.00	\$ 2,100 -	1	\$ 2,100 -
	179	\$	26,850 -		\$ 26,850 -

**OFFICIAL
BID
PROPOSAL**
PAGE 3 OF 10

SEMI-ANNUAL MAINTENANCE/INSPECTION (YEAR ONE CONTINUED)					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	98	220.00	\$ 21,560 -	2	\$ 43,120 -
100-299	43	288.00	\$12,384 -	2	\$ 24,768 -
300-499	8	475.00	\$ 3,800 -	2	\$ 7,600 -
500-699	13	635.00	\$ 8,255 -	2	\$ 16,510 -
700-899	3	765.00	\$ 2,295 -	2	\$ 4,590 -
900+	14	1,340.00	\$18,760 -	2	\$37,520 -
	179	\$	67,054 -		\$134,108 -

QUARTERLY MAINTENANCE/INSPECTION (YEAR ONE CONTINUED)					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	7	300.00	\$ 2,100 -	4	\$ 8,400 -
100-299	4	300.00	\$ 1,200 -	4	\$ 4,800 -
300-499	4	300.00	\$ 1,200 -	4	\$ 4,800 -
500-699	0	300.00	\$ 0 -	4	\$ 0 -
700-899	2	300.00	\$ 600 -	4	\$ 2,400 -
900+	0	500.00	\$ 0 -	4	\$ 0 -
	17	\$	5,100 -		\$ 20,400 -

**OFFICIAL
BID
PROPOSAL**
PAGE 4 OF 10

YEAR ONE (OPTIONAL RENEWAL):

ANNUAL PRICING – FIRST YEAR OPTIONAL RENEWAL					
ANNUAL MAINTENANCE/INSPECTION					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	98	150.00	\$ 14,700 -	1	\$ 14,700 -
100-299	43	150.00	\$ 6,450 -	1	\$ 6,450 -
300-499	8	150.00	\$ 1,200 -	1	\$ 1,200 -
500-699	13	150.00	\$ 1,950 -	1	\$ 1,950 -
700-899	3	150.00	\$ 450 -	1	\$ 450 -
900+	14	150.00	\$ 2,100 -	1	\$ 2,100 -
	179	\$	26,850 -		\$ 26,850 -

SEMI-ANNUAL MAINTENANCE/INSPECTION (FIRST YEAR OPTIONAL RENEWAL CONTINUED)					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	98	220.00	\$ 21,560 -	2	\$ 43,120 -
100-299	43	288.00	\$ 12,384 -	2	\$ 24,768 -
300-499	8	475.00	\$ 3,800 -	2	\$ 7,600 -
500-699	13	635.00	\$ 8,255 -	2	\$ 16,510 -
700-899	3	765.00	\$ 2,295 -	2	\$ 4,590 -
900+	14	1,340.00	\$18,760 -	2	\$ 37,520 -
	179	\$	67,054 -		\$ 134,108 -

**OFFICIAL
BID
PROPOSAL
PAGE 5 OF 10**

QUARTERLY MAINTENANCE/INSPECTION (FIRST YEAR OPTIONAL RENEWAL CONTINUED)					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	7	300.00	\$ 2,100 -	4	\$ 8,400 -
100-299	4	300.00	\$ 1,200 -	4	\$ 4,800 -
300-499	4	300.00	\$ 1,200 -	4	\$ 4,800 -
500-699	0	300.00	\$ 0 -	4	\$ 0 -
700-899	2	300.00	\$ 600 -	4	\$ 2,400 -
900+	0	500.00	\$ 0 -	4	\$ 0 -
	17		\$ 5,100 -		\$ 20,400 -

YEAR TWO (OPTIONAL RENEWAL):

ANNUAL PRICING – SECOND YEAR OPTIONAL RENEWAL					
ANNUAL MAINTENANCE/INSPECTION					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	98	150.00	\$ 14,700 -	1	\$ 14,700 -
100-299	43	150.00	\$ 6,450 -	1	\$ 6,450 -
300-499	8	150.00	\$ 1,200 -	1	\$ 1,200 -
500-699	13	150.00	\$ 1,950 -	1	\$ 1,950 -
700-899	3	150.00	\$ 450 -	1	\$ 450 -
900+	14	150.00	\$ 2,100 -	1	\$ 2,100 -
	179		\$ 26,850 -		\$ 26,850 -

**OFFICIAL
BID
PROPOSAL**
PAGE 6 OF 10

SEMI-ANNUAL MAINTENANCE/INSPECTION (SECOND YEAR OPTIONAL RENEWAL CONTINUED)					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	98	220.00	\$ 21,560 -	2	\$ 43,120 -
100-299	43	288.00	\$ 12,384 -	2	\$ 24,768 -
300-499	8	475.00	\$ 3,800 -	2	\$ 7,600 -
500-699	13	635.00	\$ 8,255 -	2	\$ 16,510 -
700-899	3	765.00	\$ 2,295 -	2	\$ 4,590 -
900+	14	1,340.00	\$ 18,760 -	2	\$ 37,520 -
	179		\$ 67,054 -		\$ 134,108 -

QUARTERLY MAINTENANCE/INSPECTION (SECOND YEAR OPTIONAL RENEWAL CONTINUED)					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	7	300.00	\$ 2,100 -	4	\$ 8,400 -
100-299	4	300.00	\$ 1,200 -	4	\$ 4,800 -
300-499	4	300.00	\$ 1,200 -	4	\$ 4,800 -
500-699	0	300.00	\$ 0 -	4	\$ 0 -
700-899	2	300.00	\$ 600 -	4	\$ 2,400 -
900+	0	500.00	\$ 0 -	4	\$ 0 -
	17		\$ 5,100 -		\$ 20,400 -

**OFFICIAL
BID
PROPOSAL**
PAGE 7 OF 10

YEAR THREE (OPTIONAL RENEWAL):

ANNUAL PRICING – THIRD YEAR OPTIONAL RENEWAL					
ANNUAL MAINTENANCE/INSPECTION					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	98	150.00	\$ 14,700 -	1	\$ 14,700 -
100-299	43	150.00	\$ 6,450 -	1	\$ 6,450 -
300-499	8	150.00	\$ 1,200 -	1	\$ 1,200 -
500-699	13	150.00	\$ 1,950 -	1	\$ 1,950 -
700-899	3	150.00	\$ 450 -	1	\$ 450 -
900+	14	150.00	\$ 2,100 -	1	\$ 2,100 -
	179	\$	26,850 -		\$ 26,850 -

SEMI-ANNUAL MAINTENANCE/INSPECTION (THIRD YEAR OPTIONAL RENEWAL CONTINUED)					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	98	220.00	\$ 21,560 -	2	\$ 43,120 -
100-299	43	288.00	\$ 12,384 -	2	\$ 24,768 -
300-499	8	475.00	\$ 3,800 -	2	\$ 7,600 -
500-699	13	635.00	\$ 8,255 -	2	\$ 16,510 -
700-899	3	765.00	\$ 2,295 -	2	\$ 4,590 -
900+	14	1,340.00	\$ 18,760 -	2	\$ 37,520 -
	179	\$	67,054 -		\$ 134,108 -

**OFFICIAL
BID
PROPOSAL**
PAGE 8 OF 10

QUARTERLY MAINTENANCE/INSPECTION (THIRD YEAR OPTIONAL RENEWAL CONTINUED)					
Size (KW)	Generators (Qty)	Cost Per Generator	Cost	# Services	Yearly Total
0-99	7	300.00	\$2,100 -	4	\$ 8,400 -
100-299	4	300.00	\$1,200 -	4	\$ 4,800 -
300-499	4	300.00	\$1,200 -	4	\$ 4,800 -
500-699	0	300.00	\$0 -	4	\$ 0 -
700-899	2	300.00	\$600 -	4	\$ 2,400 -
900+	0	500.00	\$0 -	4	\$ 0 -
	17		\$ 5,100 -		\$ 20,400 -

LABOR RATES:

Labor Rates (Repairs/Installation)	
Type	Price/Hour
Standard Labor Rate (Normal Business Hours)	\$ 85 -
Specialized Labor Rate (After Hours and Holidays)	\$ 127.50
Emergency Labor Rate (Disaster)	\$ 127.50

Material (Percentage above Cost)	
Parts (Filters, Fans, Lubrication, Oil, Etc)	15 %

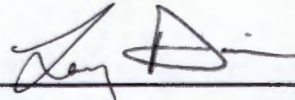
**OFFICIAL
BID
PROPOSAL**
PAGE 9 OF 10

TOTALS:

ANNUAL, SEMI-ANNUAL AND QUARTERLY - YEAR ONE, RENEWAL ONE, TWO AND THREE COMBINED:	\$ 725,432
LABOR RATE STANDARD, SPECIALIZED AND EMERGENCY COMBINED:	\$ 340
<u>TOTAL</u>	\$ 725,772

REMARKS BY BIDDER

If there are any deviations, they **MUST** be listed below, otherwise none will be allowed. If additional space is required, attach another sheet to this Bid Proposal. If nothing is listed below, it will be interpreted as meaning NO DEVIATIONS.

COMPANY NAME: L.J. Power, Inc.NAME PRINTED: Larry DavisSIGNATURE: DATE: 7/18/18

ANNUAL PRICING - BASE YEAR			Cummings, Inc			CJ's Sales & Service of Ocala, Inc			RCS& Company, Inc.			LJ Power, Inc.	
ANNUAL MAINTENACE/INSPECTION													
Size (KW)	Generators (Qty)	# Services	Base	Total		BASE	Total		BASE	Total		BASE	Total
0-99	98	1	\$500.00	\$49,000.00		\$400.00	\$39,200.00		\$800.00	\$78,400.00		\$150.00	\$14,700.00
100-299	43	1	\$500.00	\$21,500.00		\$932.12	\$40,081.16		\$2,500.00	\$107,500.00		\$150.00	\$6,450.00
300-499	8	1	\$500.00	\$4,000.00		\$1,007.00	\$8,056.00		\$4,000.00	\$32,000.00		\$150.00	\$1,200.00
500-699	13	1	\$500.00	\$6,500.00		\$1,300.00	\$16,900.00		\$6,000.00	\$78,000.00		\$150.00	\$1,950.00
700-899	3	1	\$500.00	\$1,500.00		\$1,500.00	\$4,500.00		\$8,000.00	\$24,000.00		\$150.00	\$450.00
900+	14	1	\$500.00	\$7,000.00		\$1,750.00	\$24,500.00		\$10,000.00	\$140,000.00		\$150.00	\$2,100.00
Totals	179			\$89,500.00			\$133,237.16			\$459,900.00			\$26,850.00
SEMI-ANNUAL MAINTENACE/INSPECTION													
Size (KW)	Generators (Qty)	# Services	Base	Total		BASE	Total		BASE	Total		BASE	Total
0-99	98	2	\$225.00	\$44,100.00		\$184.50	\$36,162.00		\$700.00	\$137,200.00		\$220.00	\$43,120.00
100-299	43	2	\$500.00	\$43,000.00		\$184.50	\$15,867.00		\$1,900.00	\$163,400.00		\$288.00	\$24,768.00
300-499	8	2	\$800.00	\$12,800.00		\$220.50	\$3,528.00		\$2,900.00	\$46,400.00		\$475.00	\$7,600.00
500-699	13	2	\$900.00	\$23,400.00		\$256.50	\$6,669.00		\$4,900.00	\$127,400.00		\$635.00	\$16,510.00
700-899	3	2	\$1,500.00	\$9,000.00		\$256.50	\$1,539.00		\$6,000.00	\$36,000.00		\$765.00	\$4,590.00
900+	14	2	\$2,350.00	\$65,800.00		\$256.50	\$7,182.00		\$7,000.00	\$196,000.00		\$1,340.00	\$37,520.00
Totals	179			\$198,100.00			\$70,947.00			\$706,400.00			\$134,108.00
QUARTERLY MAINTENACE/INSPECTION													
Size (KW)	Generators (Qty)	# Services	Base	Total		BASE	Total		BASE	Total		BASE	Total
0-99	7	4	\$700.00	\$19,600.00		\$274.50	\$7,686.00		\$400.00	\$11,200.00		\$300.00	\$8,400.00
100-299	4	4	\$700.00	\$11,200.00		\$274.50	\$4,392.00		\$1,055.00	\$16,880.00		\$300.00	\$4,800.00
300-499	4	4	\$700.00	\$11,200.00		\$310.50	\$4,968.00		\$1,400.00	\$22,400.00		\$300.00	\$4,800.00
500-699	0	4	\$0.00	\$0.00		\$0.00	\$0.00		\$2,000.00	\$0.00		\$300.00	\$0.00
700-899	2	4	\$767.00	\$6,136.00		\$346.50	\$2,772.00		\$2,500.00	\$20,000.00		\$300.00	\$2,400.00
900+	0	4	\$0.00	\$0.00		\$0.00	\$0.00		\$3,000.00	\$0.00		\$500.00	\$0.00
Total	17			\$48,136.00			\$19,818.00			\$70,480.00			\$20,400.00
Total Annual Cost				\$335,736.00			\$224,002.16			\$1,236,780.00			\$181,358.00

	Cummings, Inc		CJ's Sales & Service of Ocala, Inc		RCS& Company, Inc.		LJ Power, Inc.
Type	Labor Rates (Repairs/Installation) - Price Per Hour						
Standard Labor Rate (Normal Business Hours)	\$134.00		\$90.00		\$120.00		\$85.00
Specialized Labor Rate (After Hours and Holidays)	\$200.00		\$120.00		\$180.00		\$127.50
Emergency Labor Rate	\$266.00		\$135.00		\$180.00		\$127.50
Material (Percentage above Cost)	Material (Percentage above Cost)						
Parts (such as Filters, Fans, Lubrication, Oil, Etc)	30%		20%		15%		15%

Item Number: B.(4)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 221-18 Award Bid# ITB-UT18-94/KR to Gulf States Electric, Inc. of Naples, FL as the lowest responsive, responsible bidder, to provide construction services for the replacement of the Southwest (SW) Reverse Osmosis (RO) Water Treatment Plant (WTP), Motor Control Centers (MCC) for \$881,600 with a 10% City controlled contingency of \$88,160 for a total project cost of \$969,760 and authorize the City Manager or designee to execute the contract, amendments, change orders and purchase orders, within his signature authority; Department: Utilities; Dollar Value: \$969,760; (Water and Sewer Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision?
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT B: ENHANCE FINANCIAL SUSTAINABILITY DURING ALL ECONOMIC TIMES

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

ELEMENT G: WORK TOWARD EFFICIENT AND COST-EFFECTIVE SOLUTIONS TO PROTECT AND CONSERVE NATURAL RESOURCES, WHILE PROMOTING ENVIRONMENTAL AWARENESS AND SUSTAINABILITY IN THE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. The Project generally consists of construction services for the demolition and installation of 5 (five) Motor Control Centers(MCC's) and 3 (three) Variable Frequency Drives (VFD's), installation of new conduit, fittings and wiring, providing all resources, materials and equipment necessary to complete refurbishment of the Motor Controls Center systems located at the Southwest Reverse Osmosis (RO) Water Treatment Plant (WTP).
2. On June 27, 2018, the City issued a solicitation for bids, ITB-UT18-94/KR for replacement of the Motor Control Center Systems located at the Southwest (SW) Reverse Osmosis (RO) Water Treatment Plant.
3. On August 23, 2018, the City received two (2) bids from firms listed in alphabetical order as follows: Cogburn Bros., of Jacksonville, Florida and Gulf States Electric, Inc. of Naples,

Florida.

4. Gulf States Electric, Inc. of Naples, Florida was deemed the lowest responsive and responsible bidder meeting all the requirements as outlined in the bid documents.
5. The construction project contract amount, if approved is \$881,600.
6. The Department Director is requesting 10% City Controlled Contingency. The Expenditure of Contingency, if any will be subject to approval of specific change orders by the Utilities Department Director, if justified upon identified needs with an appropriate scope and cost to address specific needs.
7. The contract value is for \$881,600, plus a request for 10% City controlled contingency of \$88,160, for a project total of \$969,760.
8. If approved, the term of this Contract shall be for 330 calendar days to substantial completion and 360 calendar days for final completion.
9. This Item is a budgeted item.
10. Funding: Business 4050172.662601 SRO-13 Plant 2 MCC Replacement unencumbered \$1,315,955.00

LEGAL REVIEW:

Contract reviewed by Legal

EXHIBITS:

Department Memo

Resolution 221-18

Bid Tabulation – ITB-UT18-94/KR

PREPARED BY:

Wanda
Roop

Division- Procurement

Department- Finance

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director

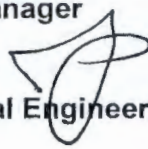

ATTACHMENTS:

Description	Type
▣ Department Memo	Backup Material
▣ Resolution 221-18	Resolution
▣ Bid Tabulation – ITB-UT18-94/KR	Backup Material



City of Cape Coral
Utilities Department

TO: John Szerlag, City Manager
Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager

FROM: Jeff Pearson, Utilities Director 
William H. Sperry, PE, Principal Engineer PE, Utilities 

DATE: September 17, 2018

SUBJECT: Utilities Department's Recommendation of Award for the
Southwest RO Water Treatment Plant Motor Control Center
Replacement Project, ITB-UT18-94/KR

Project Scope:

The Project is generally comprised of, but not limited to, the work required to replace five 800 ampere, 480-volt motor control centers (MCCs) and three 200 horsepower 480-volt variable frequency drives (VFDs) at the Southwest Reverse Osmosis Water Treatment Plant. The work also includes the demolition of existing equipment, installation of new conduit and fittings, wiring and all other related components required for a complete project.

Project Bids:

On Thursday, August 23, 2018, the City of Cape Coral received two (2) Bids from qualified contractors for the Southwest Reverse Osmosis Water Treatment Plant Motor Control Center Replacement, ITB-UT18-94/KR. Bids were received from Cogburn Bros., Inc. from Jacksonville, Florida and Gulf States Electric, Inc. from Naples, Florida. The bid item extensions and the summation of the bid items were checked for accuracy for each bidder.

The Total Estimated Construction Cost was as follows:

Gulf States Electric, Inc.	\$881,600.00
Cogburn Bros., Inc.	\$948,920.00

A copy of the Procurement Department's Bid Tabulation is included as an attachment.

Utilities Department Recommendation:

The Utilities Department concurs with the Procurement Department's determination that Gulf States Electric, Inc. is a responsible, responsive bidder. The Utilities Department therefore recommends award of the project to Gulf States Electric, Inc. for the Total Estimated Construction Cost of \$881,600.00. References were checked by the Utilities Department as a part of the review process.

Contingency Funds:

In conjunction with recommending the award of the Southwest Reverse Osmosis Water Treatment Plant Motor Control Center Replacement project, the Utilities Department requests a contingency amount of ten percent (10%) of the Total Estimated Construction Cost be allocated for this project. The work shall include, but is not limited to, the demolition of existing equipment and the replacement of the motor control centers along with the installation of new conduit, fittings and wiring. With this type of work the Utilities Department is likely to encounter unforeseen obstacles or conflicts requiring extra attention on behalf of the contractor. The Utilities Department must be prepared to deal with these situations in a timely manner to assure the project is completed in an expeditious manner thereby minimizing disruption to the Southwest Reverse Osmosis Water Treatment Plant's ongoing operation. Additional costs requested by the contractor will be reviewed by the Engineer of Record and approved by the Utilities Department prior to the work being performed.


Fund Availability:

Funding for this project has been included in Water Production - Southwest Reverse Osmosis Water Treatment Plant Capital Improvement Project Fund, Business Unit 4050172.662601, SRO-13 Plant 2 MCC Replacement and is presented as a line item in the FY2016 budget. Additional funding to cover the requested City controlled contingency amount of 10% (\$88,160.00), when added to the total bid amount (\$881,600.00) totals \$969,760.00. The SRO-13 Plant 2 MCC Replacement account presently has an unencumbered balance of \$1,315,043.49.

Thank you for your attention to this important matter. Should you have any questions or if we can be of further assistance please give William H. (Bill) Sperry, PE a call at 574-0729.

Attachment: Procurement Department's Bid Tabulation for:
ITB-UT18-94/KR
Southwest RO WTP MCC Replacement

ITB-UT18-94KR
Southwest RO WTP MCC Replacement
Bid Due Date - August 23, 2018

Bid Tabulation Detail Line Items				Cogburn Bros, Inc. 3300 Faye Road Jacksonville, FL 32226		Gulf States Electric, Inc. 4585 Progress Ave, Ste #2 Naples, FL 34104	
ITEM	DESCRIPTION	ESTIMATED QUANTITY (A)	UNIT	UNIT PRICE (B)	TOTAL ITEM COST (AxB)	UNIT PRICE (B)	TOTAL ITEM COST (AxB)
1	Mobilization/Demobilization (Not to Exceed 5 % of Total Bid Price)	1	LS	\$44,000.00	\$44,000.00	\$35,200.00	\$35,200.00
2	MCC-1 Replacement	1	LS	\$97,610.00	\$97,610.00	\$102,800.00	\$102,800.00
3	MCC-2 Replacement	1	LS	\$97,600.00	\$97,600.00	\$101,000.00	\$101,000.00
4	MCC-3 Replacement	1	LS	\$97,610.00	\$97,610.00	\$101,100.00	\$101,100.00
5	MCC-4 Replacement	1	LS	\$99,540.00	\$99,540.00	\$102,700.00	\$102,700.00
6	MCC-5 Replacement	1	LS	\$96,730.00	\$96,730.00	\$104,500.00	\$104,500.00
7	HSP-1 VFD Replacement	1	LS	\$99,410.00	\$99,410.00	\$84,100.00	\$84,100.00
8	HSP-2 VFD Replacement	1	LS	\$95,450.00	\$95,450.00	\$82,600.00	\$82,600.00
9	HSP-3 VFD Replacement	1	LS	\$90,450.00	\$90,450.00	\$82,700.00	\$82,700.00
10	Miscellaneous Additional Labor Hours	100	HR	\$100.00	\$10,000.00	\$60.00	\$6,000.00
11	TSH for VFD room	1	LS	\$1,670.00	\$1,670.00	\$3,300.00	\$3,300.00
12	Start-Up Services for MCC's	1	LS	\$35,660.00	\$35,660.00	\$15,200.00	\$15,200.00
13	Start-Up Services for VFD's	1	LS	\$12,040.00	\$12,040.00	\$9,600.00	\$9,600.00
14	Owner Training for MCC's	1	LS	\$4,880.00	\$4,880.00	\$2,000.00	\$2,000.00
15	Owner Training for VFD's	1	LS	\$4,880.00	\$4,880.00	\$2,000.00	\$2,000.00
16	General Requirements	1	LS	\$60,000.00	\$60,000.00	\$45,300.00	\$45,300.00
17	Allowance for Local Government Permits and Fees	1	LS	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00
TOTAL CONSTRUCTION COST (including allowances) 				\$948,920.00		\$881,600.00	

RESOLUTION 221 – 18

A RESOLUTION OF THE CITY OF CAPE CORAL AWARDING A BID FOR THE SOUTHWEST REVERSE OSMOSIS WATER TREATMENT PLANT MOTOR CONTROL CENTER REPLACEMENT PROJECT TO GULF STATES ELECTRIC, INC.; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT DOCUMENTS BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING FOR APPROVAL OF A CONTINGENCY AMOUNT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on June 27, 2018, INVITATION TO BID ITB-UT18-94/KR was issued for the replacement of the Motor Control Center Systems located at the Southwest Reverse Osmosis Water Treatment Plant, including but not limited to replacement of five 800-ampere, 480-volt motor control centers (MCCs) and three 200 horsepower variable frequency drives (VFDs); and

WHEREAS, having received two bids, the City Manager recommends the award of the bid to Gulf States Electric, Inc., as the lowest qualified responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid, in the amount of \$881,600, subject to a City-controlled contingency amount not to exceed ten (10) percent.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby awards the bid for the Southwest Reverse Osmosis Water Treatment Plant Motor Control Center Replacement Project to Gulf States Electric, Inc., in the amount of \$881,600, subject to a City-controlled contingency amount not to exceed ten (10) percent.

Section 2. The City Council hereby approves Contract CON-UT18-94/KR between the City of Cape Coral and Gulf States Electric, Inc., for the Southwest Reverse Osmosis Water Treatment Plant Motor Control Center Replacement Project and authorizes the City Manager or his designee to execute the Contract. A copy of the Contract is attached hereto as Exhibit 1.

Section 3. The City Council hereby authorizes the City Manager or the City Manager's designee to enter into change orders for work required for the alternate bid and any work other than as contemplated in the contract documents with an appropriate scope and cost to address those needs, subject to payment of a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract.

Section 4. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS SPECIAL COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Bid Award-Gulf States Electric Inc

SECTION 00500
AGREEMENT
CON-UT18-94/KR
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between City of Cape Coral, Florida ("Owner") and
Gulf States Electric, Inc.
4585 Progress Avenue, Suite #2
Naples, FL 34104 ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, and is generally described as follows:

Modifications to the power distribution system at the Southwest RO Water Treatment Plant located at 2090 SW 32nd Street, Cape Coral, Florida. The work includes, but is not limited to replacement of five 800 ampere, 480-volt motor control centers (MCCs) and three 200 horsepower variable frequency drives (VFDs).

The Work to be performed shall consist of furnishing all tools, equipment, materials, supplies, and manufactured articles, furnishing all labor, supervision, transportation, and services, including but not limited to fuel, power, water, essential communications, and performing all Work or other operations required in accordance with the Drawings and bid specifications. The Work shall be complete, and all Work, materials, and services not expressly indicated or called for in the Contract Documents, which may be necessary for the complete and proper construction of the Work, in good faith shall be provided by the Contractor as though originally so indicated, at no increase in cost to the City.

ARTICLE 3 – ENGINEER

- 3.01 The Owner has retained CDM Smith Inc. ("Engineer") to assist the Owner and act in limited capacity as the Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.
- 3.02 The Contract Documents; Division 00 – Bidding and Contract Requirements and Division 01 – General Requirements have been prepared by the City of Cape Coral, Florida. The Technical Specifications Divisions 2 through 17 and the Contract Drawings have been prepared by CDM Smith, Inc.

Exhibit 1

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Milestones, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents.

4.02 *Contract Times: Days*

- A. The Work will be substantially completed within **330** calendar days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **360** days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02.A above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
 - 1. Substantial Completion: Contractor shall pay Owner \$350.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
 - 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$350.00 for each day that expires after such time until the Work is completed and ready for final payment.
 - 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

4.04 *Special Damages*

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02.A for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02.A for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Unit Price Work, a total base bid cost of: \$ TBD - "Not to Exceed".
All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.
- B. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about 25 business days after the date on which the payment request or invoice is stamped as received by the Engineer. Payment for the Work shall be as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 90 percent of Work completed (with the balance being retainage). If the Work has been completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon 50 percent Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 5 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

7.01 All amounts not paid when due shall bear interest at the rate of one-percent (1.0%) per month.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 10, inclusive):

**Must Be Completed and Signed - City requires 2 signed SETS
Please attach Corporate Resolution (Section 00420) with the agreement.**

2. Performance Bond (pages 1 to 3, inclusive) (Section 00610) – Post Contract Execution:

Original Bond - Must Be Completed, Contractor/Firm will Record BOND at Lee County Clerk's Office and return original with recording receipt. Recording follows firm receiving fully executed agreement.

Provide Certificate of Authority that shows that the Surety Firm is authorized to transact in the State of Florida.

3. Payment Bond (pages 1 to 3, inclusive) (Section 00620) – Post Contract Execution:

Original Bond - Must Be Completed, Contractor/Firm will Record BOND at Lee County Clerk's Office and return original with recording receipt. Recording follows firm receiving fully executed agreement.

4. Warranty-Guaranty and Bonds (Section 00866 and Section 1740) –Post Contract Execution:

Post Contract Assemblage of Warranty-Guaranty, Service and Maintenance Bonds

5. Insurance Requirements – Post Contract Execution:

Insurance: Unless otherwise specified, Contractor shall, at its own expense, carry and maintain the coverages as outlined in the Supplementary Conditions (Section 800), as well as any insurance coverage required by law:

As Shown in ITB-UT18-94/KR – Specification Section 800 - Supplementary Conditions and Provide Certificate of Insurance including all required insurance coverage(s) with The City of Cape Coral named as an additional insured. Under Description of Operations on Certificate of Insurance include contract number – CON-UT18-94/KR – "Southwest RO Water Treatment Plant MCC Replacement".

6. General Conditions (pages 1 to 65, inclusive) (Section 00700):

As Shown in ITB-UT18-94/KR - Reference Only (June 2018)

Supplementary Conditions (pages 1 to 26, inclusive) (Section 00800)

As Shown in ITB-UT18-94/KR - Reference Only (June 2018)

Exhibit A – Pricing of Construction Contract Change Orders

As Shown in ITB-UT18-94/KR - Reference Only (June 2018)

Exhibit B – Right of Audit – Examination of Records

As Shown in ITB-UT18-94/KR - Reference Only (June 2018)

Exhibit C – Record Keeping

As Shown in ITB-UT18-94/KR - Reference Only (June 2018)

7. Specifications as listed in the ITB-UT18-94/KR table of contents of the Project Manual [Division 00, Division 01 as prepared by the City of Cape Coral and Divisions 02 through 17 as prepared by CDM Smith, Inc.].

As Shown in ITB-UT18-94/KR - Reference Only (June 2018)

8. Drawings with each sheet bearing the following general title: The City of Cape Coral, Southwest RO Water Treatment Plant MCC Replacement:

As Shown in ITB-UT18-94/KR - Reference Only (June 2018)

9. Addenda (numbers 1 to 3 , inclusive):

Signed Acceptance of Addendum -

As Shown in Submittal for ITB-UT18-94/KR – Reference Only (June 2018)

10. Fully Executed Purchase Order - POST CONTRACT EXECUTION

Issuance of Signed Purchase Order will follow

Contract execution, Payment & Performance Bond Recording,

Insurance Certificate acceptance. No work is to be performed

Prior to Issuance of Fully Executed Purchase Order and Notice to Proceed

11. Documents to this Agreement (enumerated as follows):

- a. **Contractor's Bid Submittal (Division 0, Section 00300).**

Completed Signed Bid Form 300 - Original Submittal

-Reference Only (June 2018)

- b. **Business Ethics Requirements (Division 0, Section 00481).**

Signed Acceptance of Form 00481 - Attachment Included

Included with Submitted Bid Form 300

Reference Only (June 2018)

12. The following which may be delivered or issued on or after the Effective Date of the Fully Executed Contract and are not attached hereto:

- a. Notice to Proceed.
b. Work Change Directives.
c. Change Orders.
d. Field Orders.

- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

- C. There are no Contract Documents other than those listed above in this Article 9.

The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Appropriations*

Pursuant to FL Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City, should the City Council reduce or eliminates appropriations.

10.06 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.07 *Other Provisions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.
- B. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

ARTICLE 11 – PUBLIC RECORDS

- A. Pursuant to Florida Statute §287.058 (1) (c), this contract may be unilaterally cancelled by the City if the Consultant, refuses to allow public access to all documents, papers, letters, or other material made or received by the Consultant in conjunction with this contract, unless the records are exempt from disclosure.

END OF SECTION

IN WITNESS WHEREOF, OWNER AND CONTRACTOR HAVE SIGNED THIS AGREEMENT. THIS AGREEMENT WILL BE EFFECTIVE ON _____ (WHICH IS THE EFFECTIVE DATE OF THE CONTRACT).

OWNER:

City of Cape Coral, Florida

Signature:

Typed Name: **A. John Szerlag**

Title: **City Manager**

Date:

Signature

Attest:

Title: **City Clerk**

Typed

Name: **Rebecca van Deutekom, MMC**

Date:

Address for giving notices:

City of Cape Coral (Attn: Procurement)

1015 Cultural Park Blvd.

2nd Floor

Cape Coral, FL 33990

LEGAL REVIEW:

Signature:

Typed Name: **Dolores Menendez, ESQ.**

Title: **City Attorney**

Date:

CONTRACTOR:

Gulf States Electric, Inc.

Signature:

Typed Name: **Martin J. Rogers**

Title: **President**

Date: **9/20/18**

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign with corporate resolution.)

Signature

Attest:

Title: **Secretary**

Typed

Name: **James Brock**

Date: **9/20/18**

Address for giving notices:

4585 Progress Ave.

Unit 2

Naples, FL 34104

State of Florida

Contractor License No.: **EC 133707**
(as applicable)

SECTION 00300
BID FORM
CITY OF CAPE CORAL
SOUTHWEST RO WATER TREATMENT PLANT
MOTOR CONTROL CENTER REPLACEMENT
ITB-UT18-94/KR

ARTICLE 1 – BID RECIPIENT

- 1.01 This Bid is submitted to:

City of Cape Coral, Procurement Division, 1015 Cultural Park Blvd., 2nd Floor, Cape Coral, FL 33990

- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.
- 1.03 EXECUTION OF BID: The Official Bid Form must contain a manual signature of an authorized representative. Bid must be typed or printed in ink. Use of erasable ink is not permitted. All corrections made by bidder to his/her bid price must be initialed.
- 1.04 AWARD: The City Council reserves the right to waive minor variations to specifications, informalities, irregularities and technicalities in any bids; to reject any and all bids in whole or in part with or without cause, and/or to accept bids that in its judgment will be in the best interest of the City. Following complete investigation of each bid received by the City, the City Council reserves the right to make awards on a multiple, lump sum, or individual item basis or in combination as shall best serve the interest of the City. The City reserves the right to negotiate additional related services.
- 1.05 PRICES: Bidder warrants by virtue of bidding that any orders placed within the bid period shall be honored at the prices, items and conditions quoted in his/her Official Bid Form. When a yearly quote is being obtained, bidder must contractually commit that bid amount on bid form is firm with no escalation in unit price or otherwise for 365 days from award date. Prices must be stated in units of quantity specified in the bid specifications. In case of discrepancy in computing the amount of the bid, the unit price will prevail.
- 1.06 LIABILITY INSURANCE: Where bidders are required to enter City property to deliver materials or perform work or service as a result of bid award, the bidder assumes full duty obligation and expense of obtaining all necessary insurance and associated licenses and/or permits. Insurance requirements are identified in SC-Article 6 of the Supplementary Conditions (Section 00800).

ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 120 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner. All bids will be publicly opened at the designated time and location specified within the Legal Notice.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum Date</u>
<u>1</u>	<u>July 17, 2018</u>
<u>2</u>	<u>August 6, 2018</u>
<u>3</u>	<u>August 13, 2017</u>

- B. Bidder meets the minimum qualifications as set forth in Specification Section 00100, Article 3 – Qualifications of Bidders and all required verifiable documentation and/or information is contained in Specification Section 00301, Bidder’s Information Statement and Questionnaire submitted herewith as a part of this bid package. EACH member of a partnership or qualifying joint venture has completed and submitted as a part of the Bid package, a completed Bidder’s Information Statement and Questionnaire (Specification Section 00301).
- C. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- D. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- E. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- F. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder’s safety precautions and programs.
- G. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- H. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.

- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- K. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER’S CERTIFICATION



4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
 - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

BID SCHEDULE**SOUTHWEST RO WATER TREATMENT PLANT
MOTOR CONTROL CENTER REPLACEMENT**

ITEM	DESCRIPTION	ESTIMATED QUANTITY (A)	UNIT	UNIT PRICE (B)	TOTAL ITEM COST (AxB)
1	Mobilization / Demobilization (Not to Exceed 5% of Total Bid Price)	1	LS	\$35,200.00	\$35,200.00
2	MCC-1 Replacement	1	LS	\$102,800.00	\$102,800.00
3	MCC-2 Replacement	1	LS	\$101,000.00	\$101,000.00
4	MCC-3 Replacement	1	LS	\$101,100.00	\$101,100.00
5	MCC-4 Replacement	1	LS	\$102,700.00	\$102,700.00
6	MCC-5 Replacement	1	LS	\$104,500.00	\$104,500.00
7	HSP-1 VFD Replacement	1	LS	\$84,100.00	\$84,100.00
8	HSP-2 VFD Replacement	1	LS	\$82,600.00	\$82,600.00
9	HSP-3 VFD Replacement	1	LS	\$82,700.00	\$82,700.00
10	Miscellaneous additional labor hours	100	HR	\$60.00	\$6,000.00
11	TSH for VFD room	1	LS	\$3,300.00	\$3,300.00
12	Start-Up Services for MCC's	1	LS	\$15,200.00	\$15,200.00
13	Start-Up Services for VFD's	1	LS	\$9,600.00	\$9,600.00
14	Owner Training for MCC's	1	LS	\$2,000.00	\$2,000.00
15	Owner Training for VFD's	1	LS	\$2,000.00	\$2,000.00
16	General Requirements	1	LS	\$45,300.00	\$45,300.00
TOTAL ESTIMATED CONSTRUCTION COST: 					\$880,100.00
17	Allowance for Local Government Permits and Fees	1	LS	\$1,500.00	\$1,500.00
TOTAL ESTIMATED CONSTRUCTION COST INCLUDING ALLOWANCE: 					\$881,600.00

(TOTAL ESTIMATED CONSTRUCTION COST INCLUDING ALLOWANCES
WRITTEN IN WORDS ON LINES BELOW):

Eight Hundred Eighty-One Thousand, Six Hundred Dollars and Zero Cents

Time of Completion

- 5.02 Bidder agrees that the Work will be substantially completed within 330 days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions (Section 00700) and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 360 days of Notice to Proceed. No work is to begin prior to Notice to Proceed and issuance of Purchase Order.
- 5.03 Bidder accepts the provisions of the Agreement (Section 00500) as to liquidated damages in the amount of \$350.00 for each day.

ARTICLE 6 – ATTACHMENTS TO THIS BID

- 6.01 The City of Cape Coral **requires** the following signed documents to be returned with all bids in order for a bid to be considered "Responsive": Please provide the documents in the following order for ease of verification of completeness of your bid package.

- A. Section 00300 – Bid Form
Subcontractor Listing
Sworn Statement on Public Entity Crimes
Form 3A – Interest In Competitive Bid For Public Business
Drug Free Work Place Certification
Acknowledgement of Insurance Requirements
Contractor's Self Performed Work Evaluation Form
- B. Section 00301 - Bidder's Information Statement and Questionnaire and applicable Attachments (Each member of a partnership or qualifying joint venture must submit a completed Bidder's Information Statement and Questionnaire, Section 00301.)
- C. Section 00410 Bid Bond
- D. Section 00420 Corporate Resolution
- E. Section 00480 Non-Collusion Affidavit
- F. Section 00481 Business Ethics Requirements

One (1) original and two (2) hard copies, and one (1) electronic copy (CD, flash drive, or DVD), exactly mirroring the entire Bid Proposal Package is required to be submitted with the Bid Package.

REVISED AUGUST 10, 2018

FAILURE TO RETURN ALL OF THE ABOVE REQUIRED ITEMS WITH A BID MAY RESULT IN YOUR BID BEING CONSIDERED NON-RESPONSIVE AND WILL NOT BE CONSIDERED FOR AWARD.

ARTICLE 7 – DEFINED TERMS

7.01 The terms used in this Bid beginning with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 8 – BID SUBMITTAL

BIDDER: *[Indicate correct name of bidding entity]*

Gulf States Electric, Inc.

By:

[Signature]

[Printed name]

Martin J. Rogers

Title:

President

Attest:

[Signature]

[Printed name]

Bradley K. Hamm

Title:

Project Manager

Submittal Date:

8/23/18

Address for giving notices:

Gulf States Electric, Inc

4585 Progress Ave. #2

Naples, FL 34104

Telephone Number:

239-263-7137

Fax Number:

239-263-7328

Contact Name and e-mail address:

Martin J Rogers

Wierenut@aol.com

Bidder's License No.:

EC13003707

(where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

SECTION 00420


CORPORATE RESOLUTION

I, James M Brock, Secretary of Gulf States Electric, a corporation organized and existing under the laws of the State of Florida, hereby certify that at a meeting of the Board of Directors of the Corporation duly called and held on August 13, 2018, at which a quorum was present and acting throughout, the following resolutions were adopted and are now in full force and effect:

RESOLVED that the following individuals of this corporation are authorized to execute on behalf of this corporation a Bid and Agreement to City of Cape Coral, Florida for the construction of the Southwest RO Water Treatment Plant Motor Control Center Replacement

(Project Name)

I further certify that the names of the officers of this corporation and any other persons authorized to act under this resolution and their official signatures are as follows:

NAME	OFFICER	OFFICIAL SIGNATURE
Martin J Rogers	President	

IN WITNESS WHEREOF, I have hereunto subscribed my name as Secretary and affixed the seal of the corporation this 13 day of August, 2018.

SECRETARY: James M Brock DATE: 8/13/18
(Signature)

END OF SECTION

SECTION 00481

BUSINESS ETHICS REQUIREMENTS

1. During the course of pursuing contracts with Owner and while performing contract work in accordance with this agreement, Contractor agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the Owner best interests.
2. Contractor shall take reasonable actions to prevent any actions or conditions which could result in a conflict with Owner's best interests. These obligations shall apply to the activities of contractor employees, agents, subcontractors, subcontractor employees, consultants of contractor, etc.

Contractor employees, agents, subcontractors, material suppliers (or their representatives) should not make or cause to be made any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to Owner's representatives, employees or their relatives.

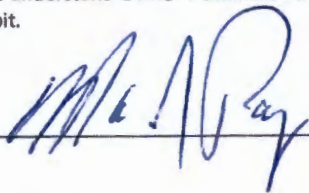
Contractor employees, agents or subcontractors (or their relatives) should not receive any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from representatives of subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the project.

3. Contractor agrees to notify a designated Owner representative within 48 hours of any instance where the Contractor becomes aware of a failure to comply with the provisions of this article.
4. The e-mail address and/or telephone number to report any concerns related to any possible violations of the Owner's Business Ethics Expectations are as follows:


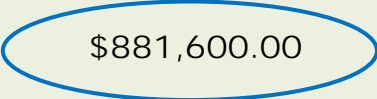
E-mail: Kathy Rose, krose@capecoral.net
Telephone: 239-242-0831

5. Upon request by Owner, Contractor agrees to provide a certified Management Representation Letter executed by selected Contractor representatives in a form agreeable to Owner stating that they are not aware of any situations violating the business ethics expectations outlined in this contract or any similar potential conflict of interest situations.
6. Contractor agrees to include this clause in all contracts with subcontractors and material suppliers receiving more than \$25,000 in funds in connection with the Owner's project.
7. Contractor shall permit interviews of employees, reviews and audits of accounting or other records by Owner representative(s) to evaluate compliance with the business ethics standards. Such reviews and audits will encompass all dealings and activities of Contractor's employees, agents, representatives, vendors, subcontractors, and other third parties paid by Contractor in their relations with Owner's current or former employees or employee relatives.
8. Contractor agrees to implement a program requiring their employees sign acknowledgements that they have read and understand Owner's Business Ethics Expectations and the related obligations outlined in this contract exhibit.

Signature



Date 8/23/18

ITB-UT18-94KR Southwest RO WTP MCC Replacement Bid Due Date - August 23, 2018							
Bid Tabulation Detail Line Items				Cogburn Bros, Inc. 3300 Faye Road Jacksonville, FL 32226		Gulf States Electric, Inc. 4585 Progress Ave, Ste #2 Naples, FL 34104	
ITEM	DESCRIPTION	ESTIMATED QUANTITY (A)	UNIT	UNIT PRICE (B)	TOTAL ITEM COST (AxB)	UNIT PRICE (B)	TOTAL ITEM COST (AxB)
1	Mobilization/Demobilization (Not to Exceed 5 % of Total Bid Price)	1	LS	\$44,000.00	\$44,000.00	\$35,200.00	\$35,200.00
2	MCC-1 Replacement	1	LS	\$97,610.00	\$97,610.00	\$102,800.00	\$102,800.00
3	MCC-2 Replacement	1	LS	\$97,600.00	\$97,600.00	\$101,000.00	\$101,000.00
4	MCC-3 Replacement	1	LS	\$97,610.00	\$97,610.00	\$101,100.00	\$101,100.00
5	MCC-4 Replacement	1	LS	\$99,540.00	\$99,540.00	\$102,700.00	\$102,700.00
6	MCC-5 Replacement	1	LS	\$96,730.00	\$96,730.00	\$104,500.00	\$104,500.00
7	HSP-1 VFD Replacement	1	LS	\$99,410.00	\$99,410.00	\$84,100.00	\$84,100.00
8	HSP-2 VFD Replacement	1	LS	\$95,450.00	\$95,450.00	\$82,600.00	\$82,600.00
9	HSP-3 VFD Replacement	1	LS	\$90,450.00	\$90,450.00	\$82,700.00	\$82,700.00
10	Miscellaneous Additional Labor Hours	100	HR	\$100.00	\$10,000.00	\$60.00	\$6,000.00
11	TSH for VFD room	1	LS	\$1,570.00	\$1,570.00	\$3,300.00	\$3,300.00
12	Start-Up Services for MCC's	1	LS	\$35,650.00	\$35,650.00	\$15,200.00	\$15,200.00
13	Start-Up Services for VFD's	1	LS	\$12,040.00	\$12,040.00	\$9,600.00	\$9,600.00
14	Owner Training for MCC's	1	LS	\$4,880.00	\$4,880.00	\$2,000.00	\$2,000.00
15	Owner Training for VFD's	1	LS	\$4,880.00	\$4,880.00	\$2,000.00	\$2,000.00
16	General Requirements	1	LS	\$60,000.00	\$60,000.00	\$45,300.00	\$45,300.00
17	Allowance for Local Government Permits and Fees	1	LS	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00
TOTAL CONSTRUCTION COST (including allowances) 				\$948,920.00		 \$881,600.00	

Item Number: B.(5)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 222-18 Amendment to South Cape Banner Program; Reducing the installation fee from \$80 per pole to \$40 per pole; Department: City Manager's Office; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
 2. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan? No

ELEMENT D: IMPROVE THE CITY'S IMAGE WITH THE PURPOSE OF BUILDING LASTING RELATIONSHIPS WITH OUR RESIDENTS AND VALUABLE PARTNERSHIPS WITH OTHER ORGANIZATIONS, AND CONTINUALLY PROVIDE A WELL-BALANCED AND POSITIVE WORKPLACE FOR OUR INTERNAL STAKEHOLDERS.

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

On April 27, 2015, City Council approved the South Cape Street Banner Program which allowed banners to be placed on available decorative street light poles. The Community Redevelopment Agency (CRA) created the program to identify the area known as "South Cape", to add color and vitality to streetscapes, and to publicize events and promote programs.

A fee of \$80 was established to cover expenses directly related to the program such as installation of banners, removal of banners, repairs, or purchase of replacement parts. The CRA has now determined that the fee charged should be reduced to \$40.

LEGAL REVIEW:

EXHIBITS:

Memo - Amend South Cape Banner Program
Resolution 222-18

PREPARED BY:

Helen
Ramey Division- CRA Department- CRA

SOURCE OF ADDITIONAL INFORMATION:



ATTACHMENTS:

Description	Type
▢ MEMO- Amend South Cape Banner Program	Backup Material
▢ Resolution 222-18	Resolution

MEMORANDUM

CITY OF CAPE CORAL CITY MANAGER'S OFFICE

TO: Mayor Coviello and Council Members

FROM: John Szerlag, CRA Executive Director
Terri Hall, CRA Coordinator  

DATE: October 2, 2018

SUBJECT: South Cape Banner Program
October 15, 2018 Agenda Item

Executive Summary

The South Cape Banner Program, adopted by the CRA and City in 2015, allows nonprofits and not-for-profits located in the South Cape to place banners on the decorative streetlight poles. The purpose of the program is to foster interest and promote the community redevelopment area. As a best practice, staff continues to review the program and related processes to ensure the program's success. Recently, the City Facilities staff determined the current cost to install and remove the banners can be reduced by \$40 per pole. The reduced price still allows the city to complete the service and remain cost neutral.

Background

Since the inception of the South Cape Street Banner Program, Facilities has worked to install and remove each banner at no cost to the City. Staff's initial assessment to install and remove the banners was \$80 per pole. They recently reevaluated the process and can complete the work for \$40 per pole.

Reducing the cost is not the only change staff has recommended over the last few years. In October 2016, the CRA Board voted 7-0 to amend the program with two changes. The first change removed the limit on the number of poles that can be reserved. The second gave the Executive Director or designee authorization to extend the amount of time an applicant's banners can be displayed on the poles. These two changes, in addition to the recommended fee reduction, will benefit the users and encourage others to participate.

The CRA Board of Commissioners approved the fee reduction and recommends approval.

Mayor and Council – South Cape Banner Program
October 2, 2018
Page 2

Recommendation

Staff is requesting approval of Resolution 222-18 reducing the South Cape Banner Program's installation and removal fee to \$40 per pole.

JS/th

C: Paul Clinghan, Public Works Director
Mark Ridenour, Facilities Manager

RESOLUTION 222 - 18

A RESOLUTION OF THE CITY OF CAPE CORAL ADOPTING AN AMENDMENT TO THE SOUTH CAPE STREET BANNER PROGRAM TO REDUCE THE FEE FROM \$80 TO \$40; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 27, 2015, City Council approved the South Cape Street Banner Program which allowed banners to be placed on available decorative street light poles; and

WHEREAS, the banner program was created by the Community Redevelopment Agency to identify the area known as "South Cape", to add color and vitality to streetscapes, and to publicize events and promote programs; and

WHEREAS, a fee was established to cover expenses directly related to the program such as installation of banners, removal of banners, repairs, or purchase of replacement parts; and

WHEREAS, now that the street banner program has been in place for three years, the Community Redevelopment Agency has re-evaluated the fee charged and recommends reducing the fee from the initial \$80 for installation and removal of a banner to \$40.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council of the City of Cape Coral hereby approves the amended South Cape Street Banner Program in which the fee for installation and removal of a banner is reduced from \$80 to \$40. The amended South Cape Street Banner Program is attached hereto and incorporated herein by reference.

Section 2. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

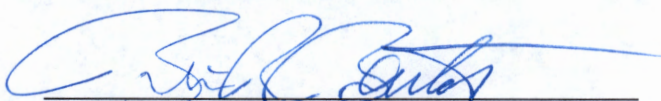
COVIELLO
GUNTER
CARIOSCLA
STOUT

NELSON
STOKES
WILLIAMS
COSDEN

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
res/CRA Banner Program
9/25/18

South Cape Street Banner Program



**Cape Coral Community Redevelopment Agency
South Cape CRA
4816 Chester Street
Cape Coral, FL 33904**

Phone: 239-242-3737

Street Banner Program Overview

The South Cape CRA Banner Program was created by Cape Coral Community Redevelopment Agency [CRA] and City of Cape Coral to:

- Identify the South Cape Community Redevelopment Area known as South Cape; (hereinafter South Cape)
- Activate the public space;
- Add color and vitality to streetscapes;
- Publicize events or promote programs promulgated by non-profit or not-for-profit organizations.

The intent of the banner program is to place banners on available decorative street light poles year round to foster interest in the South Cape Community Redevelopment Area. The decorative street light poles are located on the north and south sides of Cape Coral Parkway between Del Prado Boulevard and Palm Tree Boulevard.

The decorative street light poles are available for non-profit and not-for-profit organizations. The City of Cape Coral and Community Redevelopment Agency are exempt from this program and reserve the option to display banners at will, provided that the banners are promoting events or activities taking place in the South Cape Community Redevelopment Area or otherwise enhancing the South Cape Community Redevelopment Area public space, such as banners promoting the South Cape Redevelopment Area as an attractive place to “live, work and play.”

Responsibilities

In an effort to fully utilize the program to promote activities, special events, attractions or to promote programs, the South Cape CRA wants to encourage non-profit and not-for-profit organizations to use the South Cape Street Banner Program.

Banner applicants are responsible for requesting banner space, developing a design proposal, producing banners according to specifications, delivering banners, collecting banners and paying all required costs and fees. Applicants must submit a written application each year for the Community Redevelopment Agency to review.

The Community Redevelopment Agency is responsible for reviewing and approving banner designs, coordinating the installation and removal of banners and quality control checks. The Agency will contact the individual(s) listed on the application to notify them the banners have been removed and are ready to be picked up. Street banners not collected within ten (10) working days from the time of removal will be disposed of without further notice to the applicant.

The Community Redevelopment Agency and the City of Cape Coral shall not be responsible for storing banners, theft, vandalism or weather damage that occurs to South Cape street banners.

Eligibility

Because the demand for banner space occasionally exceeds the supply, the Community Redevelopment Agency has developed criteria for approving street banner applications:

- Applicants must be non-profit or not-for-profit organization.
- Banners must either promote activities or special events occurring in the South Cape Redevelopment area only or promote programs promulgated by eligible applicants.

Length of Programs

If the decorative light pole space is available, poles in which to attach banners may be reserved for up to 13 weeks, but not less than 4 weeks. Upon good cause shown by an applicant, the Executive Director, or the Executive Director's designee, may authorize the display of banners for an additional 13 weeks.

Banner Construction Specifications

Banners must meet the following requirements or they will not be placed on the poles. Banners that do not withstand the physical elements (so as to appear faded, tattered, or otherwise in a deteriorated condition) will be removed without refund.

Dimensions: 60 inches high and 30 inches wide and have 2-inch loop holes

Material: 18 oz., smooth, double sided, reinforced laminated vinyl with strong block out polyester scrim and reinforced grommets.

Banner Design Guidelines

Street banners are different from most graphic designs. They are generally viewed quickly or from a distance. Therefore, the message needs to be conveyed rapidly. A small number of design elements, bright, contrasting colors, and large, clear typography are common elements of successful banner designs.

Although banners may identify the individual, business, or organization sponsoring the banner or the event, they are not to be used as a means of providing commercial advertising. Thus, a banner may state "sponsored by ABC Widgets" with or without logo or "John Q. Citizen", but it could not state "Eat at Joe's Restaurant, home of the best BBQ ribs". No more than 1/8 of the total banner area shall be used to identify the sponsor or sponsors of a banner, activity, event or program, including but not limited to the words "sponsored by" or their equivalent and the name(s) or logos of the sponsor(s).

Banners that are deemed by the Community Redevelopment Agency (CRA) to be obscene banners because their contents meet the judicially established definition of obscenity or that are otherwise considered obscene under Florida Statutes are not eligible for participation in the banner program and any application to install such banners shall be denied by the CRA Executive Director or the Director's designee.

Reservations and Program Costs

All applicants must submit a completed application to the Community Redevelopment Agency. Reservations will be accepted up to one (1) year in advance on a first-come, first-served basis, but not less than eight (8) weeks prior to requested reservation date. Although an applicant may request a preferred location, the decision concerning the specific poles on which banners will be installed will be made by the CRA, in its sole discretion, after consideration of factors including, but not limited to, number of applications received for the same period of time, number of banner locations requested by each applicant, banner installation history and proximity of banners to event site or venue. The overall goal is to make reasonable accommodations that consider the interests of all applicants as well as the community interest in showcasing special events and activities available for public participation as well as enhancing the “sense of place” in the South Cape Community Redevelopment Area.

At any time, banner sites may not be available because of construction, missing hardware, accidents, maintenance or other reasons.

Fees for the use of the poles are intended to cover expenses directly related to the program. Such expenses may include, but are not limited to, installation of banners, removal of banners, repairs, the purchase of additional or replacement of brackets. Applicants are responsible for all costs related to the design, production, delivery, and storage of banners.

All fees must be paid in full to the City of Cape Coral prior to installation. The cost to install and remove each banner is \$40 per pole.

Number of Poles for Display of Banners.

Minimum number of poles allowed per organization to display banners is 10. There is no limit on the maximum number of poles allowed, however, the CRA shall consider factors including, but not limited to, the number of applications received for the same period of time, number of banner locations requested by each applicant, banner installation history, and proximity of banners to event site or venue, to determine the number of poles allowed per applicant.

Approval Process

The banner design must be approved by the Community Redevelopment Agency (CRA) prior to placement. The Executive Director or the Executive Director’s designee will review and approve the banner design. If an application is denied, the applicant may request the CRA to review the denial. The CRA shall then have the option to uphold the denial or to approve the application, with or without modifications. An applicant can expect notification of the initial decision on the application within three (3) to five (5) business days of submittal. Applicants are strongly encouraged **not** to have banners produced prior to approval.

Please mail the attached application, and proof of non-profit or not-for-profit status to:

Cape Coral Community Redevelopment Agency
4816 Chester Street
Cape Coral, FL 33904
Phone: (239) 242-3737

APPLICATION FOR SOUTH CAPE BANNER INSTALLATION

Applicant / Organization: _____

Address: _____

Contact Person: _____ Phone: _____

Email Address: _____

Purpose of Banners: _____

Number of Banners: _____

Preferred Locations (use pole numbers as identified on the attached map)

Pole #'s _____

Dates Requested: _____

Date of Removal: _____

*Please note: banner installation is contingent on the schedules of City facilities staff. It is reasonable to expect banners installed within a 5-day period surrounding the target installation date.

Total Cost: _____

Balance Due before Installation: _____

All banner designs must be approved by the Community Redevelopment Agency prior to final application approval. Approved banners must be dropped off at the CRA office located at 4816 Chester Street, no less than five days prior to the scheduled date of installation. **The installation fee shall be due when banners are dropped off. Payment should be made to the City of Cape Coral.**

The Cape Coral Community Redevelopment Agency and the City of Cape Coral will not be responsible for lost, stolen, or damaged banners and reserve the right to refuse any banner deemed unfit for installation.

The Cape Coral Community Redevelopment Agency and the City of Cape Coral will not be responsible for storing banners. Applicants are to retrieve their banners within 3 business days of take down.

I have read and understand the South Cape CRA Street Banner Program policy.

Authorized Representative

Date

Cape Coral Community Redevelopment Agency
4816 Chester Street
Cape Coral, FL 33904
Phone: (239) 242-3737

Item Number: B.(6)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 226-18 Award Bid# ITB-UT18-116/KR to Quality Enterprises USA, Inc. of Naples, FL as the lowest responsive, responsible bidder, to provide construction services for the relocation of Weir 15 controls and replacement of the deteriorated control systems for Weir 15 Bladder & Controls Improvement project which are part of the continuation of the Lee County Burnt Store Road Widening project, for an amount of \$174,102 with a 10% City controlled contingency of \$17,410 for a total project cost of \$191,512 and authorize the City Manager or designee to execute the contract, amendments, change orders and purchase orders, within his signature authority; Department: Utilities; Dollar Value: \$191,512; (Water and Sewer Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
 2. Is this a Strategic Decision? Yes
- If Yes, Priority Goals Supported are listed below.
- If No, will it harm the intent or success of the Strategic Plan?

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. An Invitation to Bid was issued to engage a Contractor to relocate and replace the deteriorated Weir 15 Bladder & Controls systems. The improvements are necessary as the current location of the system controls are in direct conflict with the ongoing Lee County Burnt Store Widening project.
2. The Project consists of construction services for the relocation and replacement of the deteriorated controls used to inflate the bladder unit for the Weir 15 mechanical weir raising system.
3. On July 25, 2018, the City issued a solicitation for bids, ITB-UT18-116/KR for relocation and replacement of the Weir 15 Bladder & Control System Improvement located on Burnt Store Road.
4. On August 29, 2018, the City received one bid from Quality Enterprises USA, Inc.
5. Quality Enterprises USA, Inc. of Naples, Florida was deemed the lowest responsive and responsible bidder meeting the requirements as outlined in the bid documents.

6. Procurement contacted the plan holders that obtained bid documents for the project and did not submit proposals. The responses we received for no bid submissions includes the following reasons: "Conflicts with other projects scheduled." "Too busy to take on additional work." and "Unable to meet the bid specifications."
7. The construction project contract amount, if approved is \$174,102.
8. The Department Director is requesting 10% City Controlled Contingency. The Expenditure of Contingency, if any will be subject to approval of specific change orders by the Utilities Department Director, if justified upon identified needs with an appropriate scope and cost to address specific needs.
9. The contract value is for \$174,102, plus a request for 10% City controlled contingency of \$17,410, for a project total of \$191,512.
10. If approved, the term of this Contract shall be for 210 calendar days substantial completion and 240 calendar days for final completion.
11. This Item is a budgeted item.
12. Funding: Business 4050099.662601 IRR-1 Weir Improvements – Other than Buildings unencumbered \$1,048,990.00

LEGAL REVIEW:

Contract reviewed by Legal

EXHIBITS:

Department Memo with Engineer Memo
Resolution 226-18
Bid Tabulation – ITB-UT18-116/KR

PREPARED BY:

Wanda Division- Procurement Department- Finance
Roop

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director

ATTACHMENTS:

Description	Type
▣ Department Memo	Backup Material
▣ Resolution 226-18	Resolution
▣ Bid Tabulation – ITB-UT18-116/KR	Backup Material

CITY OF CAPE CORAL
UTILITIES DEPARTMENT

TO: John Szerlag, City Manager
Victoria Bateman, Financial Services Director
Wanda Roop, Procurement Manager

FROM: Jeff Pearson, Utilities Director
Gino Notarianni, Senior Project Manager - *GN*

DATE: September 24, 2018

SUBJECT: Weir 15 Bladder & Control Improvements Project - ITB-UT18-116KR
Recommendation to Award Memorandum

Summary

The Weir 15 scope-of-work consists of re-locating the subject weir controls that are in direct conflict with the on-going Lee County Burnt Store Road Widening Project. In addition, the Utilities Department desires to replace the existing deteriorated braided stainless steel pneumatic tubing with a proprietary (Swagelok) 316 stainless steel system to inflate the bladder control units.

Recommendation

The Utilities Department has recently solicited public bids through the Procurement Department. The date of posting was July 25, 2018 and the bid opening was August 29, 2018. There was one bidder for this project: Quality Enterprises USA, Inc. for the bid amount of \$174,101.75. The City of Cape Coral Utilities Department concurs with the Engineer of Record's recommendation that the apparent low bidder Quality Enterprises USA Inc. be awarded the contract in the bid amount of (\$174,101.75) with a 10% city-controlled contingency in the amount of (\$17,410.18). Therefore, the project bid amount plus city-controlled contingency, will be in the total project amount of One Hundred Ninety-One Thousand Five Hundred Eleven Dollars and Ninety-Three Cents (\$191,511.93). Furthermore, Quality Enterprises USA, Inc. is experienced in working with the City of Cape Coral on previous weir improvement projects for Weirs 11, 13 and 14.

Funds for the Weir 15 Bladder & Controls Improvements Project - ITB-UT18-116KR will come from the IRR-1 Weir Improvements - Other than Buildings (JDE Account Number 4050099.662601) which has an unencumbered balance of \$1,087,225.00.

Please feel free to contact Gino Notarianni directly at 573-3039 if you should require any additional information or if you have any additional questions or concerns.

Attachments:

- (1) Tetra Tech – Recommendation to Award Memo
- (2) Weir 15 Bid Tabulation

Cc: James Diviesta, Contract Administrator



September 24, 2018

Jeff Pearson
Utilities Director
City of Cape Coral
Utilities Department
P.O. Box 150027
Cape Coral, FL

Dear Mr. Pearson,

Subject: City of Cape Coral
ITB-UT18-116/KR
Weir 15 Bladder & Controls Improvements
Award Recommendation

Tetra Tech, Inc., as Engineer of Record for the project, has summarized the bid results (attached) and reviewed them for consistency with generally expected pricing.

Quality Enterprises USA, Inc. was the only contractor that submitted a bid for this project. Based on the quality of their work performed on the similar Weir 11 improvements project, and our evaluation of their pricing, Tetra Tech, Inc. recommends award to Quality Enterprises USA, Inc.

Yours Sincerely,

A handwritten signature in black ink that reads 'Alfred J. Mittl'.

Alfred J. Mittl, P.E.
Senior Project Manager

Cc: Gino Notarianni, Project Manager, City of Cape Coral

Tetra Tech, Inc.

3501 Del Prado Blvd., Suite 210, Cape Coral, FL 33904
Tel 239.542.1196 www.tetratech.com

RESOLUTION 226 – 18

A RESOLUTION OF THE CITY OF CAPE CORAL AWARDING A BID FOR THE WEIR 15 BLADDER AND CONTROL IMPROVEMENTS PROJECT TO QUALITY ENTERPRISES USA, INC.; PROVIDING FOR SUBSEQUENT EXECUTION OF THE CONTRACT DOCUMENTS BY THE CITY MANAGER OR HIS DESIGNEE; PROVIDING FOR APPROVAL OF A CONTINGENCY AMOUNT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on July 25, 2018, INVITATION TO BID ITB-UT18-116/KR was issued for the relocation and replacement of deteriorated Weir 15 bladder and control systems; and

WHEREAS, the current system controls are in conflict with the ongoing Lee County Burnt Store Road Widening Project; and

WHEREAS, having received one bid, the City Manager recommends the award of the bid to Quality Enterprises USA, Inc., as the lowest qualified responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid, in the amount of \$174,102, subject to a City-controlled contingency amount not to exceed ten (10) percent.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby awards the bid for the Weir 15 Bladder and Control Improvements Project to Quality Enterprises USA, Inc., in the amount of \$174,102, subject to a City-controlled contingency amount not to exceed ten (10) percent.

Section 2. The City Council hereby approves Contract CON-UT18-118/KR between the City of Cape Coral and Quality Enterprises USA, Inc., for the Weir 15 Bladder and Control Improvements Project and authorizes the City Manager or his designee to execute the Contract. A copy of the Contract is attached hereto as Exhibit 1.

Section 3. The City Council hereby authorizes the City Manager or the City Manager's designee to enter into change orders for work required for the alternate bid and any work other than as contemplated in the contract documents with an appropriate scope and cost to address those needs, subject to payment of a City-controlled contingency amount not to exceed ten (10) percent of the total amount of the contract.

Section 4. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS SPECIAL COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Bid Award-Quality Enterprises USA

SECTION 00500
AGREEMENT

CON-UT18-116/KR
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between City of Cape Coral, Florida ("Owner") and

Quality Enterprises USA, Inc.
3494 Shearwater Street
Naples, FL 34117

("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described and comprised of the following:

The Work will proceed in two phases. Phase I of the Work is comprised of: new Weir No. 15 air supply equipment on the north side of Shadroe Canal and connection to the existing air supply piping to the Weir No. 15 air bladders resulting and a fully operational air supply system; removal of existing Weir No. 15 air supply equipment from the north side of Shadroe Canal after the Weir No. 15 air bladders are fully operational and being supplied air from the new air supply equipment. Phase II of the Work comprised of: removal and replacement of seven (7) air bladders and the 1-inch air supply piping affixed to Weir No. 15 and supplying air to the weir level control air bladders; other work displayed or described in the Contract Documents. The seven (7) new air bladders will be furnished by the Owner.

The Contractor shall furnish all labor, materials, equipment and incidentals required to construct the Weir 15 Bladder & Controls Improvements, as shown on the Drawings and as specified in the Contract Documents. The selected contractor will also be responsible for final site restoration.

ARTICLE 3 – ENGINEER

- 3.01 The Owner has retained Tetra Tech, Inc., ("Engineer") to assist the Owner and act in limited capacity as the Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.
- 3.02 The Contract Documents; Division 0 – Bidding and Contract Requirements; Division 1 – General Requirements; and, Technical Specifications Divisions 2 through 17 have been prepared by the City of Cape Coral, Florida and Tetra Tech, Inc. The Contract Drawings have been prepared by Tetra Tech, Inc.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Milestones, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence.

4.02 *Contract Times: Days*

- A. The Work will be substantially completed within 210 calendar days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 240 days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02.A above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
 - 1. Substantial Completion: Contractor shall pay Owner \$500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
 - 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500.00 for each day that expires after such time until the Work is completed and ready for final payment.
 - 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

4.04 *Special Damages*

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02.A for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02.A for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
- A. For all Unit Price Work, a total base bid cost of: **\$174,101.75 (One-Hundred Seventy-Four Thousand, One-Hundred and One Dollar and Seventy-Five Cents) - "Not to Exceed"**.
All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.
 - B. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about 25 business days after the date on which the payment request or invoice is stamped as received by the Engineer. Payment for the Work shall be as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 90 percent of Work completed (with the balance being retainage). If the Work has been completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon 50 percent Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 5 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

7.01 All amounts not paid when due shall bear interest at the rate of one-percent (1.0%) per month.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor’s safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor’s entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 9, inclusive).

Must Be Completed and Signed - City requires 2 signed SETS

Attach - Corporate Resolution (Section 00420) with the signed agreement

2. Performance Bond (pages 1 to 3, inclusive) (Section 00610) – Post Contract Execution

Bond Form - Must Be Completed, Recorded in Lee County within 14 calendar days of bidder's receipt Fully Executed Agreement. Provide Certificate that shows the Surety Firm is authorized to transact in the State of Florida.

POST CONTRACT EXECUTION – Included as Reference ONLY

3. Payment Bond (pages 1 to 3, inclusive) (Section 00620) – Post Contract Execution

Bond Form - Must Be Completed, Recorded in Lee County within 14 calendar days of bidder's receipt of Fully Executed Agreement. Provide Certificate that shows the Surety Firm is authorized to transact in the State of Florida.

POST CONTRACT EXECUTION – Included as Reference ONLY

4. Warranty and Bonds (Section 1740) – Post Contract Execution

Post Contract Assemblage of Warranty, Service and Maintenance Bonds

POST CONTRACT EXECUTION – Included as Reference ONLY

5. Insurance Requirements- Post Contract Execution

Insurance: Unless otherwise specified, Contractor shall, at its own expense, carry and maintain the coverages as outlined in the Supplementary Conditions (Section 800), as well as any insurance coverage required by law:

**As Shown in ITB-UT18-116/KR - Section 800 - Supplementary Conditions
Provide Certificate of Insurance including all required insurance coverage(s) with The City of Cape Coral named as an additional insured.**

Under Description of Operations on Certificate of Insurance include contract number #CON-UT18-116/KR – Weir 15 – Bladder & Controls Improvements

POST CONTRACT EXECUTION – Included as Reference ONLY

6. General Conditions (pages 1 to 65, inclusive) (Section 00700)

and Supplementary Conditions (pages 1 to 24, inclusive) (Section 00800), plus following exhibits:

- a. Including Exhibit "A" – Pricing of Construction Contract Change Orders
- b. Including Exhibit "B" – Right of Audit – Examination of Records
- c. Including Exhibit "C" – Record Keeping and Public Records

As Shown in ITB-UT18-116/KR - Reference Only (August 2018).

7. Specifications as listed in the table of contents of the bid documents [Division 00, Division 01 and Divisions 02 through 17 as prepared by the City of Cape Coral and Engineer].

As Shown In ITB-UT18-116/KR - Reference Only (August 2018).

8. Drawings with each sheet bearing the following general title: The City of Cape Coral, Weir15 Bladder & Controls Improvements as prepared by Tetra Tech, Inc.

As Shown In ITB-UT18-116/KR - Reference Only (August 2018)

9. Addenda (numbers 1 to 2 , inclusive).

**Signed Acceptance of Addendum - Included
with Submitted DIV 0 Bid Form 00300 - Reference Only (August 2018)**

10. Fully Executed Purchase Order - POST CONTRACT EXECUTION

**Issuance of Signed Purchase Order will follow
Contract execution, Payment & Performance Bond Recording,
Insurance Certificate acceptance. No work is to be performed
Prior to Issuance of Fully Executed Purchase Order and Notice to Proceed**

11. Documents to this Agreement (enumerated as follows):

- a. Contractor's Bid (Division 0, Section 00300).
Completed Bid Form 300 - Original Submitted
With Bidders Information Statement and Questionnaire
– Reference Only (August 2018)
- b. Business Ethics Requirements (Division 0, Section 00481).
Signed Acceptance of Form 00481 - Attachment Included
with Submitted Bid Form 300
– Reference Only (August 2018)

12. The following which may be delivered or issued on or after the Effective Date of the Contract and are referenced only and not attached:

- a. Notice to Proceed.
- b. Work Change Directives.
- c. Change Orders.
- d. Field Orders.

POST CONTRACT EXECUTION – Included as Reference ONLY

- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.

The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions and Supplemental Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Appropriations*

Pursuant to FL Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City, if the City Council reduces or eliminates appropriations.

10.06 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.07 *Other Provisions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.
- B. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

ARTICLE 11 – PUBLIC RECORDS

- A. Pursuant to Florida Statute §287.058 (1) (c), this contract may be unilaterally cancelled by the City if the Consultant, refuses to allow public access to all documents, papers, letters, or other material made or received by the Consultant in conjunction with this contract, unless the records are exempt from disclosure.

END OF SECTION

IN WITNESS WHEREOF, OWNER AND CONTRACTOR HAVE SIGNED THIS AGREEMENT. THIS AGREEMENT WILL BE EFFECTIVE ON _____ (WHICH IS THE EFFECTIVE DATE OF THE CONTRACT).

OWNER:

City of Cape Coral, Florida

Signature: _____

Typed Name: A. John Szerlag

Title: City Manager

Date: _____

Signature

Attest: _____

Title: City Clerk

Typed

Name: Rebecca van Deutekom, MMC

Date: _____

CONTRACTOR:

Quality Enterprises USA, Inc.

Signature: _____

Typed

Name: Louis J. Gaudio

Title: Vice President

Date: 9/24/18

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign with corporate resolution.)

Signature

Attest: _____

Title: _____

Typed

Name: Allison B. Murrell

Date: 9/24/18

Address for giving notices:

City of Cape Coral (Attn: Procurement)

1015 Cultural Park Blvd.

2nd Floor

Cape Coral, FL 33990

Address for giving notices:

3494 Shearwater St

Naples, FL 34117

State of Florida

Contractor License No.: CBCA57231
(as applicable)

LEGAL REVIEW:

Signature: _____

Typed Name: Dolores Menendez, ESQ.

Title: City Attorney

Date: 9/20/2018

SECTION 00300

BID FORM

**CITY OF CAPE CORAL
WEIR 15 BLADDER & CONTROLS IMPROVEMENTS
ITB-UT18-116/KR**

ARTICLE 1 – BID RECIPIENT

- 1.01 This Bid is submitted to:

City of Cape Coral, Procurement Division, 1015 Cultural Park Blvd., 2nd Floor, Cape Coral, FL 33990

- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form Included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.
- 1.03 EXECUTION OF BID: The Official Bid Form must contain a manual signature of an authorized representative. Bid must be typed or printed in ink. Use of erasable ink is not permitted. All corrections made by bidder to his/her bid price must be initialed.
- 1.04 AWARD: The City Council reserves the right to waive minor variations to specifications, informalities, irregularities and technicalities in any bids; to reject any and all bids in whole or in part with or without cause, and/or to accept bids that in its judgment will be in the best interest of the City. Following complete investigation of each bid received by the City, the City Council reserves the right to make awards on a multiple, lump sum, or individual item basis or in combination as shall best serve the interest of the City. The City reserves the right to negotiate additional related services.
- 1.05 PRICES: Bidder warrants by virtue of bidding that any orders placed within the bid period shall be honored at the prices, items and conditions quoted in his/her Official Bid Form. When a yearly quote is being obtained, bidder must contractually commit that bid amount on bid form is firm with no escalation in unit price or otherwise for 365 days from award date. Prices must be stated in units of quantity specified in the bid specifications. In case of discrepancy in computing the amount of the bid, the unit price will prevail.
- 1.06 LIABILITY INSURANCE: Where bidders are required to enter City property to deliver materials or perform work or service as a result of bid award, the bidder assumes full duty obligation and expense of obtaining all necessary insurance and associated licenses and/or permits. Insurance requirements are identified in SC-Article 6 of the Supplementary Conditions (Section 00800).

ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 120 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner. All bids will be publicly opened at the designated time and location specified within the Legal Notice.

ARTICLE 3 – BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum Date</u>
<u>1</u>	<u>8/14/18</u>
<u>2</u>	<u>8/20/18</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Bidder has considered the Information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.
- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.

- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER’S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
 - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

BID SCHEDULE

WEIR 15 BLADDER & CONTROLS IMPROVEMENTS

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL ITEM COST
		(A)		(B)	(AxB)
1.	Phase I Mobilization (Maximum 3.0% of the total Contract Price).	1	LS	\$ 4,764.75	\$ 4,764.75
2.	Phase I of the Work comprised of: new Weir No. 15 air supply equipment on the north side of Shadroe Canal and connection to the existing air supply piping to the Weir No. 15 air bladders resulting in a fully operational air supply system; removal of existing Weir No. 15 air supply equipment from the north side of Shadroe Canal after the Weir No. 15 air bladders are fully operational and being supplied air from the new air supply equipment; other work displayed or described in the Contract Documents.	1	LS	\$58,483.67	\$58,483.67
3.	Phase II Mobilization (Maximum 3.0% of the total Contract Price).	1	LS	\$ 4,764.75	\$ 4,764.75
4.	Phase II of the Work comprised of: removal and replacement of seven (7) air bladders and the 1-inch air supply piping affixed to Weir No. 15 and supplying air to the weir level control air bladders; other work displayed or described in the Contract Documents. The seven (7) new air bladders will be furnished by the Owner.	1	LS	\$76,088.58	\$76,088.58
5.	Allowance for Air Supply Equipment Furnished and Installed by Owner.	1	LS	\$30,000	\$30,000
TOTAL ESTIMATED CONSTRUCTION COST:					\$174,101.75

One hundred seventy four thousand one hundred and one dollars and seventy five cents.

(TOTAL ESTIMATED CONSTRUCTION COST INCLUDING ALLOWANCES IN WORDS)

Weir 15 Bladder & Controls
Improvements

00300-4

ITB-UT18-116/KR
AUGUST 2018

Time of Completion

- 5.02 Bidder agrees that the Work will be substantially completed within 210 calendar days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions (Section 00700) and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 240 calendar days of Notice to Proceed.
- 5.03 Bidder accepts the provisions of the Agreement (Section 00500) as to liquidated damages in the amount of \$500.00 for each day.

ARTICLE 6 – ATTACHMENTS TO THIS BID

- 6.01 The City of Cape Coral requires the following signed documents to be returned with all bids in order for a bid to be considered "Responsive": Please provide the documents in the following order for ease of verification of completeness of your bid package.

- A. Section 00300 – Bid Form
 - Subcontractor Listing
 - Sworn Statement on Public Entity Crimes
 - Form 3A – Interest In Competitive Bid For Public Business
 - Drug Free Work Place Certification
 - Trench Safety Form
 - Contractor's Self-Performed Work Evaluation Form
 - Acknowledgment of Insurance Requirements
- B. Section 00301 Information Statement and Questionnaire
(Financial Statements – Separate Sealed Envelope)
- C. Section 00410 Bid Bond
- D. Section 00420 Corporate Resolution
- E. Section 00480 Non-Collusion Affidavit
- F. Section 00481 Business Ethics Requirements

One (1) original and two (2) hard copies, and one (1) electronic copy (CD, flash drive, or DVD), exactly mirroring the entire Bid Proposal Package is required to be submitted with the Bid Package

FAILURE TO RETURN ALL OF THE ABOVE REQUIRED ITEMS WITH A BID MAY RESULT IN YOUR BID BEING CONSIDERED NON-RESPONSIVE AND WILL NOT BE CONSIDERED FOR AWARD.

ARTICLE 7 – DEFINED TERMS

- 7.01 The terms used in this Bid beginning with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 8 – BID SUBMITTAL

BIDDER: *[Indicate correct name of bidding entity]*

Quality Enterprises USA, Inc.

By:

[Signature]



[Printed name]

Louis J. Gaudio

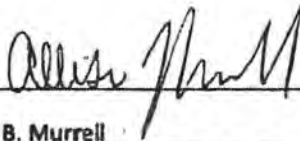
Title:

Vice President

(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

[Signature]



[Printed name]

Allison B. Murrell

Title:

Assistant Secretary

Submittal Date:

8/29/18

Address for giving notices:

Quality Enterprises USA, Inc.

3494 Shearwater St

Naples, FL 34117

Telephone Number:

239-435-7200

Fax Number:

239-435-7200

Contact Name and e-mail address:

Louis J. Gaudio,

LGAUDIO@QEUSA.COM

Bidder's License No.:

CUC057398 Underground Utility and Excavation

CBCA57231 Building Contractor

(where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

SEE ATTACHED

SECTION 00420

CORPORATE RESOLUTION

I, _____, Secretary of _____, a corporation organized and existing under the laws of the State of _____, hereby certify that at a meeting of the Board of Directors of the Corporation duly called and held on _____, 20____, at which a quorum was present and acting throughout, the following resolutions were adopted and are now in full force and effect:

RESOLVED that the following individuals of this corporation are authorized to execute on behalf of this corporation a Bid and Agreement to City of Cape Coral, Florida for the construction of the CON-UT18-116/KR - Weir 15 Bladder & Controls Improvements.

I further certify that the names of the officers of this corporation and any other persons authorized to act under this resolution and their official signatures are as follows:

NAME	OFFICER	OFFICIAL SIGNATURE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have hereunto subscribed my name as Secretary and affixed the seal of the corporation this ____ day of _____, 20__.

SECRETARY: _____ DATE: _____
(Signature)

END OF SECTION

UNANIMOUS WRITTEN CONSENT IN LIEU OF THE
2018 ANNUAL MEETING OF THE BOARD OF DIRECTORS OF
QUALITY ENTERPRISES USA, INC.

The undersigned, being all the directors of Quality Enterprises USA, Inc. (the "Corporation"), pursuant to Virginia Code Section 13.1-685, hereby approve and consent to the following actions in lieu of the Annual Meeting of the Board of Directors:

WAIVER OF NOTICE: Execution of this Written Consent will constitute full waiver of notice of the Annual Meeting of the Board of Directors of the Corporation for the year 2018.

ELECTION OF OFFICERS: The following persons are elected to the offices following their names to serve until the expiration of their terms at the next annual meeting of the Board of Directors, or until their successors shall be duly elected and qualified:

Howard J. Murrell, Jr.	President
Louis J Gaudio	Vice President
Allison B. Murrell	Corporate Officer/Asst Secretary
Stacey L. Murrell	Secretary

WHEREAS, the Directors believe It is in the best interest of the Company to grant, without limitation, signing authority and the authority to conduct business on behalf of the Company to each of the following Officers:

Howard J. Murrell, Jr., President

WHEREAS, the Directors believe it is in the best interest of the Company to grant authority to enter into and sign contracts on behalf of the Company to each of the following Officers:

Louis J. Gaudio	Vice President
Allison B. Murrell	Corporate Officer/Asst Secretary
Stacey L. Murrell	Secretary

RATIFICATION: All acts taken on behalf of the Corporation by the Corporation's officers since the last meeting of the Board of Directors are hereby ratified and approved.

MINUTES: This Unanimous Consent shall be filed with and become a part of the Minutes of the Corporation.

Effective date: January 1, 2018

1/23/18
Date signed


Howard J. Murrell, Jr.



SECTION 00481

BUSINESS ETHICS REQUIREMENTS

1. During the course of pursuing contracts with Owner and while performing contract work in accordance with this agreement, Contractor agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the Owner best interests.
2. Contractor shall take reasonable actions to prevent any actions or conditions which could result in a conflict with Owner's best interests. These obligations shall apply to the activities of contractor employees, agents, subcontractors, subcontractor employees, consultants of contractor, etc.

Contractor employees, agents, subcontractors, material suppliers (or their representatives) should not make or cause to be made any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to Owner's representatives, employees or their relatives.


Contractor employees, agents or subcontractors (or their relatives) should not receive any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from representatives of subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the project.

3. Contractor agrees to notify a designated Owner representative within 48 hours of any instance where the Contractor becomes aware of a failure to comply with the provisions of this article.
4. The e-mail address and/or telephone number to report any concerns related to any possible violations of the Owner's Business Ethics Expectations are as follows:

E-mail: Kathy Rose, krose@capecoral.net Telephone: 239-574-0831

5. Upon request by Owner, Contractor agrees to provide a certified Management Representation Letter executed by selected Contractor representatives in a form agreeable to Owner stating that they are not aware of any situations violating the business ethics expectations outlined in this contract or any similar potential conflict of interest situations.
6. Contractor agrees to include this clause in all contracts with subcontractors and material suppliers receiving more than \$25,000 in funds in connection with the Owner's project.
7. Contractor shall permit interviews of employees, reviews and audits of accounting or other records by Owner representative(s) to evaluate compliance with the business ethics standards. Such reviews and audits will encompass all dealings and activities of Contractor's employees, agents, representatives, vendors, subcontractors, and other third parties paid by Contractor in their relations with Owner's current or former employees or employee relatives.
8. Contractor agrees to implement a program requiring their employees sign acknowledgements that they have read and understand Owner's Business Ethics Expectations and the related obligations outlined in this contract exhibit.

Signature


Louis J. Gaudio, Vice President

Date 8/29/18

Weir 15 Bladder & Controls
Improvements

00481-1

CON-UT18-116/KR
AUGUST 2018

2018 FOREIGN PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# F95000002550

Entity Name: QUALITY ENTERPRISES USA, INC.

Current Principal Place of Business:

3494 SHEARWATER STREET
NAPLES, FL 34117

Current Mailing Address:

3494 SHEARWATER STREET
NAPLES, FL 34117 US

FEI Number: 54-0947002

Certificate of Status Desired: Yes

Name and Address of Current Registered Agent:

CORPORATION SERVICE COMPANY
1201 HAYS STREET
TALLAHASSEE, FL 32301 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent

Date

Officer/Director Detail :

Title PD
Name MURRELL, HOWARD JJR.
Address 3494 SHEARWATER STREET
City-State-Zip: NAPLES FL 34117-8414

Title ST
Name MURRELL, STACEY
Address 3494 SHEARWATER STREET
City-State-Zip: NAPLES FL 34117-8414

Title OFFICER / ASSISTANT SECRETARY
Name MURRELL, ALLISON B
Address 3494 SHEARWATER STREET
City-State-Zip: NAPLES FL 34117-8414

Title VP
Name GAUDIO, LOUIS J
Address 3494 SHEARWATER STREET
City-State-Zip: NAPLES FL 34117

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 907, Florida Statutes; and that my name appears above, or on an attachment with all other filers empowered.

SIGNATURE: HOWARD J. MURRELL

PRESIDENT

01/24/2018

Electronic Signature of Signing Officer/Director Detail

Date

ITB-UT18-116/KR
Weir 15 Bladder & Controls Improvements
Bid Due Date - August 29, 2018

Bid Tabulation Detail Line Items				Quality Enterprises USA, Inc. 3494 Shearwater Street Naples, FL 34117	
ITEM	DESCRIPTION	ESTIMATED QUANTITY (A)	UNIT	UNIT PRICE (B)	TOTAL ITEM COST (AxB)
1	Phase I Mobilization (Maximum 3.0% of the total Contract Price)	1	LS	\$4,764.75	\$4,764.75
2	Phase I of the Work comprised of: new Weir No. 15 air supply equipment on the north side of Shadroe Canal and connection to the existing air supply piping to the Weir No. 15 air bladders resulting in a fully operational air supply system; removal of existing Weir No. 15 air supply equipment from the north side of Shadroe Canal after the Weir No. 15 air bladders are fully operational and being supplied air from the new air supply equipment; other work displayed or described in the Contract Documents.	1	LS	\$58,483.67	\$58,483.67
3	Phase II Mobilization (Maximum 3.0% of the total Contract Price)	1	LS	\$4,764.75	\$4,764.75
4	Phase II of the Work comprised of: removal and replacement of seven (7) air bladders and the 1-inch air supply piping affixed to Weir No. 15 and supplying air to the weir level control air bladders; other work displayed or described in the Contract Documents. The seven (7) new air bladders will be furnished by the Owner.	1	LS	\$76,088.58	\$76,088.58
5	Allowance for Air Supply Equipment Furnished and Installed by Owner.	1	LS	\$30,000.00	\$30,000.00
TOTAL CONSTRUCTION COST (including allowances)				\$174,101.75	

Item Number: B.(7)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 228-18 A Resolution authorizing payment up to \$5,000 in reimbursable relocation expenses as allowed in section 2-37.3 of the City of Cape Coral Code of Ordinances to the selected candidate for the position of Senior Auditor in the City Auditor's Office; Funding for the City Auditor's Office; Dollar Value: maximum of \$5,000; (General Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan? No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

The resolution authorizes payment of up to \$5,000 in eligible relocation expenses when filling the Senior Auditor position in the City Auditor's office.

LEGAL REVIEW:

EXHIBITS:

Memo
Resolution 228-18

PREPARED BY:

Molly Liebeggott Division- Administration Department- Human Resources

SOURCE OF ADDITIONAL INFORMATION:

Lisa Sonogo - Human Resources Director


ATTACHMENTS:

Description	Type
▣ Memo - Relocation Senior Auditor 9-18	Backup Material
▣ Resolution 228-18	Resolution



CITY AUDITOR'S OFFICE

TO: Mayor and Council Members

FROM: Andrea R. Butola, City Auditor 

DATE: September 25, 2018

SUBJECT: Authorization to Extend Relocation Reimbursement

We are requesting authorization to extend reimbursement of applicable relocation expenses up to \$5,000 as allowed in Section 2-37.3 of the City of Cape Coral Code of Ordinances to the selected candidate for the position of Senior Auditor, City Auditor's Office, if necessary. A vacancy within the Auditor's Office was created due to an out of state move.

C: Lisa Sonogo, Human Resources Director

RESOLUTION 228 - 18

A RESOLUTION OF THE CITY OF CAPE CORAL AUTHORIZING PAYMENT OF UP TO \$5,000 IN ELIGIBLE RELOCATION EXPENSES WHEN FILLING THE SENIOR AUDITOR POSITION IN THE CITY AUDITOR'S OFFICE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Senior Auditor position in the City Auditor's Office is currently vacant; and

WHEREAS, the City Manager requests approval to provide payment of up to \$5,000 in reimbursable relocation expenses in order to aid in recruiting and relocating exceptional candidates for the Senior Auditor position as allowed in Section 2-37.3(c) of the City of Cape Coral Code of Ordinances.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The City Council hereby authorizes payment of up to \$5,000 in reimbursable relocation expenses if the selected candidate for the Senior Auditor position qualifies for relocation expenses under Section 2-37.3(c) of the Code of Ordinances of the City of Cape Coral, Florida.

SECTION 2. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

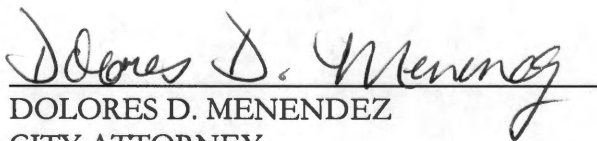
COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
res/Relocation-Senior Auditor
9/27/18

Item Number: B.(8)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 229-18 Acceptance of a Permanent Utility Easement within the southern portion of the parcel located at the northwest corner of Pine Island Road and Chiquita Boulevard (Strap #16-44-23-C3-00005.0000) for the installation of utilities associated with the North 2 Utilities Extension Project; Department: Financial Services / Real Estate Division; Dollar Value: NTE \$675; (Water and Sewer Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. In May 2015, the City Council approved an engineering firm to design the North 2 Utilities Extension Project (UEP) to provide utility services to approximately 8,900 parcels north of Pine Island Road. Construction of the North 2 UEP area began in the fourth quarter of 2017.
2. The subject site is located at the northwest corner of Pine Island Road and Chiquita Boulevard, in an unplatted area of Cape Coral having no easements. The property owner has agreed to grant the City a Utility Easement along the southern boundary for the City to run its water, sewer and irrigation lines along the north side of Pine Island Road.
3. Acceptance of the easement will provide the City with the right to access and maintain its facilities within the easement area. The City will be responsible for recording fees in the amount of \$72.20.
4. In exchange for the easement, the property owner has requested the City pay for the relocation of the three (3) 4x8 "V" real estate signs along the property's Pine Island Road frontage – estimated cost \$600.00.

5. Staff recommends acceptance of the Permanent Utility Easement within the southern portion of Strap #16-44-23-C3-00005.0000 and payment of recording fees and sign relocation costs.

LEGAL REVIEW:

EXHIBITS:

Resolution 229-18
Property Appraiser Sheet
Sign Relocation Cost Estimate

PREPARED BY:

Dawn Y. Andrews, Property Broker	Division- Real Estate	Department- Financial Services
-------------------------------------	--------------------------	-----------------------------------

SOURCE OF ADDITIONAL INFORMATION:

Kevin L. Higginson, P.E.
Utilities Extension Manager
239-574-0706

Dawn Y. Andrews, Property Broker
Financial Services / Real Estate Division
239-574-0735

ATTACHMENTS:

Description	Type
▣ Resolution 229-18	Resolution
▣ PA Sheet - NW corner Pine Island Rd & Chiquita Blvd	Backup Material
▣ Sign Relocation Cost Estimate	Backup Material

RESOLUTION 229 - 18

A RESOLUTION OF THE CITY OF CAPE CORAL ACCEPTING A PERMANENT UTILITY EASEMENT LOCATED IN THE SOUTH ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 16, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY IS LOCATED AT THE NORTHWEST CORNER OF PINE ISLAND ROAD AND CHIQUITA BOULEVARD; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the subject site is located at the northwest corner of Pine Island Road and Chiquita Boulevard, in an unplatted area of Cape Coral having no easements, within the North 2 Utilities Extension project area; and

WHEREAS, the property owner has agreed to grant to the City a Permanent Utility Easement along the southern boundary of the property for the installation of water, sewer, and irrigation lines along the north side of Pine Island Road; and

WHEREAS, acceptance of the Utility Easement attached hereto as Exhibit 1 will provide the City the right to access and maintain its facilities within the easement area; and

WHEREAS, in exchange for the easement, the City will be responsible for the recording fees in the amount of \$72.20 and will pay for the relocation of three (3) 4 x 8 "V" signs along the property's Pine Island Road frontage in the estimated amount of \$600.00.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby accepts the Utility Easement attached hereto as Exhibit 1 and approves payment of recording fees in the amount of \$72.20 and payment of the cost to relocate three (3) signs in the estimated amount of \$600.00.

Section 2. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	CODEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Accept Utility Easement-Chiquita & Pine Island Road

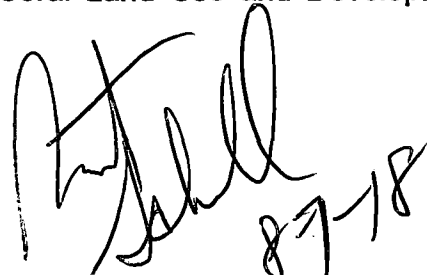
PERMANENT UTILITY EASEMENT

This Grant of Easement, made this 7 day of August, 2018 by and between **Alan Jacobson, Jan Hart, Robert Schull, Danielle Kuziel, Cinnamon Investments, LTD, a Florida limited partnership**, whose mailing address is: c/o C. Berk Edwards, Esq., 2534-A Edison Avenue, Fort Myers, Florida 33901, as "Grantors", and the **CITY OF CAPE CORAL**, a Florida municipal corporation, as "Grantee".

WITNESSETH that said Grantors, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration to said Grantors in hand paid by said Grantee, the receipt whereof is hereby acknowledged, have granted and conveyed to the said Grantee, and Grantee's successors and assigns forever, a perpetual non-exclusive utility easement to survey, construct, operate, maintain, repair, remove, replace or abandon utility facilities, in, along, under, above and upon the following described land, situate, lying and being in Lee County, Florida, to wit:

A parcel of land lying within a tract as described and recorded in Instrument Number 2014000166239 of the Public Records of Lee County, Florida, and lying in the South 1/2, of the Southeast 1/4, of the Southeast 1/4 of Section 16, Township 44 South, Range 23 East, of said Lee County, more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference ("Easement Area").

THAT Grantors reserve unto themselves, their tenants, heirs, successors and assigns forever, the right to the continued free use and enjoyment of the Easement Area for any purposes that are not inconsistent with the rights granted herein, including, but not limited to, the right to construct, maintain, install, operate and place upon the "Easement Area" described herein, any surface improvements, excluding buildings, to include but not be limited to, sidewalks, curbing, parking, landscaping provided that such surface improvements do not unreasonably interfere with the utility facilities constructed within said "Easement Area". Grantors and Grantors' successors and assigns, agree to assume all liability for any damage to any surface improvements constructed by Grantors within the above "Easement Area", which result from the actions of the Grantee in the removal, damage, or disturbance of the surface improvements constructed by Grantors in accordance with Section 3.14.5 of the City of Cape Coral Land Use and Development Regulations.



In Witness Whereof, Grantor has hereunto set their hands the day and year first above written.

[Signature]
Witness - Signature

Joseph Rivera
Witness - Print or Type Name

Wanda Soto
Witness - Signature

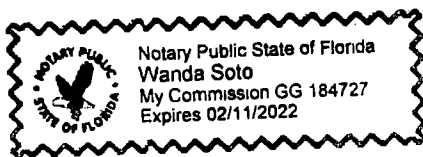
Wanda Soto
Witness - Print or Type Name

[Signature]
Alan Jacobson

STATE OF: Florida s

COUNTY OF: St Lucie s

The foregoing instrument was acknowledged before me this 8 day Aug., 2018
by **Alan Jacobson** who is / is not personally known by me or has produced driver license
as identification. (DESCRIBE IDENTIFICATION)



Wanda Soto
Notary Signature
Print Name: Wanda Soto

(Notary seal)

[Signature]
Witness - Signature

Joseph Rivera
Witness - Print or Type Name

[Signature]
Witness - Signature

Ann Jacobson
Witness - Print or Type Name

[Signature]
Jan Hart

STATE OF: Florida §

COUNTY OF: St. Lucie §

The foregoing instrument was acknowledged before me this 13 day Aug, 2018
by **Jan Hart** who is / is not personally known by me or has produced Driver License
as identification. (DESCRIBE IDENTIFICATION)

[Signature]
Notary Signature

Print Name: Wanda Soto

(Notary seal)

Lee Steele

Witness - Signature

Lee Steele

Witness - Print or Type Name

Monique Rathe

Witness - Signature

Monique Rathe

Witness - Print or Type Name

Robert Schull

Robert Schull

STATE OF: Floridas

COUNTY OF: Miami Dade

The foregoing instrument was acknowledged before me this 7 day August, 2018
by **Robert Schull** who is / is not personally known by me or has produced FL Drivers License
as identification. (DESCRIBE IDENTIFICATION)

Monique Rathe

Notary Signature

Print Name: Monique Rathe

(Notary seal)

Vanessa Budd
Witness - Signature

Vanessa Budd
Witness - Print or Type Name

Edwino Duros
Witness - Signature

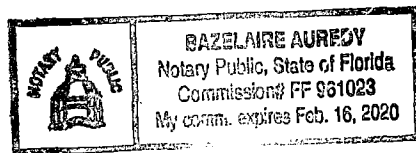
Edwino Duros
Witness - Print or Type Name

Danielle Kuziel
Danielle Kuziel

STATE OF: Florida S

COUNTY OF: Palm Beach

The foregoing instrument was acknowledged before me this 9 day August, 2018
by Danielle Kuziel who is / is not personally known by me or has produced Florida Driver License
License as identification. (DESCRIBE IDENTIFICATION)



Bazelaire Audrey
Notary Signature

Print Name: Bazelaire Audrey

(Notary seal)

Cinnamon Investments, LTD,
a Florida limited partnership

Sabrina H
Witness - Signature

Sabrina Hernandez
Witness - Print or Type Name

Marcel
Witness - Signature

MARICEL CROS
Witness - Print or Type Name

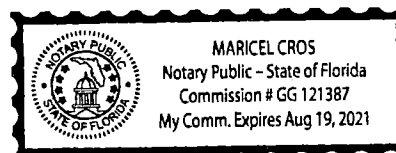
L. James Teper
BY: L. JAMES TEPER
Title: MNG, MBR

STATE OF: FLORIDA §

COUNTY OF: MIAMI-DADE §

The foregoing instrument was acknowledged before me this 9th day AUGUST, 2018 by
L. JAMES TEPER the MNG, MBR of Cinnamon Investments,
LTD, a Florida limited partnership, who is / is not personally known by me or has produced
_____ as identification.
(DESCRIBE IDENTIFICATION)

Marcel
Notary Signature
Print Name: MARICEL CROS
(Notary seal)



LEGAL DESCRIPTION & SKETCH

25' WIDE PUBLIC UTILITY EASEMENT
PARCEL LYING IN THE S 1/2, SE 1/4, SE 1/4 OF
SECTION 16, TOWNSHIP 44 SOUTH, RANGE 23 EAST
LEE COUNTY, FLORIDA

LEGAL DESCRIPTION

A PARCEL OF LAND LYING WITHIN A TRACT AS DESCRIBED AND RECORDED IN INSTRUMENT NUMBER 2014000166239, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND LYING IN THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 44 SOUTH, RANGE 23 EAST, OF SAID LEE COUNTY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 16; THENCE S 87°41' 55" W, ALONG THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 FOR 1339.72 FEET TO THE WEST LINE OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 16; THENCE N00°00'56" W ALONG SAID WEST LINE FOR 83.66 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 78 (PINE ISLAND ROAD) AS DESCRIBED AND RECORDED IN OFFICIAL RECORD BOOK 2558, PAGE 2286, OF SAID PUBLIC RECORDS, AND TO THE POINT OF BEGINNING; THENCE CONTINUE N00°00'56" W, ALONG SAID WEST LINE FOR 25.22 FEET TO A NON-TANGENT CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 5573.58 FEET, AN INTERIOR ANGLE OF 07°57'43", AND A CHORD BEARING AND DISTANCE OF N 78°27'32" E, 773.89 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, DEPARTING SAID WEST LINE, FOR 774.51 FEET TO A POINT OF TANGENCY; THENCE N 74°28'41" E FOR 535.24 FEET TO THE WESTERLY RIGHT OF WAY LINE OF CHIQUITA BOULEVARD SOUTH AS DESCRIBED AND RECORDED IN SAID OFFICIAL RECORD BOOK 2558, PAGE 2286; THENCE S 00°06'41" E, ALONG SAID WESTERLY RIGHT OF WAY LINE FOR 13.04 FEET TO A TANGENT CURVE CONCAVE TO THE WEST, HAVING A RADIUS OF 36.00 FEET, AN INTERIOR ANGLE OF 22°15'34", AND A CHORD BEARING AND DISTANCE OF S 11°01'06" W, 13.90 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE FOR 13.99 FEET TO A POINT OF NON-TANGENCY; THENCE S 74°28'41" W, DEPARTING SAID WESTERLY RIGHT OF WAY LINE FOR 206.85 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID STATE ROAD 78 (PINE ISLAND ROAD); THENCE CONTINUE S 74°28'41" W, ALONG SAID NORTHERLY LINE FOR 318.72 FEET TO A TANGENT CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 5598.58 FEET, AN INTERIOR ANGLE OF 07°59'45", AND A CHORD BEARING AND DISTANCE OF S 78°28'33" W, 780.67 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE FOR 781.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.75 ACRE, MORE OR LESS.

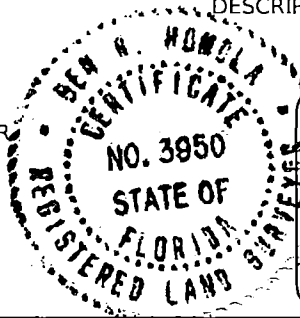
BEARINGS BASED ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, SECTION 12060-2525, BEING S 87°41'55" W ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 16.

LEGEND:

CB = CHORD BEARING
CD = CHORD DISTANCE
INST. = INSTRUMENT DOCUMENT
L = ARC DISTANCE
NO. = NUMBER
O.R.B. = OFFICIAL RECORD BOOK
P.B. = PLAT BOOK
PG. = PAGE
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
P.S.M. = PROFESSIONAL SURVEYOR & MAPPER
R = RADIUS
R/W = RIGHT OF WAY
SEC. = SECTION
S.R. = STATE ROAD
Δ = INTERIOR ANGLE (DELTA)
PL = PROPERTY LINE

NOTES:

1. ALL DIMENSIONS ARE IN U.S. SURVEY FEET OR DECIMALS THEREOF.
2. NOT VALID WITHOUT THE ATTACHED SKETCH OF DESCRIPTION (SHEET 2 OF 2).



PREPARED BY: AIM ENGINEERING & SURVEYING, INC.

Ben R. Homola
BEN R. HOMOLA, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 3950

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

AIM Engineering & Surveying, Inc.



2161 FOWLER STREET
SUITE 100
FORT MYERS, FLORIDA 33901
www.aimengr.com
OFFICE 239-332-4569
FAX 239-332-8734
LICENSE BUSINESS No. 3114

THIS IS NOT A SURVEY

SHEET 1 OF 2

LEGAL DESCRIPTION & SKETCH
25' WIDE PUBLIC UTILITY EASEMENT

DRAWN
BRH 06-20-18

CHECKED
RLP 06-20-18

CLIENT:
CITY OF CAPE CORAL

FILE NAME:
15-0349 Task 313
Lgl-Sketch.dwg

SECTION: 16
TOWNSHIP: 44 S
RANGE: 23 E

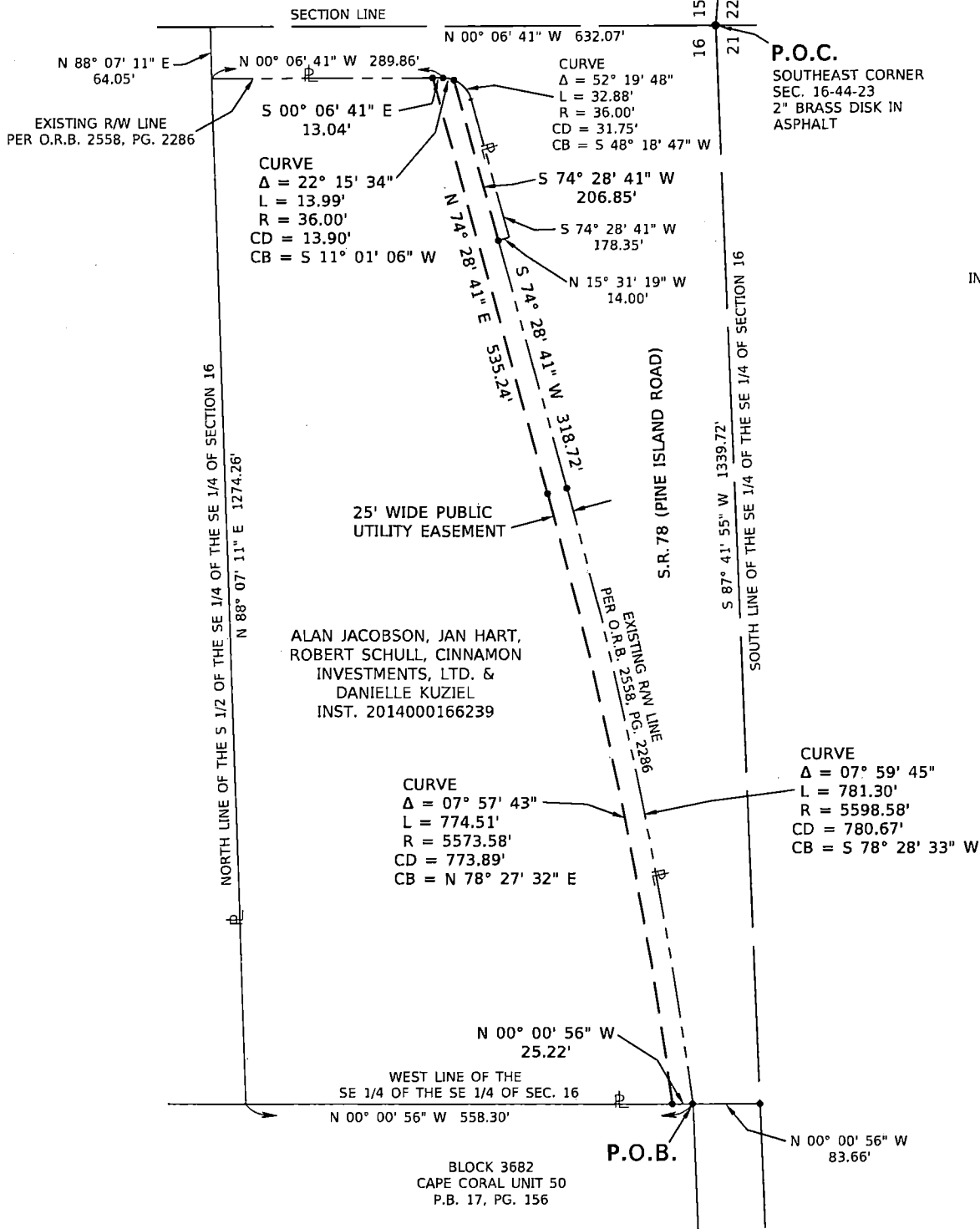
COUNTY:
LEE

PROJECT NO.
15-0349

LEGAL DESCRIPTION & SKETCH

25' WIDE PUBLIC UTILITY EASEMENT
PARCEL LYING IN THE S 1/2, SE 1/4, SE 1/4 OF
SECTION 16, TOWNSHIP 44 SOUTH, RANGE 23 EAST
LEE COUNTY, FLORIDA

CHIQUITA BOULEVARD S.



AIM Engineering & Surveying, Inc.



2161 FOWLER STREET
SUITE 100
FORT MYERS, FLORIDA 33901
www.aimengr.com
OFFICE 239-332-4569
FAX 239-332-8734
LICENSE BUSINESS No. 3114

THIS IS NOT A SURVEY

SHEET 2 OF 2

LEGAL DESCRIPTION & SKETCH
25' WIDE PUBLIC UTILITY EASEMENT

DRAWN
BRH 06-20-18

CHECKED
RLP 06-20-18

CLIENT:
CITY OF CAPE CORAL

FILE NAME:
15-0349 Task 313
Lgl-Sketch.dwg

SECTION: 16

TOWNSHIP: 44 S

RANGE: 23 E

COUNTY: LEE

PROJECT NO.
15-0349



Lee County Property Appraiser

Tax Year
[Next Parcel Number](#) [Previous Parcel Number](#) [Tax Estimator](#) [Cape Coral Fees](#) [Tax Bills](#) [Print](#)

Property Data

STRAP: 16-44-23-C3-00005.0000 Folio ID: 10069923

Owner Of Record

JACOBSON ALAN +
HART JAN + SCHULL ROBERT + CINNAMON INVESTMENT LTD +
c/o BERK EDWARDS ESQ
PO BOX 1605
FORT MYERS FL 33902

Site Address

ACCESS UNDETERMINED
CAPE CORAL FL

Property Description

Do not use for legal documents!

S 1/2 OF SE 1/4 OF SE 1/4 LESS RD R/W DESC OR 471 PG 580 + 2558/2286

Classification / DOR Code

VACANT COMMERCIAL / 10

[Tax Map Viewer]



[Pictometry Aerial Viewer]



Current Working Values



As Of

07/25/2018

Just

786,694

Attributes

Land Units Of Measure

SF

Units

524462.40

Frontage

0

Depth

0

Total Number of Buildings

0

Total Bedrooms / Bathrooms

0

Total Living Area

0

1st Year Building on Tax Roll

N/A

Historic District

No

Image of Structure



Exemptions



Values (2018 Trim)



Taxing Authorities



Sales / Transactions



Parcel Numbering History



Location Information



Solid Waste (Garbage) Roll Data



Flood and Storm Information



Appraisal Details (2018 Trim)



Appraisal Details (Current Working Values)

TRIM (proposed tax) Notices are available for the following tax years
[[2007](#) [2008](#) [2009](#) [2010](#) [2011](#) [2012](#) [2013](#) [2014](#) [2015](#) [2016](#) [2017](#) [2018](#)]

Sign and Design Depot

960 Pondella rd Ste C
North Ft. Myers, FL 33903

Phone # 239-995-7446 greg@signanddesigndepot.com
Fax # 239-995-7440 www.signanddesigndepot.com

Estimate

Date	Estimate #
8/21/2018	PO 05132688

Name / Address
Jeffcott Realty Greg Jeffcott

			Project
Description	Qty	Rate	Total
Install 4' x 8' "v" signs and then reinstall 4' x 8' "V" signs when needed	3	200.00	600.00
		Subtotal	\$600.00
		Sales Tax (6.0%)	\$0.00
		Total	\$600.00

Item Number: B.(9)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 230-18 Approval of Contract for Purchase of Lots 46 and 47, Block 3025, Unit 43, Cape Coral Subdivision, 1128 Wilmington Parkway, Cape Coral, for the Festival Park project for the purchase price of \$11,000 plus closing costs not to exceed \$1,500; Department: Financial Services / Real Estate Division; Dollar Value: \$12,500; (Parks Capital Project Fund) Note: Trade offer rejected by Seller.

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ELEMENT F: ENHANCE THE QUALITY OF LIFE THROUGH ARTS AND CULTURE TO CREATE AND PROMOTE A VIBRANT, CULTURALLY DIVERSE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. In 2003 at a Strategic Planning Session City Council directed staff to begin purchasing property in Cape Coral Subdivision Unit 43 for a future park site, now known as Festival Park. Over the years, Staff has been working with various owners in the park area to purchase additional properties on a voluntary basis based on current independent state-certified appraisals.
2. The subject contract is for a two-lot off-water parcel located within the designated Festival Park area. Currently, the City owns 439 of the 517 parcels required for Festival Park, with two additional property contracts currently pending.
3. City Staff submitted an offer to purchase the site based on an appraisal of a similar two-lot site. The contract requires the City to pay the closing costs incurred by the title company.
4. Staff recommends approval of the purchase contract to purchase Lots 46 and 47, Block 3025, Unit 43, Cape Coral Subdivision, for the purchase price of \$11,000 plus closing costs not to exceed \$1,500.

LEGAL REVIEW:

EXHIBITS:

Resolution 230-18
Property Appraiser Printout
Location Map
Appraisal

PREPARED BY:

Dawn Y. Andrews, Property Broker	Division- Real Estate	Department- Financial Services
-------------------------------------	--------------------------	-----------------------------------

SOURCE OF ADDITIONAL INFORMATION:

Dawn Y. Andrews, Property Broker
Financial Services / Real Estate
239-574-0735

Doug Sayers, Property Acquisition Agent
Financial Services / Real Estate
239-574-0714

ATTACHMENTS:

Description	Type
▣ Resolution 230-18	Resolution
▣ PA Sheet - Block 3025, Lots 46-47	Backup Material
▣ Location Map - Block 3025, Lots 46-47	Backup Material
▣ Appraisal - Festival Park - Off Water	Backup Material

RESOLUTION 230 - 18

A RESOLUTION OF THE CITY OF CAPE CORAL AUTHORIZING THE CITY MANAGER TO ENTER INTO A "CONTRACT FOR SALE AND PURCHASE" BETWEEN EVELYN PEACHEY ANDERSON, DONNA LOUGHBOROUGH STAPLES, MARLIN PEACHEY, LYDIA PEACHEY PENROD, THERESA A. PEACHEY, ELIZABETH R. PEACHEY, JENNIFER P. SCHAEFER, AND SUSAN R. PEACHEY AND THE CITY OF CAPE CORAL FOR THE PURCHASE OF LOTS 46 AND 47, BLOCK 3025, UNIT 43, CAPE CORAL SUBDIVISION, FOR THE FESTIVAL PARK PROJECT; PROPERTY LOCATED AT 1128 WILMINGTON PARKWAY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 10, 2005, the City Council adopted Resolution 5-05, finding it necessary and in the public interest to acquire property for the purpose of creating and developing Festival Park; and

WHEREAS, the City has obtained a recent appraisal of a similar off-water property pursuant to Section 2-152 of the City of Cape Coral Code of Ordinances; and

WHEREAS, City staff recommends that the City purchase the subject property pursuant to the terms and price set forth in the contract; and

WHEREAS, the City Manager requests approval to enter into the "Contract for Sale and Purchase."

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby authorizes the City Manager to execute a "Contract for Sale and Purchase" between Evelyn Peachey Anderson, Donna Loughborough Staples, Marlin Peachey, Lydia Peachey Penrod, Theresa A. Peachey, Elizabeth R. Peachey, Jennifer P. Schaefer, and Susan R. Peachey and the City of Cape Coral for the purchase of Lots 46 and 47, Block 3025, Unit 43, Cape Coral Subdivision, as more fully described in the Contract, in the amount of \$11,000, plus closing costs not to exceed \$1,500. The property is located at 1128 Wilmington Parkway. A copy of the "Contract for Sale and Purchase" is attached hereto as Exhibit A.

Section 2. This resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
Res/Purchase Real Property Festival Park L46-47 B3025

CONTRACT FOR SALE AND PURCHASE

THIS IS A LEGALLY BINDING CONTRACT WHEN PROPERLY COMPLETED AND EXECUTED. IF NOT FULLY UNDERSTOOD, SEEK LEGAL ADVICE BEFORE SIGNING.

PARTIES: Evelyn Peachey Anderson, an undivided 1/5 interest, Donna Loughborough Staples, an undivided 1/5 interest, Marlin Peachey, an undivided 1/5 interest, Lydia Peachey Penrod, an undivided 1/5 interest, Theresa A. Peachey, an undivided 1/20 interest, Elizabeth R. Peachey, an undivided 1/20 interest, Jennifer P. Schaefer, an undivided 1/20 interest, Susan R. Peachey, an undivided 1/20 interest, 152 Indian Lake Road, Winchester, Virginia 22603 as "SELLER", and City of Cape Coral, a Florida Municipal Corporation, P.O. Box 150027, Cape Coral, Florida 33915-0027, successors or assigns, as "BUYER", hereby agree that the **SELLER** shall sell and **BUYER** shall buy the following (hereinafter referred to as "**PROPERTY**") described property upon the following terms and conditions:

1. **LEGAL DESCRIPTION** of real estate located in Lee County, Florida:
Lots 46 and 47, Block 3025, Unit 43, Cape Coral Subdivision, as recorded in Plat Book 17, Pages 48-57, inclusive of the Public Records of Lee County, Florida.
2. **PURCHASE PRICE** **\$11,000.00**
3. **CONDITIONAL CONTRACT.** This contract for sale and purchase is a binding contract once it is executed by the **SELLER** and by the City Manager on behalf of the **BUYER**. However, this contract is expressly subject to approval by the Cape Coral City Council. If the Cape Coral City Council fails or refuses to approve the purchase within 45 calendar days of the date when the City Manager has signed this contract, then this contract shall be null and void. This contract is subject to applicable Florida probate proceedings, if required. **BUYER** and **SELLER** understand and agree that in the event probate proceedings are necessary,

SELLER shall be solely responsible for any and all expenses necessary to complete said probate proceedings.

4. **EFFECTIVE DATE & CLOSING DATE.** The Effective Date of this contract shall be the date of Council authorization. This contract shall be closed and the deed shall be delivered within 30 business days, or sooner, after Council authorization unless extended by other provisions of this contract. Such other provisions shall include, but not be limited to, paragraph 7. Possession shall be granted on the day of closing unless otherwise agreed in writing.
5. **CONVEYANCE.** **SELLER** shall convey title to the property to **BUYER** by Warranty Deed subject only to matters contained in this contract and taxes for the year of closing.
6. **RESTRICTIONS AND EASEMENTS.** **BUYER** shall take title subject to:
 - (a) Zoning and restrictions and prohibitions imposed by governmental authority;
 - (b) Restrictive covenants of record;
 - (c) Public utility easements of record, provided however said easements are located along the perimeter of the property and are not more than six feet (6') in width;
 - (d) Taxes for the year of closing and subsequent years;

Provided, however, that none of the foregoing shall prevent use of the entire property for the purpose of right-of-way or any other governmental purpose.

7. **EVIDENCE OF TITLE.** Within fifteen (15) days from the date of this contract, **BUYER** shall at **BUYER'S** expense, obtain a title insurance binder issued by a qualified title insurer of its choice, agreeing to issue to **BUYER**, upon the recording of the deed hereafter mentioned, a title insurance policy in the amount of the purchase price insuring the title to that real property. **BUYER** shall have fifteen (15) days from the date of receiving the evidence of title to examine same. If title is found to be defective, **BUYER** or closing agent shall, within said period of time, notify **SELLER** in writing specifying defects that need to be cured. For purposes of this contract, a requirement by the title insurer that the **SELLER** institute and complete a quiet title action shall be deemed to be a title defect that shall be cured by **SELLER**. If said defects render the title unmarketable or uninsurable **SELLER** shall have ninety (90) days from the receipt of such notice to cure the defects, and if after said period **SELLER** shall not have cured the defects, then **BUYER** shall have the option of (1)

accepting the title as it then is; (2) affording **SELLER** additional time to cure the defect(s); or (3) terminate the contract by providing written notice to the **SELLER**.

8. **EXISTING MORTGAGES.** **SELLER** shall furnish estoppel letters from mortgagee(s) setting forth the principal balance, escrow balance, method of payment, and whether the mortgage is in good standing. It shall be **SELLER'S** obligation to obtain any satisfactions of mortgage required for closing.
9. **SURVEY.** If **BUYER** desires a survey, **BUYER** shall have the property surveyed at its expense prior to closing date. If the survey shows an encroachment, the same shall be treated as a title defect.
10. **OTHER AGREEMENTS.** No agreements or representations, unless incorporated in this contract, shall be binding upon any of the parties, unless they be in writing and agreed to by all parties.
11. **MECHANIC'S LIENS.** **SELLER** shall execute an affidavit that there have been no improvements to the subject property and that **SELLER** has not entered any contracts for the provision of goods or services that could give rise to a mechanic's lien for the ninety (90) days immediately preceding the date of closing.
12. **TIME IS OF THE ESSENCE** in the performance of this contract.
13. **DOCUMENTS FOR CLOSING.** **SELLER** shall execute a Warranty Deed, Seller's Affidavit and other necessary closing documents provided by closing agent.
14. **EXPENSES.** Documentary stamps, title insurance, title search, title exam, documentary stamps and settlement fees shall be paid by **BUYER**.
15. **PRORATION OF TAXES (REAL AND PERSONAL).** Taxes shall be prorated based upon the current year's tax without regard to discount. If the closing takes place and the current year's taxes are not fixed, and the current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated on the prior year's tax, provided, however, if there is a completed improvement of the subject premises by January 1 of the

year of closing, then the taxes shall be prorated to the date of closing based upon the prior year's millage. It is further agreed that should, upon receipt of current tax statement, the taxes be different by more than Ten Dollars (\$10.00) than those estimated, the proration shall be adjusted.

16. **ATTORNEY'S FEES AND COSTS.** In connection with any litigation arising out of the contract, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees. The parties agree to venue in Lee County, Florida for any action arising out of this Contract.
17. **DEFAULT BY SELLER.** If **SELLER** fails to perform any of the covenants of this contract other than the failure of **SELLER** to render his title marketable after diligent effort **BUYER** may proceed at law or in equity to enforce its legal rights under this contract, including, but not limited to, the right to bring suit for specific performance.
18. All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties.
19. This agreement shall be interpreted, construed, and governed according to the Laws of the State of Florida.
20. The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid and unenforceable provisions were omitted.
21. **SELLER** and **BUYER** hereby agree that this contract to purchase the real property described above is for a proper municipal purpose and grants the **BUYER** the right to enter the real property described above for the purpose of surveying, soil borings, or any other work as deemed necessary by the **BUYER**. The parties herein further agree that the purchase of this property does not destroy or cause any damage whatsoever to **SELLER** or his successor or assigns with respect to any commercial or residential property owned by them whose lands are being so purchased or located upon adjoining lands.

22. The place of closing and delivery of the deed to **BUYER** shall be at any office designated by **BUYER**.
23. **ENVIRONMENTAL AUDIT.** **BUYER** may perform or have performed, at **BUYER'S** expense, an environmental audit of the property. If such an audit identifies environmental problems unacceptable to the **BUYER** then **BUYER** may elect to accept the property in its existing condition or **BUYER** may terminate this Contract without obligation.
24. **REAL ESTATE COMMISSIONS.** **BUYER** and **SELLER** understand and agree that in the event **BUYER** has knowledge of any listing agreement for the subject property, then **BUYER**, at its option, may elect to notify and provide a copy of this contract to the Listing Broker. **SELLER** shall be solely responsible for any Broker compensation, Realtor notification or any other terms and conditions of any listing agreement. **SELLER** shall also be responsible for any Realtor transaction fee or administration fee.
25. **DISCLOSURE OF BENEFICIAL INTERESTS.** **SELLER** agrees to comply with the provisions of Section 286.23(1), Florida Statutes. Said section requires that, before property that is owned by a partnership, limited partnership, corporation, trust or any other form of representative capacity whatsoever for others, is conveyed to a governmental unit, the representative of the owner/entity shall make a public disclosure in writing, under oath and subject to the penalties prescribed for perjury, which shall state the names and addresses of every person having a beneficial interest in the Real Property, however small or minimal.
26. It is understood by the parties that this contract is entered by **SELLER** under the threat and in lieu of condemnation and is inclusive of all compensation for all attorney fees and costs incurred by **SELLER**.

THIS PORTION OF THE PAGE LEFT INTENTIONALLY BLANK – SIGNATURE PAGE TO FOLLOW

IN WITNESS THEREOF, BUYER and SELLER have signed this contract on the date set forth below.

CITY OF CAPE CORAL, FLORIDA

Witness to A. John Szerlag

BY: _____
A. John Szerlag Date
City Manager

Witness to Rebecca van Deutekom

BY: _____
Rebecca van Deutekom Date
City Clerk

Natalie E. Passey
Witness
Print Name: Natalie E. Passey

BY: *Evelyn Peachey Anderson* 9-11-18
Evelyn Peachey Anderson Date

Witness
Print Name: _____

BY: _____
Donna Loughborough Staples Date

Witness
Print Name: _____

BY: _____
Marlin Peachey Date

Natalie E. Passey
Witness
Print Name: Natalie E. Passey

BY: *Lydia Peachey Penrod* 9-11-18
Lydia Peachey Penrod Date

Witness
Print Name: _____

BY: _____
Theresa A. Peachey Date

Witness
Print Name: _____

BY: _____
Elizabeth R. Peachey Date

Witness
Print Name: _____

BY: _____
Jennifer P. Schaefer Date

Witness
Print Name: _____

BY: _____
Susan R. Peachey Date

APPROVED AS TO FORM:

Dolores D. Menendez, City Attorney

IN WITNESS THEREOF, BUYER and SELLER have signed this contract on the date set forth below.

CITY OF CAPE CORAL, FLORIDA

Witness to A. John Szerlag

BY: _____
A. John Szerlag Date
City Manager

Witness to Rebecca van Deutekom

BY: _____
Rebecca van Deutekom Date
City Clerk

Witness
Print Name: _____

Linda Ralston

Witness
Print Name: Linda Ralston

BY: _____
Evelyn Peachey Anderson Date

BY: Donna Loughborough Staples
Donna Loughborough Staples Date 9/11/18

Witness
Print Name: _____

BY: _____
Marlin Peachey Date

Witness
Print Name: _____

BY: _____
Lydia Peachey Penrod Date

Witness
Print Name: _____

BY: _____
Theresa A. Peachey Date

Witness
Print Name: _____

BY: _____
Elizabeth R. Peachey Date

Witness
Print Name: _____

BY: _____
Jennifer P. Schaefer Date

Witness
Print Name: _____

BY: _____
Susan R. Peachey Date

APPROVED AS TO FORM:

Dolores D. Menendez, City Attorney

IN WITNESS THEREOF, BUYER and SELLER have signed this contract on the date set forth below.

CITY OF CAPE CORAL, FLORIDA

Witness to A. John Szerlag

BY: _____
A. John Szerlag Date
City Manager

Witness to Rebecca van Deutekom

BY: _____
Rebecca van Deutekom Date
City Clerk

Witness

Print Name: _____

BY: _____
Evelyn Peachey Anderson Date

Witness

Print Name: _____

BY: _____
Donna Loughborough Staples Date

Witness

Print Name: CECELIA PEACHEY

Cecelia Peachey

Witness

Print Name: _____

BY: *Marlin Peachey* 9-10-18
Marlin Peachey Date

BY: _____
Lydia Peachey Penrod Date

Witness

Print Name: _____

BY: _____
Theresa A. Peachey Date

Witness

Print Name: _____

BY: _____
Elizabeth R. Peachey Date

Witness

Print Name: _____

BY: _____
Jennifer P. Schaefer Date

Witness

Print Name: _____

BY: _____
Susan R. Peachey Date

APPROVED AS TO FORM:

Dolores D. Menendez, City Attorney

IN WITNESS THEREOF, BUYER and SELLER have signed this contract on the date set forth below.

CITY OF CAPE CORAL, FLORIDA

Witness to A. John Szerlag

BY: _____
A. John Szerlag Date
City Manager

Witness to Rebecca van Deutekom

BY: _____
Rebecca van Deutekom Date
City Clerk

Witness

Print Name: _____

BY: _____
Evelyn Peachey Anderson Date

Witness

Print Name: _____

BY: _____
Donna Loughborough Staples Date

Witness

Print Name: _____

BY: _____
Marlin Peachey Date

Witness

Print Name: _____

BY: _____
Lydia Peachey Penrod Date

Witness

Print Name: _____

BY: _____
Theresa A. Peachey Date

Witness

Print Name: _____

BY: _____
Elizabeth R. Peachey Date
9/17/2018

Witness

Print Name: _____

BY: _____
Jennifer P. Schaefer Date

Witness

Print Name: _____

BY: _____
Susan R. Peachey Date

APPROVED AS TO FORM:

Dolores D. Menendez, City Attorney

IN WITNESS THEREOF, BUYER and SELLER have signed this contract on the date set forth below.

CITY OF CAPE CORAL, FLORIDA

Witness to A. John Szerlag

BY: _____
A. John Szerlag Date
City Manager

Witness to Rebecca van Deutekom

BY: _____
Rebecca van Deutekom Date
City Clerk

Witness

Print Name: _____

BY: _____
Evelyn Peachey Anderson Date

Witness

Print Name: _____

BY: _____
Donna Loughborough Staples Date

Witness

Print Name: _____

BY: _____
Marlin Peachey Date

Witness

Print Name: _____

BY: _____
Lydia Peachey Penrod Date

Witness

Print Name: James M Schaefer

BY: T. A. Peachey 9/12/18
Theresa A. Peachey Date

Witness

Print Name: James M Schaefer

BY: _____
Elizabeth R. Peachey Date

Witness

Print Name: James M Schaefer

BY: Jennifer P. Schaefer 9/12/18
Jennifer P. Schaefer Date

Witness

Print Name: _____

BY: _____
Susan R. Peachey Date

APPROVED AS TO FORM:

Dolores D. Menendez, City Attorney

IN WITNESS THEREOF, BUYER and SELLER have signed this contract on the date set forth below.

CITY OF CAPE CORAL, FLORIDA

Witness to A. John Szerlag

BY: _____
A. John Szerlag Date
City Manager

Witness to Rebecca van Deutekom

BY: _____
Rebecca van Deutekom Date
City Clerk

Witness

Print Name: _____

BY: _____
Evelyn Peachey Anderson Date

Witness

Print Name: _____

BY: _____
Donna Loughborough Staples Date

Witness

Print Name: _____

BY: _____
Marlin Peachey Date

Witness

Print Name: _____

BY: _____
Lydia Peachey Penrod Date

Witness

Print Name: _____

BY: _____
Theresa A. Peachey Date

Witness

Print Name: _____

BY: _____
Elizabeth R. Peachey Date

Witness

Print Name: _____

BY: _____
Jennifer P. Schaefer Date

Witness

Print Name: Ryan Kenney

BY: Susan R. Peachey 10 Sep 2018
Susan R. Peachey Date

APPROVED AS TO FORM:

Dolores D. Menendez, City Attorney



Lee County Property Appraiser

Tax Year
[Next Parcel Number](#) [Previous Parcel Number](#) [Tax Estimator](#) [Cape Coral Fees](#) [Tax Bills](#) [Print](#)

Property Data

STRAP: 27-43-23-C1-03025.0460 Folio ID: 10033895

Owner Of Record - Tenants in Common

ANDERSON EVELYN PEACHEY +
STAPLES DONNA LOUGHBOROUGH ET AL
152 INDIAN LAKE RD
WINCHESTER VA 22603

Site Address

1128 WILMINGTON PKWY
CAPE CORAL FL 33993

Property Description

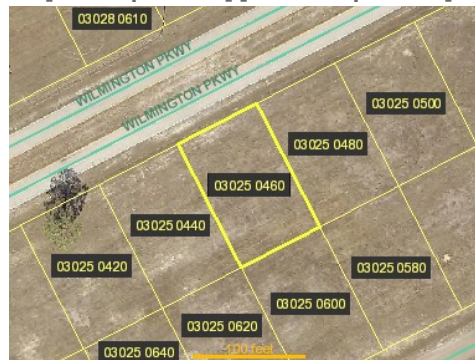
Do not use for legal documents!

CAPE CORAL UNIT 43 BLK 3025 PB 17 PG 55 LOTS 46 + 47

Classification / DOR Code

VACANT RESIDENTIAL / 00

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]



Current Working Values



Just 9,300 **As Of** 07/16/2018

Attributes

Land Units Of Measure	UT
Units	1.00
Frontage	80
Depth	125
Total Number of Buildings	0
Total Bedrooms / Bathrooms	0
Total Living Area	0
1st Year Building on Tax Roll	N/A
Historic District	No

Image of Structure



Exemptions



Values (2018 Trim)



Taxing Authorities



Sales / Transactions



Parcel Numbering History



Location Information



Solid Waste (Garbage) Roll Data



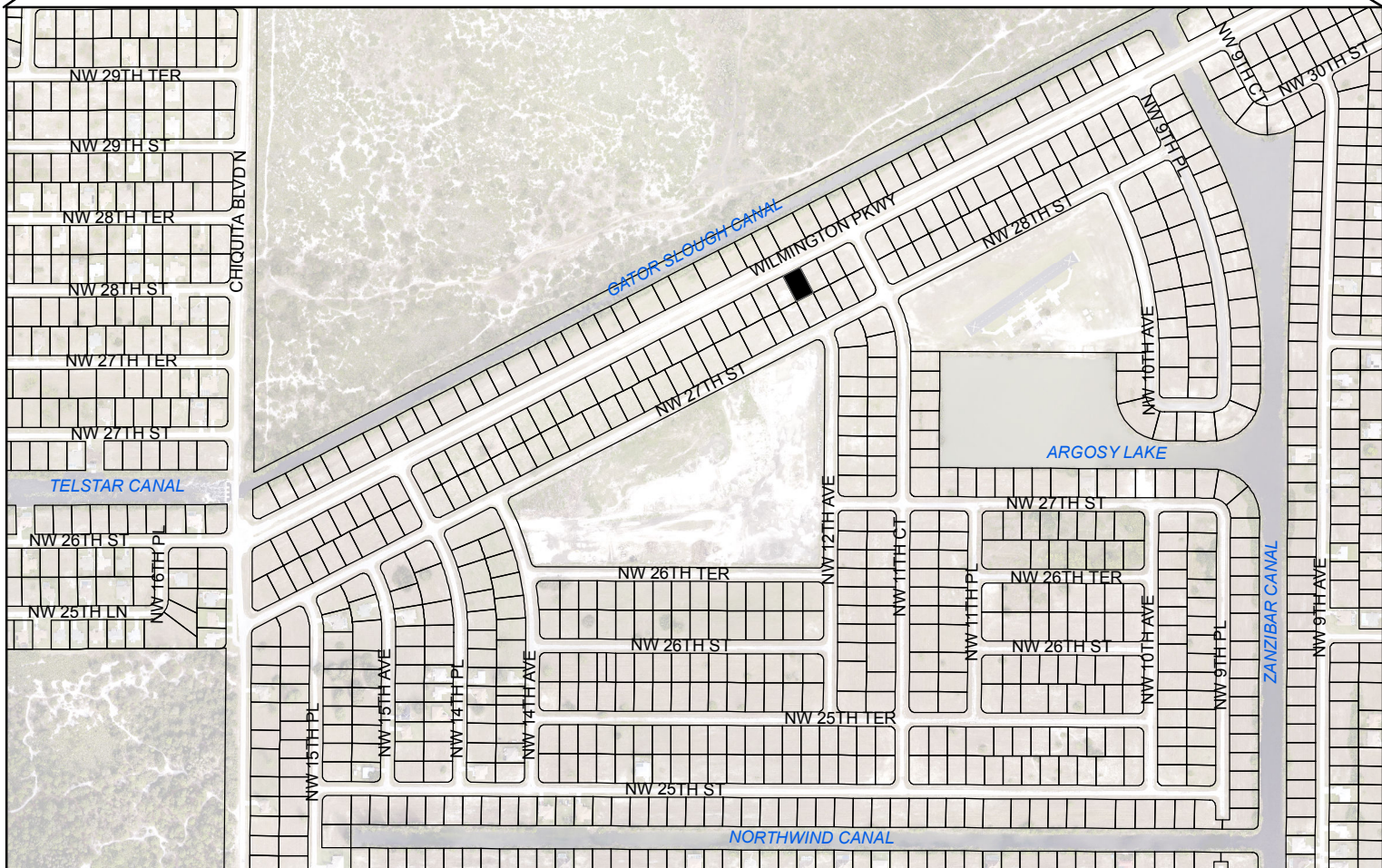
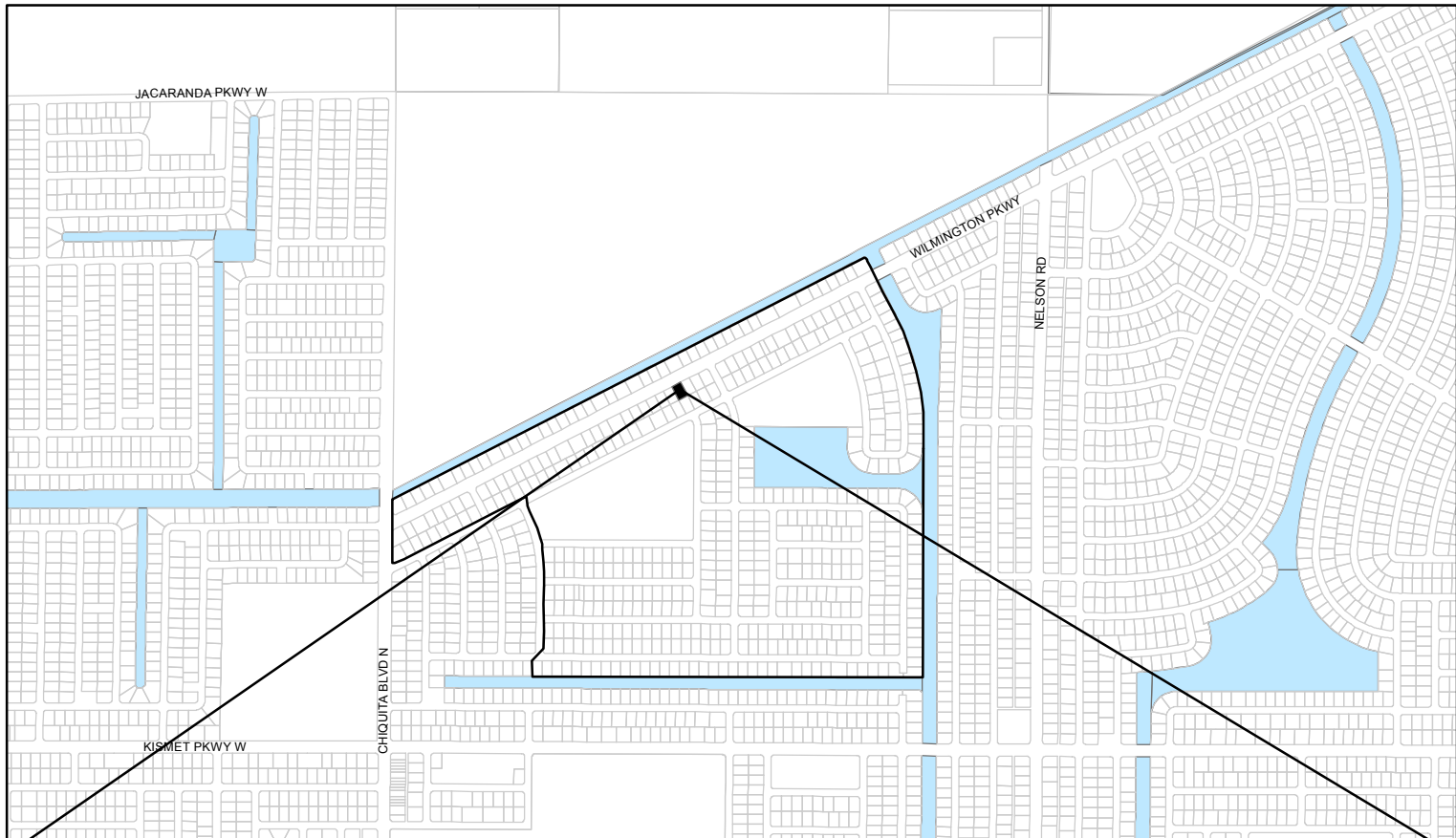
Flood and Storm Information



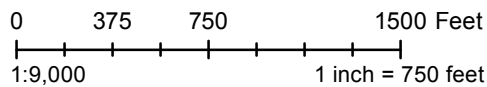
Appraisal Details (2018 Trim)



Appraisal Details (Current Working Values)



This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product. Prepared by: The City of CAPE CORAL, Real Estate Division-Gregory L. Spivey



FESTIVAL PARK
PARCEL 393
 Block 3025 Lots 46 and 47
 1128 Wilmington Parkway

PRIVACY NOTICE

Pursuant to the Gramm-Leach-Bliley Act of 1999, effective July 1, 2001, Appraisers, along with all providers of personal financial services are now required by federal law to inform their clients of the policies of the firm with regard to the privacy of client nonpublic personal information. As professionals, we understand that your privacy is very important to you and are pleased to provide you with this information.

Types of Nonpublic Personal Information We Collect

In the course of performing appraisals, we may collect what is known as "nonpublic personal information" about you. This information is used to facilitate the services that we provide to you and may include the information provided to us by you directly or received by us from others with your authorization.

Parties to Whom We Disclose Information

We do not disclose any nonpublic personal information obtained in the course of our engagement with our clients to nonaffiliated third parties, except as necessary or as required by law. By way of example, a necessary disclosure would be to our employees, and in certain situations, to unrelated third party consultants who need to know that information to assist us in providing appraisal services to you. All of our employees and any third party consultants we employ are informed that any information they see as part of an appraisal assignment is to be maintained in strict confidence within the firm.

A disclosure required by law would be a disclosure by us that is ordered by a court of competent jurisdiction with regard to a legal action to which you are a party.

Confidentiality and Security

We will retain records relating to professional services that we have provided to you for a reasonable time so that we are better able to assist you with your needs. In order to protect your nonpublic personal information from unauthorized access by third parties, we maintain physical, electronic and procedural safeguards that comply with our professional standards to insure the security and integrity of your information.

Please feel free to call us any time if you have any questions about the confidentiality of the information that you provide to us.

Copyright© 2007 by a la mode, inc. This form may be reproduced unmodified without written permission, however, a la mode, inc. must be acknowledged and credited.
Form GPLND — "WinTOTAL" appraisal software by a la mode, inc. — 1-800-ALAMODE 3/2007

LAND APPRAISAL REPORT

File No.: 20100128

TRANSFER HISTORY

My research ☐ did ☒ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data Source(s): Lee County Property Appraiser's web site

1st Prior Subject Sale/Transfer

Date: 12/04/2012

Price: \$0

Source(s): LeePA

2nd Prior Subject Sale/Transfer

Date: 01/16/2012

Price: \$100

Source(s): LeePA

Analysis of sale/transfer history and/or any current agreement of sale/listing: The subject has no listings found in the SWFL MLS within the past 12 months. The subject had no transactions in the previous 36 month from effective date of this appraisal. Sales #1 and #2 had no prior transactions in the previous 12 months. Sale #3 had a prior sale within the previous 12 months as indicated below.

Sources: Lee County Property Appraiser's web site; Lee County Clerk of Courts; Realist; SWFL MLS

SALES COMPARISON APPROACH

FEATURE	SUBJECT PROPERTY	COMPARABLE NO. 1		COMPARABLE NO. 2		COMPARABLE NO. 3	
Address	1308 NW 25th Ter Cape Coral, FL 33993	1909 NW 17th Ter Cape Coral, FL 33993		2913 NW 22nd Ave Cape Coral, FL 33993		1708 NW 9th Pl Cape Coral, FL 33993	
Proximity to Subject		1.19 miles SW		1.14 miles NW		1.17 miles SE	
Sale Price	\$ N/A	\$	11,500	\$	9,500	\$	9,900
Price/ Sq.Ft.	\$	\$	1.15	\$	0.89	\$	0.93
Data Source(s)	Inspection	SWFLMLS#217015752/177DOM		SWFLMLS#216077660/296DOM		SWFLMLS#217027858/195DOM	
Verification Source(s)	LeePA/Public Rec.	LeePA/Inst#2017000195462		LeePA/Inst#2017000226388		LeePA/Inst#2017000235502	
VALUE ADJUSTMENT	DESCRIPTION	DESCRIPTION	+(-) \$ Adjust	DESCRIPTION	+(-) \$ Adjust	DESCRIPTION	+(-) \$ Adjust
Sales or Financing	N/A	Cash		Cash		Cash	
Concessions	N/A	0		0		0	
Date of Sale/Time	N/A	s09/17;c08/17	0	s10/17;c10/17	0	s11/17;c10/17	0
Rights Appraised	Fee Simple	Fee Simple		Fee Simple		Fee Simple	
Location	U43/Residential	U53/Residential	0	U80/Residential	0	U42/Residential	0
Site Area (in Sq.Ft.)	11,129	10,000	0	10,625	0	10,626	0
View	Residential	Residential		Residential		Residential	
Utilities	Well/Septic area	Well/Septic area		Well/Septic area		Well/Septic area	
Prior Sale Date	12/04/2012	07/01/1974		04/13/2000		04/06/2017	
Prior Sale Price	\$0	\$2,500		\$5,500		\$6,000	
Net Adjustment (Total, in \$)		<input type="checkbox"/> + <input type="checkbox"/> - \$		<input type="checkbox"/> + <input type="checkbox"/> - \$		<input type="checkbox"/> + <input type="checkbox"/> - \$	
Adjusted Sale Price (in \$)		Net % Gross %	\$ 11,500	Net % Gross %	\$ 9,500	Net % Gross %	\$ 9,900
Summary of Sales Comparison Approach All three sales are located just over one mile in distance, but still within the subject's defined market. These are recent sales that closed within three months prior to the effective date of this appraisal. No adjustments are required. Similar emphasis is given to all three sales.							
s=settlement/closed date; c=contract/pending date; DOM=days on the market							

PUD

PROJECT INFORMATION FOR PUDs (if applicable) ☐ The Subject is part of a Planned Unit Development.

Legal Name of Project:

Describe common elements and recreational facilities:

RECONCILIATION

Indicated Value by: Sales Comparison Approach \$ 11,000

Final Reconciliation The Sales Comparison Approach best represents the actions of typical buyers and sellers in the market and is relied on entirely for the value estimate. The Cost and Income Approaches are not applicable to vacant land.

This appraisal is made ☒ "as is", or ☐ subject to the following conditions: See attached Assumptions and Limiting Conditions.

☐ This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.

Based upon an inspection of the subject property, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: \$ 11,000 , as of: 12/20/2017 , which is the effective date of this appraisal. If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.

ATTACH.

A true and complete copy of this report contains 13 pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report, which contains the following attached exhibits: ☒ Scope of Work

☒ Limiting cond./Certifications ☒ Narrative Addendum ☒ Location Map(s) ☐ Flood Addendum ☐ Additional Sales

☒ Photo Addenda ☒ Parcel Map ☐ Hypothetical Conditions ☐ Extraordinary Assumptions ☐

SIGNATURES

Client Contact: Doug Sayers Client Name: City of Cape Coral

E-Mail: dsayers@capecoral.net Address: PO Box 150027, Cape Coral, FL 33915-0027

APPRaiserRhonda Elaine RechkemmerAppraiser Name: Rhonda Elaine RechkemmerCompany: Rechkemmer Appraisal Services, Inc.Phone: (239) 542-4152 Fax: (239) 542-2591E-Mail: R.Rechkemmer@att.netDate of Report (Signature): 12/21/2017License or Certification #: Cert.Res.RD2869 State: FLDesignation: Rechkemmer Appraisal Services, Inc.Expiration Date of License or Certification: 11/30/2018Inspection of Subject: ☒ Did Inspect ☐ Did Not Inspect (Desktop)Date of Inspection: 12/20/2017

SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)Supervisory or Co-Appraiser Name:Company:Phone:Fax:E-Mail:Date of Report (Signature):License or Certification #:State:Designation:Expiration Date of License or Certification:Inspection of Subject: ☐ Did Inspect ☐ Did Not InspectDate of Inspection:

Supplemental Addendum

File No. 20100128

Client	City of Cape Coral				
Property Address	1308 NW 25th Ter				
City	Cape Coral	County	Lee	State	FL Zip Code 33993
Borrower	N/A				

Intended User and Use Clarification

The Intended User of this appraisal report is the Client, the City of Cape Coral. The Intended Use is to evaluate the property that is the subject of this appraisal for land acquisition. No additional Intended Users are identified by the appraiser. This report is not intended for lending nor insurance purposes.

Scope of the Work

The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report including the attached definition of market value, statement of assumptions and limiting conditions and certifications. The appraiser has performed a visual inspection of the subject site, inspected and analyzed the neighborhood, inspected the comparable sales from the street, researched, verified and analyzed data from reliable public and/or private sources and reported my analysis, opinions and conclusions in this appraisal report.

Highest and Best Use as Vacant

Considering the physically and legally possible as well as the financially feasible tests of highest and best use, it is the appraiser's opinion that the highest and best use of the subject site is for development of a single family residence.

Additional Comments

I have no current or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

The opinion of market value as defined in this report is in terms of cash or of financing terms equivalent to cash.

Exposure time as defined in USPAP is the estimated length of time that a property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal. Exposure time is a retrospective opinion based on an analysis of past events assuming a competitive and open market.

Comments on Future Assessments

It should be noted that the City of Cape Coral intends to expand utilities (water, sewer and irrigation water) to the subject's market in the future at which time connection will be mandatory and there will be assessments and CIAC fees which will be determined based on the cost of the project. Owners have the option of paying all of the assessments/fees up front or financing over 20 years and are then included on the owner's annual tax bill until paid in full.

Comments on the City of Cape Coral

The subject is located in Cape Coral, an incorporated city on the southwest portion of Florida in Lee County. The city of Cape Coral has an indicated land area of 120 square miles and is known for its extensive fresh water and Gulf access canals and lakes. The estimated population of Cape Coral in 2013 was 165,831 persons, per the US Census Bureau. The Cape Coral market had substantial growth with extensive new construction during 2000-2006. This market was affected by the recession starting in 2006-2007 with new construction ending and extensive foreclosures throughout the area for several years. For the past five years, this market has been in the recovery process with housing inventory decreasing and new construction starts noted.

Comments on the Proposed Festival Park

The subject site is located in the northwest portion of Cape Coral in an area that will be developed as Festival Park by the City of Cape Coral. Festival Park will consist of approximately 215 acres which currently includes platted lots, existing streets, a fresh water lake and the current Seahawk Park when completed. The platted lots in this area are being acquired by the City of Cape Coral in four phases for this project.

Client	City of Cape Coral	File No. 20100128
Property Address	1308 NW 25th Ter	
City	County Lee	State FL Zip Code 33993
Borrower	N/A	

APPRAISAL AND REPORT IDENTIFICATION

This Report is one of the following types:

- ☒ **Appraisal Report** (A written report prepared under Standards Rule 2-2(a), pursuant to the Scope of Work, as disclosed elsewhere in this report.)
- ☐ **Restricted Appraisal Report** (A written report prepared under Standards Rule 2-2(b), pursuant to the Scope of Work, as disclosed elsewhere in this report, restricted to the stated intended use by the specified client or intended user.)

Comments on Standards Rule 2-3

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
- I have made a personal inspection of the property that is the subject of this report.
- No one provided significant real property appraisal assistance to the person(s) signing this certification (if there are exceptions, the name of each individual providing significant real property appraisal assistance is stated elsewhere in this report).

Reasonable Exposure Time (USPAP defines Exposure Time as the estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.)

My Opinion of Reasonable Exposure Time for the subject property at the market value stated in this report is: 66-126 days on the market as indicated by similar vacant site sales.

Comments on Appraisal and Report Identification

Note any USPAP related issues requiring disclosure and any State mandated requirements:

APPRAISER:

Signature: Rhonda Elaine Rechkemmer
 Name: Rhonda Elaine Rechkemmer

State Certification #: Cert.Res.RD2869
 or State License #: _____
 State: FL Expiration Date of Certification or License: 11/30/2018
 Date of Signature and Report: 12/21/2017
 Effective Date of Appraisal: 12/20/2017
 Inspection of Subject: ☐ None ☒ Interior and Exterior ☐ Exterior-Only
 Date of Inspection (if applicable): 12/20/2017

SUPERVISORY or CO-APPRAISER (if applicable):

Signature: _____
 Name: _____

State Certification #: _____
 or State License #: _____
 State: _____ Expiration Date of Certification or License: _____
 Date of Signature: _____
 Inspection of Subject: ☐ None ☐ Interior and Exterior ☐ Exterior-Only
 Date of Inspection (if applicable): _____

Assumptions, Limiting Conditions & Scope of Work

File No.: 20100128

Property Address:	1308 NW 25th Ter	City:	Cape Coral	State:	FL	Zip Code:	33993
Client:	City of Cape Coral	Address:	PO Box 150027, Cape Coral, FL 33915-0027				
Appraiser:	Rhonda Elaine Rechkemmer	Address:	1913 SW 54th Street, Cape Coral, FL 33914-6888				

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

— The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.

— The appraiser may have provided a plat and/or parcel map in the appraisal report to assist the reader in visualizing the lot size, shape, and/or orientation. The appraiser has not made a survey of the subject property.

— If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

— The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

— The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

— The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

— The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.

— An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.

— The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database. Possession of this report or any copy thereof does not carry with it the right of publication.

— Forecasts of effective demand for the highest and best use or the best fitting and most appropriate use were based on the best available data concerning the market and are subject to conditions of economic uncertainty about the future.

The Scope of Work is the type and extent of research and analyses performed in an appraisal assignment that is required to produce credible assignment results, given the nature of the appraisal problem, the specific requirements of the intended user(s) and the intended use of the appraisal report. Reliance upon this report, regardless of how acquired, by any party or for any use, other than those specified in this report by the Appraiser, is prohibited. The Opinion of Value that is the conclusion of this report is credible only within the context of the Scope of Work, Effective Date, the Date of Report, the Intended User(s), the Intended Use, the stated Assumptions and Limiting Conditions, any Hypothetical Conditions and/or Extraordinary Assumptions, and the Type of Value, as defined herein. The appraiser, appraisal firm, and related parties assume no obligation, liability, or accountability, and will not be responsible for any unauthorized use of this report or its conclusions.

Additional Comments (Scope of Work, Extraordinary Assumptions, Hypothetical Conditions, etc.):

Certifications & Definitions

File No.: 20100128

[illegible]

Subject Photo Page

Client	City of Cape Coral				
Property Address	1308 NW 25th Ter				
City	Cape Coral	County	Lee	State	FL Zip Code 33993
Borrower	N/A				



Subject Front

1308 NW 25th Ter
Sales Price N/A
Gross Living Area
Total Rooms
Total Bedrooms
Total Bathrooms
Location U43/Residential
View
Site 11,129
Quality
Age



Subject Street



Subject Street

Comparable Photo Page

Client	City of Cape Coral				
Property Address	1308 NW 25th Ter				
City	Cape Coral	County	Lee	State	FL Zip Code 33993
Borrower	N/A				



Comparable 1

1909 NW 17th Ter
Prox. to Subject 1.19 miles SW
Sales Price 11,500
Gross Living Area
Total Rooms
Total Bedrooms
Total Bathrooms
Location U53/Residential
View 11,250 sf/Resid.
Site 10,000
Quality
Age



Comparable 2

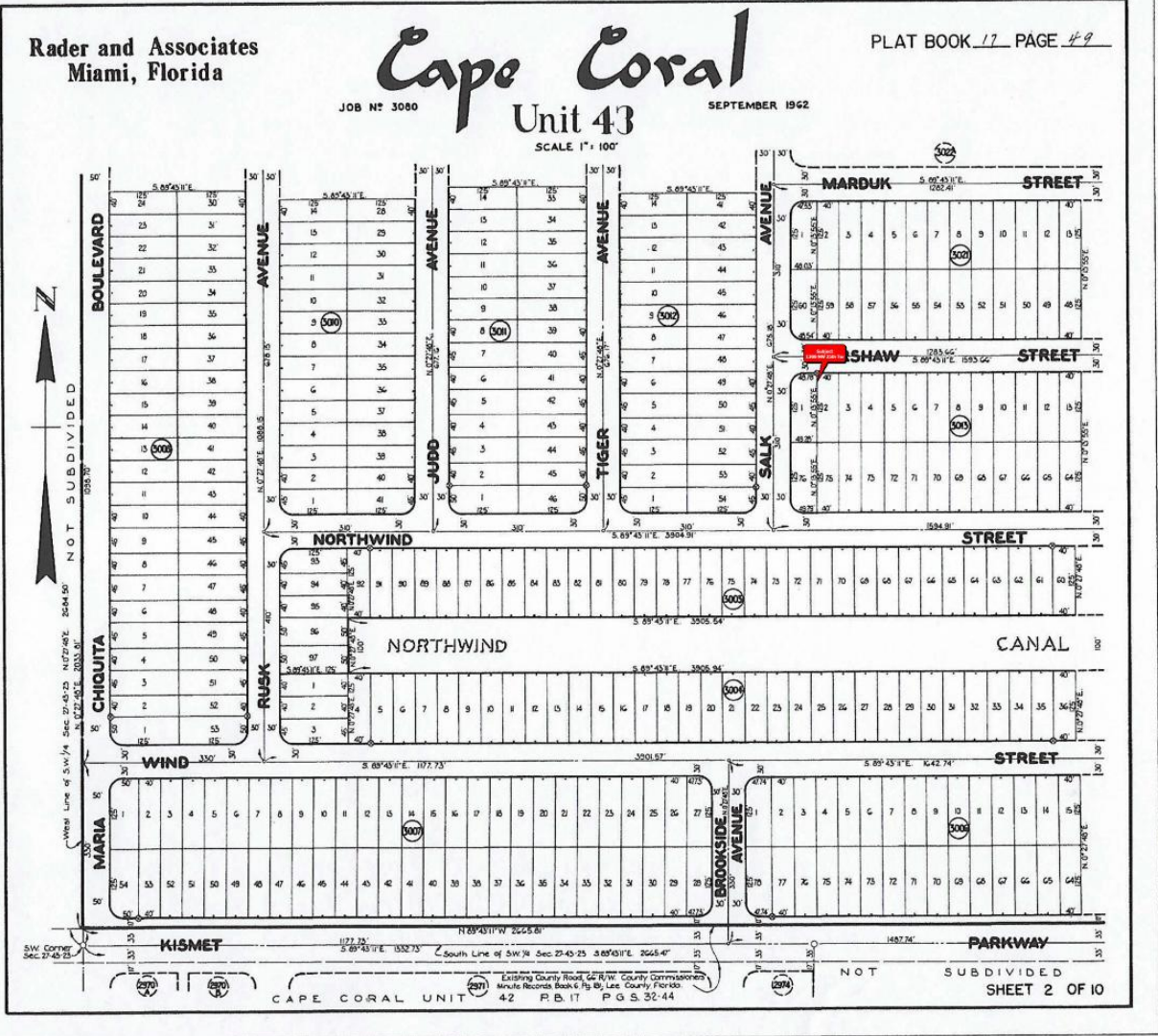
2913 NW 22nd Ave
Prox. to Subject 1.14 miles NW
Sales Price 9,500
Gross Living Area
Total Rooms
Total Bedrooms
Total Bathrooms
Location U80/Residential
View 10,000 sf/Resid.
Site 10,625
Quality
Age



Comparable 3

1708 NW 9th Pl
Prox. to Subject 1.17 miles SE
Sales Price 9,900
Gross Living Area
Total Rooms
Total Bedrooms
Total Bathrooms
Location U42/Residential
View 10,000 sf/Resid.
Site 10,626
Quality
Age

Plat



Aerial



Location Map

Client	City of Cape Coral			
Property Address	1308 NW 25th Ter			
City	Cape Coral	County	Lee	State FL Zip Code 33993
Borrower	N/A			



Item Number: B.(10)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 231-18 Renewal of an Interlocal Agreement Between the City of Cape Coral and Lee County to Provide Services to the Burnt Store Area Fire Service Municipal Service Taxing Unit; Department: Fire; Estimated Dollar Value: \$1,022,886; (General Fund)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Department Memo
Resolution 231-18

PREPARED BY:

Carrie
Lafferty Division- Administration Department- Fire

SOURCE OF ADDITIONAL INFORMATION:

Ryan W. Lamb, Fire Chief

ATTACHMENTS:

Description	Type
<div data-bbox="164 155 185 182">▢</div> <div data-bbox="224 155 461 191">Department Memo</div>	Backup Material
<div data-bbox="164 197 185 224">▢</div> <div data-bbox="224 197 461 231">Resolution 231-18</div>	Resolution



CAPE CORAL FIRE DEPARTMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager 
Ryan W. Lamb, Fire Chief  

DATE: September 25, 2018

SUBJECT: Renewal of the Agreement with Lee County to Provide Services to the
Burnt Store Area Fire Service Municipal Service Taxing Unit

Background

The City of Cape Coral has provided fire protection services to Burnt Store Marina and other unincorporated areas of Lee County since 1990. The City of Cape Coral has engaged in an interlocal agreement – the Burnt Store Area Fire Service Municipal Service Taxing Unit (MSTU) – which details how the City is compensated for this service. The existing interlocal agreement will expire on November 30, 2018.

Summary

The current agreement calculates the annual fee on a “calls for service” methodology, based on a percentage of service calls for Fire Station 7 into the MSTU area and does not accurately reflect the costs associated with providing service. This methodology is susceptible to large fluctuation and annual fees have varied from \$679,274 in FY2015 to \$1,022,855 in FY2017.

Instead, a “ready to serve” methodology is recommended as it better captures the costs of available services. The Fire Service Assessment would not accurately reflect the costs to provide fire service to these properties.

Recommendation

The development of a new methodology is recommended. However, the development of a new methodology will require extensive research and investigation of impacts. Therefore, we recommend a renewal of the current agreement until an agreement with a new methodology can be developed and thoroughly vetted. The new agreement can replace the existing agreement at any time, if mutually adopted by the City and the County. The intent is to have a new agreement in place within six months.

JS,RWL:lak

RESOLUTION 231 - 18

A RESOLUTION OF THE CITY OF CAPE CORAL APPROVING THE FIRST EXTENSION TO INTERLOCAL AGREEMENT FOR BURNT STORE AREA FIRE SERVICE MSTU; AUTHORIZING THE CITY MANAGER TO EXECUTE THE EXTENSION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 9, 2013, City Council adopted Administrative Resolution 2013-24, approving the Burnt Store Area Fire Service MSTU Interlocal Agreement between the City of Cape Coral and Lee County, setting forth the terms and conditions of the City providing fire protection services within the area of the Burnt Store Area Fire Municipal Services Taxing Unit; and

WHEREAS, the initial term of the Agreement ends on November 30, 2018; and

WHEREAS, the parties wish to extend the term of the Agreement for one (1) year; and

WHEREAS, the City Council desires to approve the First Extension to Interlocal Agreement for Burnt Store Area Fire Service MSTU, attached hereto as Exhibit 1.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. The City Council hereby approves the First Extension to Interlocal Agreement for Burnt Store Area Fire Service MSTU and authorizes the City Manager to execute the Extension, attached hereto as Exhibit 1.

Section 2. Effective Date. This Resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
res/Burnt Store MSTU Interlocal Extension

**FIRST EXTENSION TO INTERLOCAL AGREEMENT FOR
BURNT STORE AREA FIRE SERVICE MSTU**

THIS FIRST EXTENSION (Extension), effective as of November ___, 2018 (Effective Date) is made and entered into by and between the CITY OF CAPE CORAL, FLORIDA, a municipal corporation, hereinafter "CITY"; and LEE COUNTY, a political subdivision and charter County of the State of Florida, hereafter "COUNTY". The identified entities will be referred to collectively as the "Parties", and individually as a "Party".

WHEREAS, the Parties executed an Interlocal Agreement for Fire Service for the Burnt Store Area (Agreement) on December 10, 2013; and

WHEREAS, the initial term of the Agreement commenced on October 1, 2013 and ends on November 30, 2018; and

WHEREAS, the Parties wish to extend the Agreement for one (1) year; and

NOW, THEREFORE in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

1. TERM OF EXTENSION

- A. The term of the Agreement shall be extended to commence on December 1, 2018 and end on November 30, 2019.
- B. This one (1) year extension will be governed by the terms of the initial Agreement, and the updated January 2018 legal description incorporated herein by reference.
- C. The Parties agree to be bound by the same duties, rights, and responsibilities as outlined in the initial Agreement.
- D. Acceptance of this Agreement will be indicated by the signature of the duly authorized representatives of the parties in the space provided.
- E. This Agreement will be filed with the Lee County Clerk of Court by the COUNTY.

IN WITNESS WHEREOF, the parties have executed this Interlocal Agreement effective the day and year first written above.

ATTEST:

CITY OF CAPE CORAL

By: _____
CITY CLERK

By: _____
CITY MANAGER

Date: _____

Date: _____

APPROVED AS TO LEGAL FORM:

By:  _____
CITY ATTORNEY

Date: 10/1/18

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

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

By: _____
Office of the County Attorney

EXHIBIT "A" - LEGAL DESCRIPTION

BURNT STORE FIRE MSTU BOUNDARY

A tract or parcel of land being all of or parts of Section 1, Township 43 South, Range 22 East, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23 and 24, Township 43 South, Range 23 East and Section 6, Township 43 South, Range 24 East, all in Lee County, Florida. Said tract or parcel being described as follows:

Beginning at the Northeast corner of Section 6, Township 43 South, Range 24 East, said point being on the Lee County/Charlotte County boundary line, run South along the East line of said Section 6 to an intersection with the North line of lands described in Instrument Number 2006000200439 of the Public Records of Lee County, Florida; thence run West along said North line to the northwest corner of said lands; thence run South along the West line of said lands to an intersection with the North line of Section 7, Township 43 South, Range 24 East, also being the North line of lands described in Instrument Number 2007000181936 (Parcel 9) of said public records; thence run West along said North line to the northwest corner of said Section 7; thence run South along the West line of said Section 7, and said lands, to the northwest corner of Section 18, Township 43 South, Range 24 East, also being the northwest corner of Cape Coral Unit 87 as shown on plat recorded in Plat Book 24, Page 67 of said public records; thence run South along the West line of said Section 18, also being the West line of said Cape Coral Unit 87 and the West right-of-way line of Andalusia Boulevard, to an intersection with the northwest corner of Section 19, Township 43 South, Range 24 East; thence run South along the West line of said Section 19, also being the West line of Cape Coral Unit 84 as shown on plat recorded in Plat Book 24, Page 30 of said public records and the West right-of-way line of Andalusia Boulevard, to an intersection with the southwest corner of said Section 19, also being the North line of Cape Coral Unit 36 as shown on plat recorded in Plat Book 16, Page 112 of said public records and the North right-of-way line of Jacaranda Boulevard; thence run West along the North line of Section 25, Township 43 South, Range 23 East, also being the North line of said Cape Coral Unit 36 and the North right-of-way line of Jacaranda Boulevard, to an intersection with the northwest corner of said Section 25; thence run North along the East line of Section 23, Township 43 South, Range 23 East, also being the East line of Cape Coral Unit 40 as shown on plat recorded in Plat Book 17, Page 81 of said public records, to an intersection with the North line of said Cape Coral Unit 40 and the northerly right-of-way line of the Gator Slough Canal; thence run southwesterly along said North right-of-way line to an intersection with the North line of Section 26, Township 43 South, Range 23 East also being the North line of lands described in Instrument Number 2007000264129 of said public records; thence run West along said North line to an intersection with the East line of Section 22, Township 43 South, Range 23 East, also being the East line of a public road right-of-way line described in

Instrument Number 2008000059328 of said public records; thence run North along said East line to an intersection with the North line of the South one-half (S-1/2) of the southeast one-quarter (SE-1/4) of said Section 22 also being the North line of lands described in Instrument Number 2007000124055 of said public records; thence run West along said North line to an intersection with the East line of the North one-half (N-1/2) of the southwest one-quarter (SW-1/4) of said Section 22, also being the East line of lands described in Instrument Number 2007000181936 (Parcel 5) of said public records; thence run the following five (5) courses along the boundary lines of said Parcel 5: North along said East line to an intersection with the North line of said fraction of a section and the North line of said Parcel 5; West along said North line to an intersection with the West line of the East one-half (E-1/2) of the northwest one-quarter (NW-1/4) of the southwest one-quarter (SW-1/4) of said Section 22; South along said West line to an intersection with the South line of the northwest one-quarter (NW-1/4) of the southwest one-quarter (SW-1/4) of said Section 22; East along said South line to an intersection with the West line of the southeast one-quarter (SE-1/4) of the southwest one-quarter (SW-1/4) of said Section 22; South along said West line to an intersection with the North line of Section 27, Township 43 South, Range 23 East, also being the North line of lands described in Instrument Number 2007000181936 (Parcel 6) of said public records; thence run West along said North line to an intersection with the southeast corner of Section 21, Township 43 South, Range 23 East; thence run North along the East line of said Section 21, also being the East line of lands described in Instrument Number 2008000010791 of said public records, to an intersection with the northeast corner of said Section 21 and the North line of said lands; thence run the following thirteen (13) courses along the said North and the northwesterly boundary lines of said lands: S89°41'37"W for 2717.50 feet to the North quarter-corner of said Section 21; S89°42'10"W along said North line for 1916.51 feet; S54°17'36"W for 118.09 feet; S78°20'38"W for 301.91 feet; S15°21'13"W for 262.95 feet; S18°10'46"E for 451.89 feet; S33°57'11"W for 319.46 feet; S35°48'07"W for 468.40 feet; N66°47'49"W for 42.84 feet to a point on the West line of the northwest one-quarter (NW-1/4) of said Section 21; N66°47'49"W for 377.85 feet; S18°49'16"W for 468.74 feet; S08°13'52"W for 274.82 feet; S04°42'08"E for 209.62 feet to an intersection with the North line of land described in Official Record Book 2911, Page 1929, said public records; thence run S89°37'56"W along said north line for 1504 feet more or less to an intersection with the southeasterly line of land described in Instrument Number 2008000010793, said public records; thence run the following thirteen (13) courses along said southeasterly line: N14°07'22"W for 309.02 feet; N04°57'21"W for 328.45 feet; N30°46'26"E for 373.82 feet; N47°37'42"E for 418.12 feet; N52°52'36"E for 419.74 feet; N29°30'00"E for 428.71 feet; N49°10'09"W for 233.06 feet; N16°08'20"W for 302.65 feet; N55°38'13"E for 549.53 feet; N43°02'05"E for 376.63 feet; N13°09'29"W for 493.41 feet; N63°35'28"E for 412.89 feet; S82°04'31"E for

408.21 feet to an intersection with the East line of Section 17, Township 43 South, Range 23 East and the East line of lands described in Instrument Number 2007000181936 (Parcel 1), said public records; thence run North along said East line to an intersection with the northeast corner of said Section 17; thence run West along the North line of said Section 17 to the northwest corner of the East one-half (E-1/2) of said Section 17 and the northwest corner of said Parcel 1; thence run South along the West line of the East one-half (E-1/2) of said Section 17 to an intersection with the North quarter-corner of Section 20, Township 43 South, Range 23 East and the North line of lands described in Instrument Number 2007000181936 (Parcel 2), said public records; thence run West along said North line to an intersection with the southeast corner of Section 18, Township 43 South, Range 23 East, said corner lying within the right-of-way of Burnt Store Road (County Road 865); thence run North along the East line of said Section 18 to an intersection with the southeast corner of Section 7, Township 43 South, Range 23 East, said corner lying within the right-of-way of Burnt Store Road (County Road 865); thence run North along the East line of said Section 7 to an intersection with the northeast corner of said Section 7, said corner lying within the right-of-way of Burnt Store Road (County Road 865); thence run West along the North line of said Section 7 to an intersection with the northeast corner of Section 12, Township 43 South, Range 22 East and the northeast corner of lands described in Official Record Book 2905, Page 2477, said public records; thence run West along the North line of said lands to an intersection with the Mean High Water Line of Charlotte Harbor; thence run northerly along said Mean High Water Line to an intersection with the North line of Section 1, Township 43 South, Range 22 East and the Lee County/Charlotte County boundary line; thence run East along the North line of said Section 1, the North lines of Sections 6, 5, 4, 3, 2 and 1, Township 43 South, Range 23 East, and the North line of Section 6, Township 43 South, Range 24 East, said North section lines also being the Lee County/Charlotte County boundary line, to the northeast corner of said Section 6 and the Point of Beginning.

Together with two contiguous parcels of land located in Section 19, Township 43 South, Range 23 East, in Lee County, Florida, described as follows:

1. The east half of the southeast one quarter of the northwest one quarter of the southwest one quarter; and the west half of the southwest one quarter of the northeast one quarter of the southwest one quarter of Section 19, Township 43 South, Range 23 East as described in Parcel "C", Lee County Case No. 71-251.
2. The east half of the southwest one quarter of the northeast one quarter of the southwest one quarter; and the west half of the southeast one quarter of the northeast one quarter of the southwest one quarter of Section 19, Township 43 South, Range 23 East as described in Parcel "D", Lee County Case No. 71-251.

Item Number: B.(11)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 232-18 A Resolution approving the request of John D'Angelo (The Outdoor Kitchen Outlet, LLC) to allow the outdoor display of merchandise in front of a Household/Office Furnishing, Group I use located at 1306 Cape Coral Parkway West, Units B and C.

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision? No

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

A Resolution approving the request of John D'Angelo (The Outdoor Kitchen Outlet, LLC) to allow the outdoor display of merchandise (three prefabricated outdoor kitchens) in front of a Household/Office Furnishing, Group I use located at 1306 Cape Coral Parkway West, Units B and C.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Memo - Request for Outdoor Display of Merchandise
Resolution 232-18

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Vince Cautero, DCD Director




ATTACHMENTS:

Description	Type
<div data-bbox="152 170 185 201">▢</div> <div data-bbox="224 153 730 216">Memo - Request for Outdoor Display of Merchandise</div>	Backup Material
<div data-bbox="152 222 185 254">▢</div> <div data-bbox="224 222 459 262">Resolution 232-18</div>	Resolution

MEMORANDUM

CITY OF CAPE CORAL DEPARTMENT OF COMMUNITY DEVELOPMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager 
Vincent A. Cautero, Community Development Director 
Robert H. Pederson, Planning Manager 

DATE: October 1, 2018

SUBJECT: Request for Outdoor Display of Merchandise

Summary

The City has received a request from Mr. John D'Angelo (Outdoor Kitchen Outlet, LLC) for outdoor display of merchandise, which requires Council approval pursuant to Section 3.4 of the Land Use and Development Regulations (LUDR). He has signed a lease for Units B and C at 1306 Cape Coral Parkway East. City records indicate that Mr. D'Angelo has not yet applied for a Certificate of Use for this site. The business is classified as a Household/Office Furnishing, Group I use, which is a permitted use on this site.

Request

Mr. D'Angelo requests to display outdoor kitchen appliances in front of the store. LUDR, Section 3.4 identifies merchandise that may be displayed outdoors in conjunction with an existing licensed business in nonresidential zoning districts. These items include boats, new and used cars, bicycles, motorcycle, tires, garden equipment, and landscaping items. In addition, the outdoor display of fruit, vegetables, flowers, jewelry, books, and antiques are allowed in the South Cape District. The outdoor display of any item not explicitly mentioned in Section 3.4 is prohibited.

Analysis

Mr. D'Angelo's business would occupy Units B and C in space previously occupied by Royal Key. Unit A is presently occupied by Yellow Fin Sushi.

There is about 1,000 sq. ft. of pavers on private property in front of the two units of the site. Mr. D'Angelo proposes to display three separate prefabricated outdoor kitchens in this area. Each kitchen includes a grill with counter area. The area of each kitchen is not expected to exceed 100 sq. ft. The weight of each kitchen ranges from about 300 to 900 lbs. depending on whether the counter surface includes a granite top. Each kitchen will be fastened to the ground. Surveillance cameras will be installed for security purposes.

In evaluating this request, staff finds sufficient room exists for placing three kitchens on private property, clear of the sidewalk and not impeding the required accessible route to the building. The kitchens are comprised of materials designed to withstand weather. The display of these items should not pose a safety concern, and because these kitchens are made of durable materials, the displays should maintain good aesthetics despite being outdoors. The display of these items will not result in a loss of parking as the front area is not used for this purpose.

This proposal has been reviewed by the Fire Marshal and their comments are incorporated as conditions of approval #6 and #7, below.

Recommendation

Staff recommends approval this request with the following conditions:

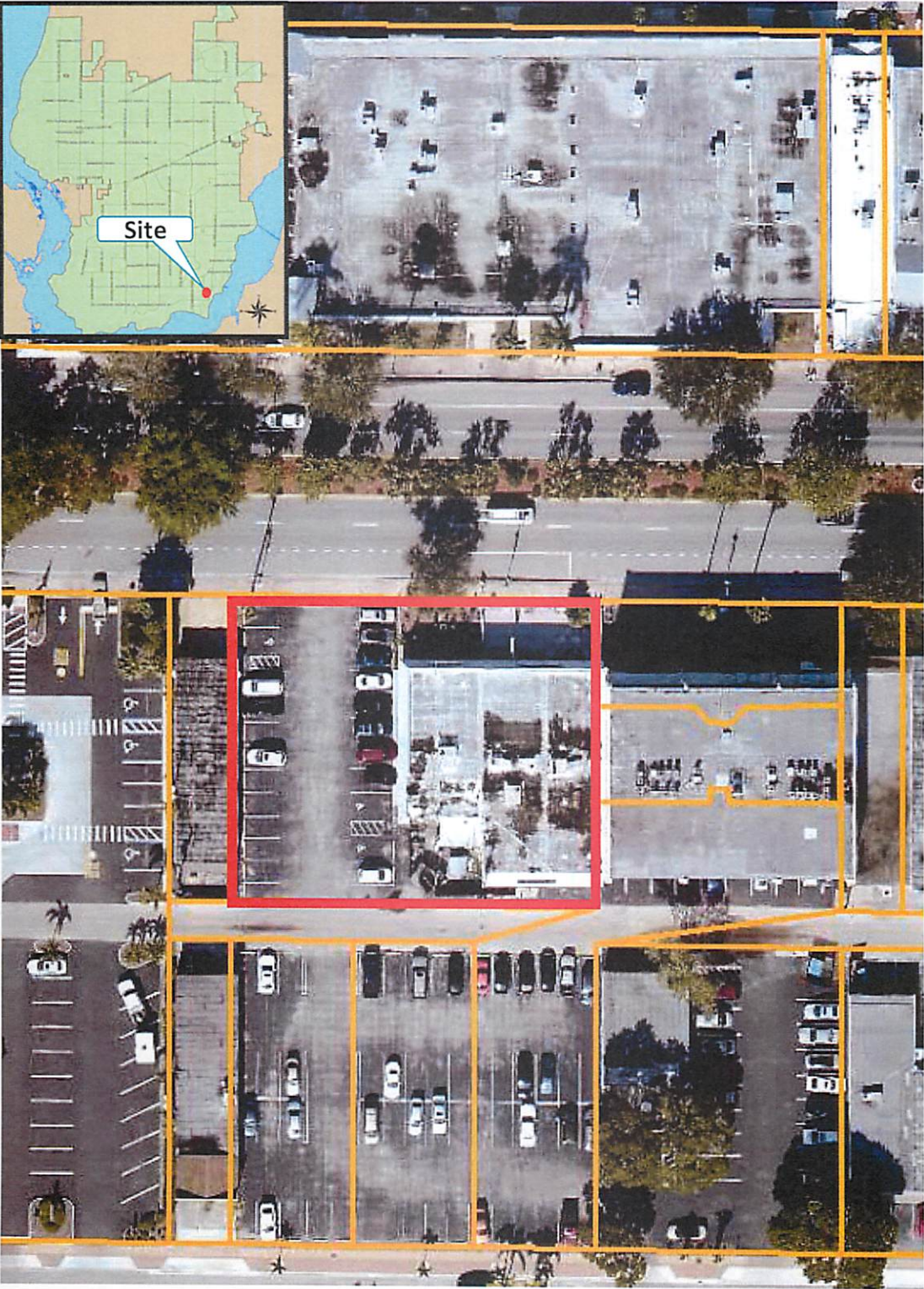
1. No outdoor display item shall be within 10 feet of the front or side property line.
2. Outdoor display items shall only be placed in front of Units B and C.
3. A maximum of three separate kitchen displays shall be placed on the site.
4. No single kitchen display shall exceed 100 sq. ft.
5. A building permit for these improvements shall be submitted to the City. The building permit shall demonstrate compliance with wind-load standards and the maintenance of a clear travel path to the front door of the building.
6. No merchandise shall be displayed under the overhang of the building unless fire sprinklers are extended outside to include the overhang.
7. Grills and similar kitchen equipment may utilize propane gas for cooking providing the grill and propane gas tank is a minimum of 10 feet from the building.

Attachments

RP/ms (S:\Planning_Division_2009\Memo\D'Angelo 100118)

C: Dolores Merendez, City Attorney

Property boundary of 1306 Cape Coral Parkway East shown in red.



John D'Angelo
The Outdoor Kitchen Outlet, LLC
1222 SE 47th St
Cape Coral, FL 33904

(239) 405-0888
outdoorkitchenoutlet@gmail.com

August 8, 2018

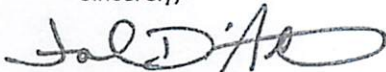
Director of Community Development
Vincent A. Caution
Cape Coral Community Development
815 Nicholas Pkwy E
Cape Coral, FL 33990

Re: Outdoor Display of Merchandise

Dear Director of Community Development:

I am writing you, in accordance to § 3.4 – Outdoor display of merchandise, to request consideration of an outdoor display for my up and coming new business located at 1306 Cape Coral Pkwy E, units B & C. I met with you in your office this past April about my outdoor kitchen business and you explained to me the steps involved to get a display approved (hopefully!) by the city. Well since then I have signed a lease for this 4,000 space and we are hoping to be open right as season begins! Up front is a 900 square foot patio that was just refinished with brand new pavers and this is where I would love to display my outdoor kitchens. I have included pictures and renderings to illustrate what I would like to do on the patio, as well as some pictures of actual kitchens we have done. There would be no construction on-site to build the kitchens, they are prebuilt, brought in, then fastened to the ground. We would not have any gas hooked up or on the premises, unless we wanted to do a special event, like a little cook-out, which then we would apply for the proper permit. Please let me know if there is anything else you need from me! Thanks again for your time!

Sincerely,



John D'Angelo

The Outdoor Kitchen Outlet

Untitled Map

Write a description for your map.

Legend

- 📍 1306 Cape Coral Pkwy E
- 🏠 Cape Coral Police Athletic
- 🐕 Dog Days Delight
- 📏 Feature 1
- 📏 Feature 2
- 🏢 Hill & Co CPA PA
- 🏢 Miloff Aubuchon Realty Group, Inc. Rental Division
- 🍣 Sans-Sushi
- 💎 Zak's Jewelry

PATIO
BEFORE



Google Earth









© 2018 Google

9.51 ft

Untitled Map

Write a description for your map.

Legend

-  1306 Cape Coral Pkwy E
-  Almar Realty Inc
-  Dog Days Delight
-  Feature 1
-  Hill & Co CPA PA
-  Miloff Aubuchon Realty Group, Inc. Rental Division
-  Sans-Sushi
-  Zak's Jewelry

PATIO
BEFORE



Google Earth

© 2018 Google
US Dept of State Geographer
© 2018 INEGI

7.43 ft

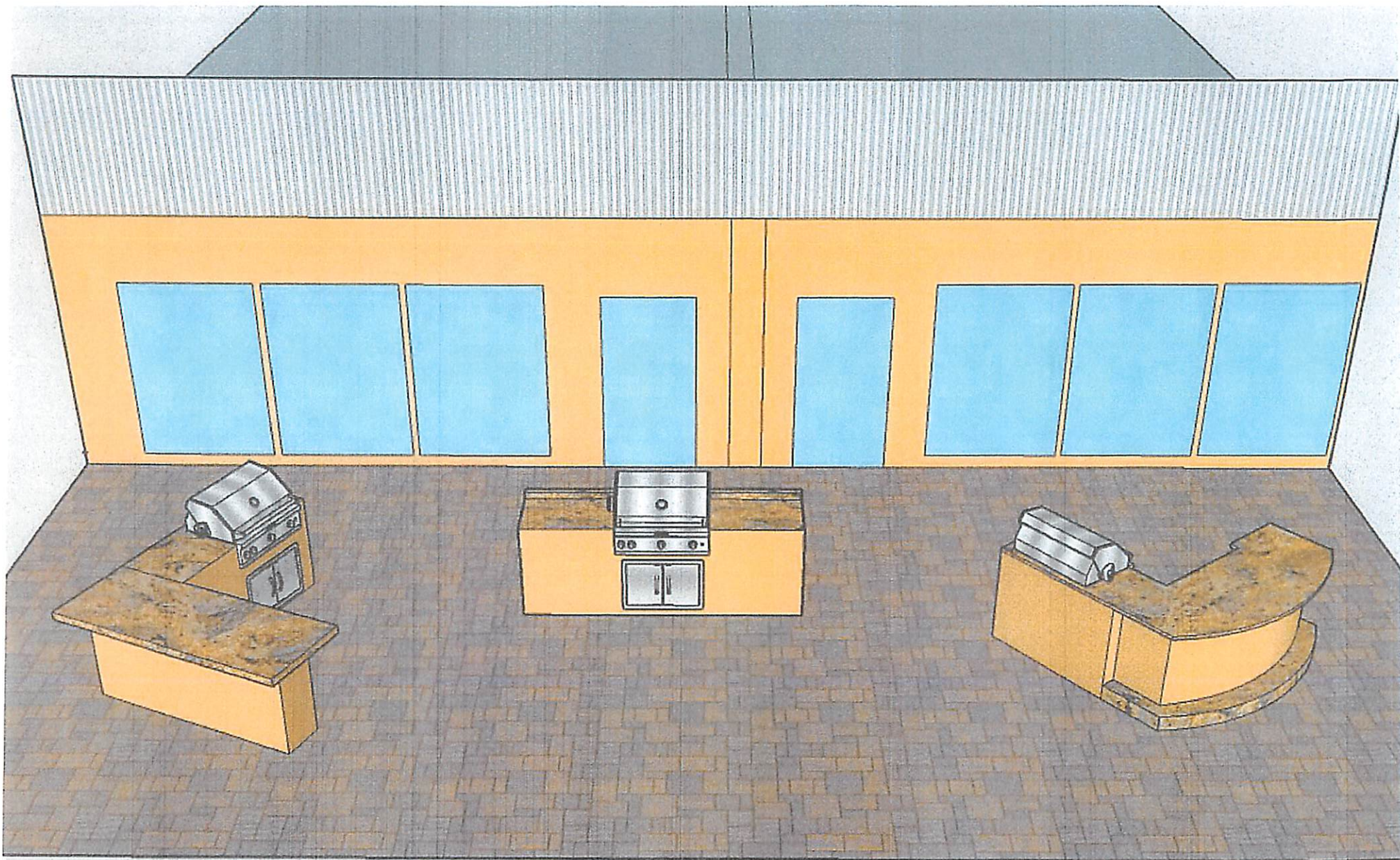


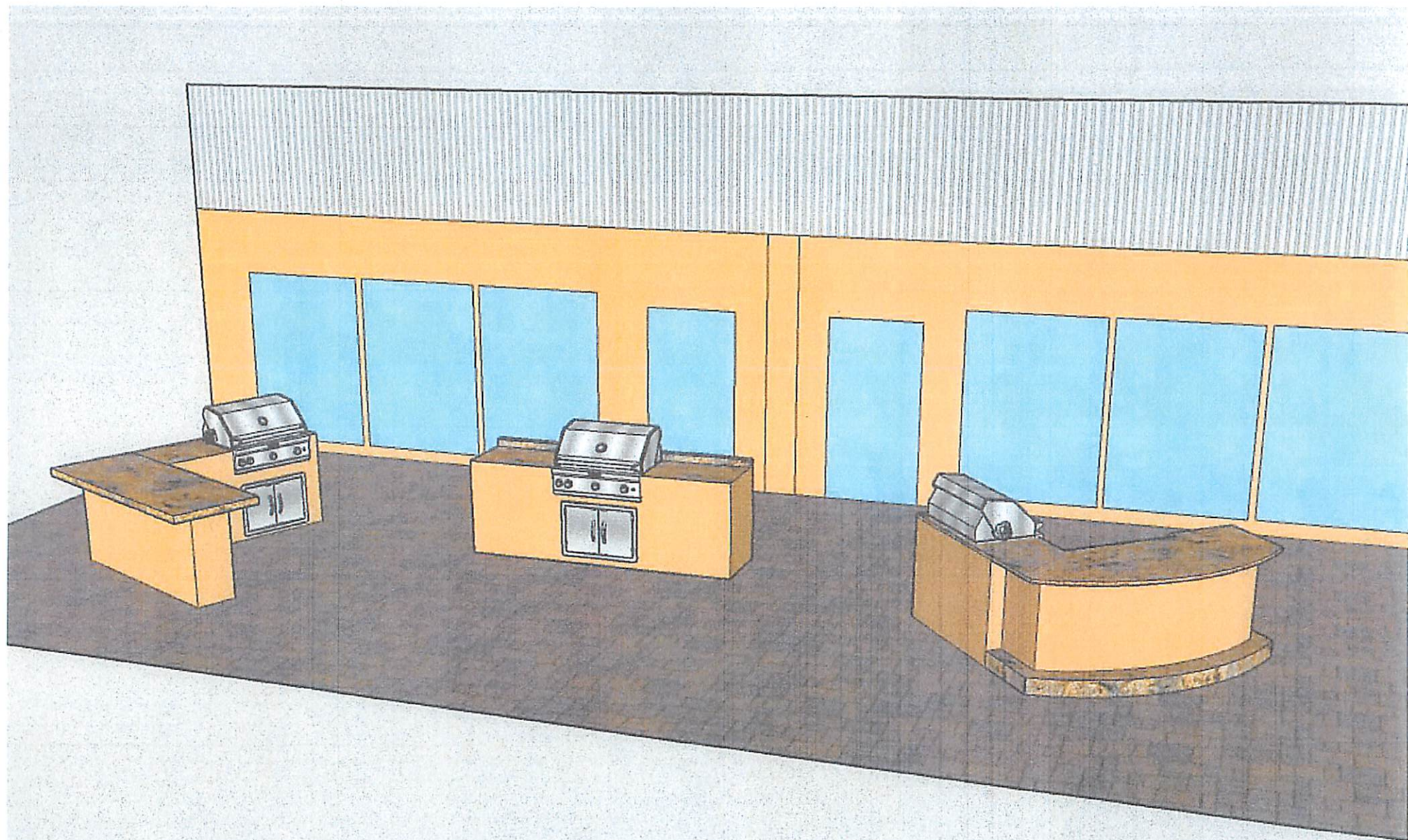
PATIO
AFTER



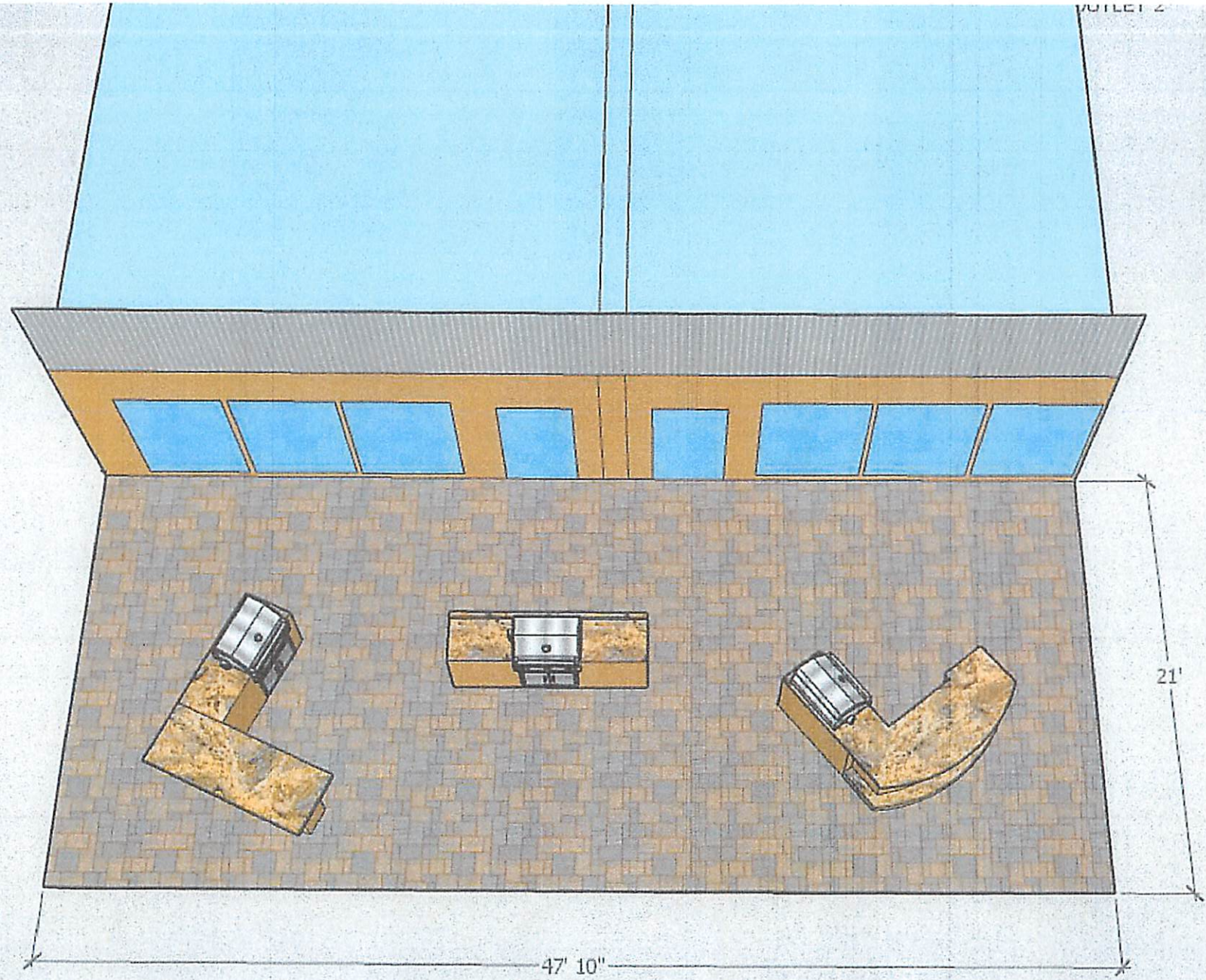
PATIO
AFTER







OUTLET 2



47' 10"

21'













RESOLUTION 232 - 18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING THE REQUEST OF JOHN D'ANGELO TO ALLOW THE OUTSIDE DISPLAY OF MERCHANDISE IN FRONT OF A HOUSEHOLD/OFFICE FURNISHING, GROUP 1 USE LOCATED AT 1306 CAPE CORAL PARKWAY WEST, UNITS B AND C; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 3.4 of the City of Cape Coral Land Use and Development Regulations prohibits the outdoor display of merchandise in commercial, professional, industrial and agricultural districts, except for the following items when displayed in conjunction with an existing business location which retails said items: boats; displays of new or used cars by auto dealerships or auto rental companies; bicycles; motorcycles; garden equipment; landscaping nursery items; tires as displayed in service stations; and

WHEREAS, in addition to the foregoing, the outdoor displays of fruit, vegetables, flowers, jewelry, books or antiques are allowed in the downtown zoning district(s); and

WHEREAS, Section 3.4 of the City of Cape Coral Land Use and Development Regulations further states that any other outdoor display on improved property must be approved by the City Council and is subject to review annually at the discretion of Council; and

WHEREAS, the City has received a Petition to Council from John D'Angelo requesting approval for his business, The Outdoor Kitchen Outlet, LLC, to utilize approximately 1,000 square feet of private property directly in front of his store located at 1306 Cape Coral Parkway East, Units B and C, to display three prefabricated outdoor kitchens; and

WHEREAS, the business is classified as a Household/Office Furnishing, Group I use, which is a permitted use on the site; and

WHEREAS, staff believes that the request, if approved, will not have any adverse effect on the public and supports the approval of the request for outdoor display of merchandise at the proposed site, subject to certain conditions; and

WHEREAS, City Council desires to approve the request from John D'Angelo for the outdoor display of merchandise directly in front of The Outdoor Kitchen Outlet, LLC, located at 1306 Cape Coral Parkway East, Units B and C.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council of the City of Cape Coral hereby approves the request from John D'Angelo for the outdoor display of merchandise directly in front of The Outdoor Kitchen Outlet, LLC, located at 1306 Cape Coral Parkway East, Units B and C, subject to the following conditions:

1. No outdoor display item shall be within 10 feet of the front or side property line.
2. Outdoor display items shall only be placed in front of Units B and C.
3. A maximum of three separate kitchen displays shall be placed on the site.
4. No single kitchen display shall exceed 100 square feet.
5. A building permit for these improvements shall be submitted to the City. The building permit shall demonstrate compliance with wind-load standards and the maintenance of a clear travel path to the front door of the building.
6. No merchandise shall be displayed under the overhang of the building unless fire sprinklers are extended outside to include the overhang.
7. Grills and similar kitchen equipment may utilize propane gas for cooking providing the grill and propane gas tank are a minimum of 10 feet from the building.

Section 2. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR
COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
Res\Petition to Council-John D'Angelo

Item Number: B.(12)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 233-18 Acceptance of Paul Coverdell Forensic Science Improvement Grant to purchase forensic equipment and extend forensic accreditation; Department: Police; Dollar Value \$98,043; no cash match; (Fund: N/A)

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? Yes
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. Funding is provided by the Department of Justice, National Institute of Justice.
2. Funding is available January 1, 2019 - December 31, 2019.
3. Funds will be used to assist the Police Department in obtaining accreditation services for the scope extension of latent prints.
4. On February 19, 2018 the Department was granted accreditation in the Field of Forensic Science Inspection.
5. The Department is one of only two municipal law enforcement agencies in the State of Florida that is ISO/IEC 17020 accredited.
6. Funds will be used to purchase a MorphoBIS Latent Expert Workstation System with Illumination Station (\$90,093).
7. The Latent Expert Workstation provides capabilities to capture, process, and manage evidence images. It is compatible to connect and interface with the county, state, and federal Automated Fingerprint Information Systems (AFIS).
8. With the Latent Expert Workstation the Department will be able to process all of their own latent prints/cases. The system will increase the Department's ability to search tens of millions of prints.
9. No match is required.
10. The Police Department is requesting approval for the City Manager to execute the award documents.

11. The Police Department is requesting approval for the City Manager or his designee to execute all procurement-related purchase orders and contracts in excess of \$50,000 for Forensic Unit equipment purchases specific to the grant award.
12. Award documents will be presented to the City Manager for signature upon approval.

LEGAL REVIEW:

EXHIBITS:

Resolution 233-18

PREPARED BY:

Shannon Division- Administration Department- Police
Northorp

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▯ Resolution 233-18	Resolution

RESOLUTION 233 - 18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING THE ACCEPTANCE OF THE PAUL COVERDELL FORENSIC SCIENCE IMPROVEMENT GRANTS PROGRAM FUNDING IN THE AMOUNT OF \$98,043; APPROVING THE PURCHASE OF A MORPHOBIS LATENT EXPERT WORKSTATION SYSTEM WITH ILLUMINATION STATION, IN ACCORDANCE WITH THE CODE OF ORDINANCES, CHAPTER 2, ARTICLE VII, DIVISION 1, PURCHASING OF GOODS AND SERVICES; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO THIS GRANT AWARD; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE CONTRACT OR PURCHASE ORDER ASSOCIATED WITH THE PURCHASE OF THE MORPHOBIS LATENT EXPERT WORKSTATION SYSTEM WITH ILLUMINATION STATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the US Department of Justice, Office of Justice Programs, has made available funds under the FY18 Paul Coverdell Forensic Science Improvement Grants Program; and

WHEREAS, on February 19, 2018, the City of Cape Coral Police Department was granted accreditation in the field of forensic science inspection by the International Organization for Standardization/International Electrotechnical Commission (IOS/IEC) 17020, and is one of only two municipal law enforcement agencies in the state with such accreditation; and

WHEREAS, the City of Cape Coral has been awarded \$98,043 for the purpose of assisting the Police Department in extending the scope of the Department's forensic accreditation certification to include the discipline of latent prints; and

WHEREAS, the Police Department desires to utilize the awarded funds to purchase a MorphoBIS Latent Expert Workstation System with Illumination Station at a cost of \$90,093; and

WHEREAS, the City Manager requests City Council approval to utilize a portion of the grant funds to purchase a MorphoBIS Latent Expert Workstation System with Illumination Station in accordance with the procurement procedures as stated in the Code of Ordinances, Chapter 2, Article VII, Division 1, Purchasing of Goods and Services; and

WHEREAS, the City Council desires to authorize the City Manager to execute any required documentation in order to authorize the acceptance of the grant award and any contract or purchase order in excess of \$50,000 associated with the purchase of the MorphoBIS Latent Expert Workstation System with Illumination Station.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves the grant award from the US Department of Justice, Office of Justice Programs, under the FY18 Paul Coverdell Forensic Science Improvement Grants Program in the amount of \$98,043 to assist the Police Department in extending the scope of its forensic accreditation certification to include the discipline of latent prints. A copy of the Grant Award is attached hereto as Exhibit A.

Section 2. The City Council hereby authorizes the City Manager to execute any documents required to authorize the receipt of \$98,043 under the FY18 Paul Coverdell Forensic Science Improvement Grants Program.

Section 3. The City Council hereby approves the purchase of a MorphoBIS Latent Expert Workstation System with Illumination Station utilizing \$90,093 in grant funds, in accordance with the Code of Ordinances, Chapter 2, Article VII, Division 1, Purchasing of Goods and Services, and approves the execution by the City Manager or his designee of any contract or purchase order in excess of \$50,000 associated with the purchase.

Section 4. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:


COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
Res\Grant-Paul Coverdell Forensic Science



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

Grant

PAGE 1 OF 14

1. RECIPIENT NAME AND ADDRESS (Including Zip Code)

City of Cape Coral
PO Box 150027
Cape Coral, FL 33915-0027

4. AWARD NUMBER: 2018-CD-BX-0054

5. PROJECT PERIOD: FROM 01/01/2019 TO 12/31/2019
BUDGET PERIOD: FROM 01/01/2019 TO 12/31/2019

6. AWARD DATE 09/21/2018

7. ACTION

2a. GRANTEE IRS/VENDOR NO.

591312997

8. SUPPLEMENT NUMBER

00

Initial

2b. GRANTEE DUNS NO.

081119948

9. PREVIOUS AWARD AMOUNT

\$ 0

3. PROJECT TITLE

Cape Coral Forensic Improvement Program

10. AMOUNT OF THIS AWARD

\$ 98,043

11. TOTAL AWARD

\$ 98,043

12. SPECIAL CONDITIONS

THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).

13. STATUTORY AUTHORITY FOR GRANT

This project is supported under FY18(NIJ - Coverdell Forensic Science Improvement) 34 USC 10561-10566; 28 USC 530C

14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)

16.742 - Paul Coverdell Forensic Sciences Improvement Grant Program

15. METHOD OF PAYMENT

GPRS

AGENCY APPROVAL

GRANTEE ACCEPTANCE

16. TYPED NAME AND TITLE OF APPROVING OFFICIAL

Matt Dummermuth
Principal Deputy Assistant Attorney General

18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL

John Szerlag
City Manager

17. SIGNATURE OF APPROVING OFFICIAL

19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL

19A. DATE

AGENCY USE ONLY

20. ACCOUNTING CLASSIFICATION CODES

FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. REG.	OFC.	SUB.	POMS	AMOUNT
X	B	CD	60	00	00		98043

21. TCDSGT0182



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 2 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2018 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2018 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2018 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 3 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2016, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after-- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2016, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 4 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

9. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient)-- 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or 2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

10. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 5 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

11. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$150,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$150,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$150,000)), and are incorporated by reference here.

12. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

13. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

14. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

15. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 6 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

16. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

17. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

18. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

19. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

20. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 7 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

21. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

22. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2018)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2018, are set out at <https://ojp.gov/funding/Explore/FY18AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

23. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (2) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 8 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

24. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 9 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

25. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

26. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

27. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

28. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 10 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

29. Generally Accepted Laboratory Practices

The recipient shall ensure that any forensic laboratory, forensic laboratory system, medical examiner's office, or coroner's office that will receive any portion of the award uses generally accepted laboratory practices and procedures as established by accrediting organizations or appropriate certifying bodies.

External Investigations

The recipient shall ensure that requirements associated with 34 U.S.C. section 10562(4) (which relate to processes in place to conduct independent external investigations into allegations of serious negligence or misconduct by employees or contractors) are satisfied with respect to any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.

Accreditation

The recipient shall ensure that any forensic laboratory or forensic laboratory system (not including any medical examiner's office or coroner's office) that will receive any portion of the award either is accredited, or will use a portion of this award to prepare and apply for accreditation by not more than two years from the award date of this award.

Additionally, with respect to accreditation, the recipient shall ensure that for any subaward it makes under this award, it will require in a legally-binding and enforceable writing, such as the subaward documentation (for example, subaward terms and conditions), that its subrecipient: 1) if accredited, must continue to demonstrate such accreditation as a condition of receiving or using the subaward funds; or, 2) if not accredited, must use the subaward funds to prepare and apply for accreditation.

The Coverdell statute (see 34 U.S.C. section 10562(2)) and the Paul Coverdell Forensic Science Improvement Grants Program solicitation state certain requirements and guidance associated with proper accreditation and regarding what NIJ will consider to be acceptable documentation of accreditation. The recipient is to contact the NIJ grant manager for clarification or guidance if it should have any question as to what constitutes proper accreditation for the purposes of the Coverdell program. Award funds may not be used under this award by a forensic laboratory or forensic laboratory system with accreditation (or by such laboratory to obtain accreditation) that NIJ determines not to be consistent with the Coverdell law and the solicitation or to be otherwise deficient.

The recipient agrees to notify NIJ promptly upon any change in the accreditation status of any forensic science laboratory or forensic laboratory system that receives funding under this award.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 11 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

30. Use of Funds; No Research

Funds provided under this award shall be used only for the purposes and types of expenses set forth in the solicitation. Funds shall not be used for general law enforcement functions or non-forensic investigatory functions, and shall not be used for research or statistical projects or activities. Use of award funds for construction of new facilities is restricted by statute. Any questions concerning this provision should be directed to the NIJ grant manager prior to incurring the expense or commencing the activity in question.

Performance Measures

To ensure compliance with the Government Performance and Results Act (Pub. L. No. 103-62) and the GPRA Modernization Act of 2010 (Pub. L. No. 111-352), program performance under this award is measured by the following: (1) percent reduction in the average number of days from the submission of a sample to a forensic science laboratory to the delivery of test results to a requesting office or agency (calculated by reporting the average number of days to process a sample at the beginning of the grant period versus the average number of days to process a sample at the end of the grant period); (2) percent reduction in the number of backlogged forensic cases (calculated by reporting the number of backlogged forensic cases at the beginning of the grant period versus the number of backlogged forensic cases at the end of grant period), if applicable to the award; and (3) the number of forensic science or medical examiner/coroner's office personnel who completed appropriate training or educational opportunities with these Coverdell funds, if applicable to the award. Recipients are required to collect and report data relevant to these measures.

31. The recipient understands and agrees that gross income (revenues) from fees charged for forensic science or medical examiner services constitutes program income (in whole or in part), and that program income must be determined, used, and documented in accordance with the provisions of 2 C.F.R. 200.307, including as applied in the Department of Justice (DOJ) Grants Financial Guide, as it may be revised from time to time. The recipient further understands and agrees that both program income earned during the award period and expenditures of such program income must be reported on the quarterly and final Federal Financial Reports (SF 425) and are subject to audit.

The recipient understands and agrees that program income earned during the award period may be expended only for permissible uses of funds specifically identified in the solicitation for the Paul Coverdell Forensic Science Improvement Grants Program. The recipient further understands and agrees that program income earned during the award period may not be used to supplant State or local government funds, but instead may be used only to increase the amount of funds that would, in the absence of Federal funds or program income, be available from State or local government sources for the permissible uses of funds listed in the solicitation.

The recipient understands and agrees that program income that is earned during the final ninety (90) days of the award period may, if appropriate, be obligated (as well as expended) for permissible uses during the ninety-day (90-day) period following the end of the award period. The recipient further understands and agrees that any program income earned during the award period that is not obligated and expended within ninety (90) days of the end of the award period must be returned to OJP.

32. The recipient understands and agrees that, throughout the award period, it must promptly notify NIJ if it either starts or stops charging fees for forensic science or medical examiner services, or if it revises its method of allocating fees received for such services to program income. Notice must be provided in writing to the NIJ grant manager for the award within ten (10) business days of implementation of the change.
33. The recipient agrees that it will submit quarterly financial status reports to OJP on-line (at <https://grants.ojp.usdoj.gov>) using the SF 425 Federal Financial Report form (available for viewing at <https://www.gsa.gov/forms-library/federal-financial-report>), not later than 30 days after the end of each calendar quarter. The final report shall be submitted not later than 90 days following the end of the award period.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 12 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

34. The recipient shall submit semiannual progress reports. Progress reports shall be submitted within 30 days after the end of the reporting periods, which are June 30 and December 31, for the life of the award. These reports will be submitted to the Office of Justice Programs, on-line through the Internet at <https://grants.ojp.usdoj.gov/>.
35. The recipient agrees to submit a final report, at the end of this award, documenting all relevant project activities during the entire period of support under this award. This report will include the following: (1) a summary and assessment of the program carried out with this grant, which shall include a comparison of pre-grant and post-grant forensic science capabilities (and shall cite the specific improvements in quality and/or timeliness of forensic science or medical examiner/coroner's office services); (2) the average number of days between submission of a sample to a forensic science laboratory or forensic science laboratory system in that State operated by the State or by a unit of local government and the delivery of test results to the requesting office or agency; (3) an identification of the number and type of cases currently accepted by the forensic science laboratory or forensic science laboratory system; and (4) with respect to any unaccredited forensic science service provider receiving funds from this award for accreditation, full details on the progress of any such provider toward obtaining accreditation. The recipient is required to collect data necessary for this report. This report is due no later than 90 days following the close of the award period or the expiration of any extension periods. The report can be filed online through the Internet at: <https://grants.ojp.usdoj.gov/>.
36. The recipient acknowledges that, as stated in the solicitation for the Paul Coverdell Forensic Science Improvement Grants Program, NIJ assumes that recipients (and subrecipients) of Coverdell funds will make use of the process referenced in their certification as to external investigations and will refer allegations of serious negligence or misconduct substantially affecting the integrity of forensic results to government entities with an appropriate process in place to conduct independent external investigations, such as the government entity (or entities) identified in the grant application. The recipient shall submit the following information as part of its final report: (1) the number and nature of any allegations of serious negligence or misconduct substantially affecting the integrity of forensic results received during the 12-month period of the award; (2) information on the referrals of such allegations (e.g., the government entity or entities to which referred, the date of referral); (3) the outcome of such referrals (if known as of the date of the report); and (4) if any such allegations were not referred, the reason(s) for the non-referral. Should the project period for this award be extended, the recipient shall submit the above information as to the first twelve months of the award as part of the first semi-annual progress report that comes due after the conclusion of the first twelve months of the project period, and shall submit the required information as to subsequent twelve-month periods every twelve months thereafter (as part of a semi-annual progress report) until the close of the award period, at which point the recipient shall submit the required information as to any period not covered by prior reports as part of its final report. The recipient understands and agrees that funds may be withheld (including funds under future awards), or other related requirements may be imposed, if the required information is not submitted on a timely basis.
37. The recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.
38. To assist in information sharing, the award recipient shall provide the NIJ grant manager with a copy of publications (including those prepared for conferences and other presentations) resulting from this award, prior to or simultaneous with their public release. NIJ defines publications as any written, visual or sound material substantively based on the project, formally prepared by the award recipient for dissemination to the public. Submission of publications prior to or simultaneous with their public release aids NIJ in responding to any inquiries that may arise. Any publications - excluding press releases and newsletters - whether published at the recipient's or government's expense, shall contain the following statement: "This project was supported by Award No. _____, awarded by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect those of the Department of Justice." This statement shall appear on the first page of written publications. For audio and video publications, it shall be included immediately after the title of the publication in the audio or video file.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 13 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

39. The recipient shall transmit to the NIJ grant manager copies of all official award-related press releases at least ten (10) working days prior to public release. Advance notice permits time for coordination of release of information by NIJ where appropriate and to respond to press or public inquiries.

40. Copyright; Data rights

The recipient acknowledges that OJP reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under an award or subaward; and (2) any rights of copyright to which a recipient or subrecipient purchases ownership with Federal support.

The recipient acknowledges that OJP has the right to (1) obtain, reproduce, publish, or otherwise use the data first produced under an award or subaward; and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227-14 (Rights in Data - General).

It is the responsibility of the recipient (and of each subrecipient, if applicable) to ensure that this condition is included in any subaward under this award.

The recipient has the responsibility to obtain from subrecipients, contractors, and subcontractors (if any) all rights and data necessary to fulfill the recipient's obligations to the Government under this award. If a proposed subrecipient, contractor, or subcontractor refuses to accept terms affording the Government such rights, the recipient shall promptly bring such refusal to the attention of the OJP program manager for the award and not proceed with the agreement in question without further authorization from the OJP program office.

41. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

**AWARD CONTINUATION
SHEET
Grant**

PAGE 14 OF 14

PROJECT NUMBER 2018-CD-BX-0054

AWARD DATE 09/21/2018

SPECIAL CONDITIONS

42. The recipient agrees to comply with all Federal, State, and local environmental laws and regulations applicable to the development and implementation of the activities to be funded under this award.

Categorical Exclusion: Based upon the information provided by the recipient in its application for these funds, NIJ has determined and the recipient understands that the proposed activities meet the definition of a categorical exclusion, as defined in the Department of Justice Procedures for Implementing the National Environmental Policy Act found at 28 CFR Part 61 (including Appendix D). A categorical exclusion is an action that because of the proposed activities' very limited and predictable potential environmental impacts, both on an individual and a cumulative basis, does not have a significant impact on the quality of the human environment. Consequently, no further environmental impact analysis is necessary under the requirements of the National Environmental Policy Act, 42 U.S.C. 4321, for these categorically excluded activities.

Modifications: Throughout the term of this award, the recipient agrees that for any activities that are the subject of this categorical exclusion, it will inform NIJ of-- (1) any change(s) that it is considering making to the previously assessed activities that may be relevant to the environmental impacts of the activities; or (2) any proposed new activities or changed circumstances that may require assessment as to environmental impact, such as new activities that involve the use of chemicals or involve construction or major renovation. The recipient will not implement a proposed change or new activity until NIJ, with the assistance of the recipient, has completed any applicable environmental impact review requirements necessitated by the proposed change or new activity (or changed circumstances) and NIJ has concurred in the proposed change or new activity. This approval will not be unreasonably withheld as long as any requested modification(s) is consistent with eligible program purposes and found acceptable under an NIJ-conducted environmental impact review process.

43. The recipient may not obligate, expend, or draw down any funds under this award until-- (1) it has submitted a budget revised to include annotations, as described in the solicitation, that indicate clearly any "opioid-related" versus "non-opioid related" line items; (2) the National Institute of Justice has received and approved such submission; and (3) a Grant Adjustment Notice (GAN) has been issued removing this condition.
44. The recipient may not obligate, expend or draw down funds until the Office of the Chief Financial Officer (OCFO) has approved the budget and budget narrative and a Grant Adjustment Notice (GAN) has been issued to remove this special condition.



U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

Washington, D.C. 20531

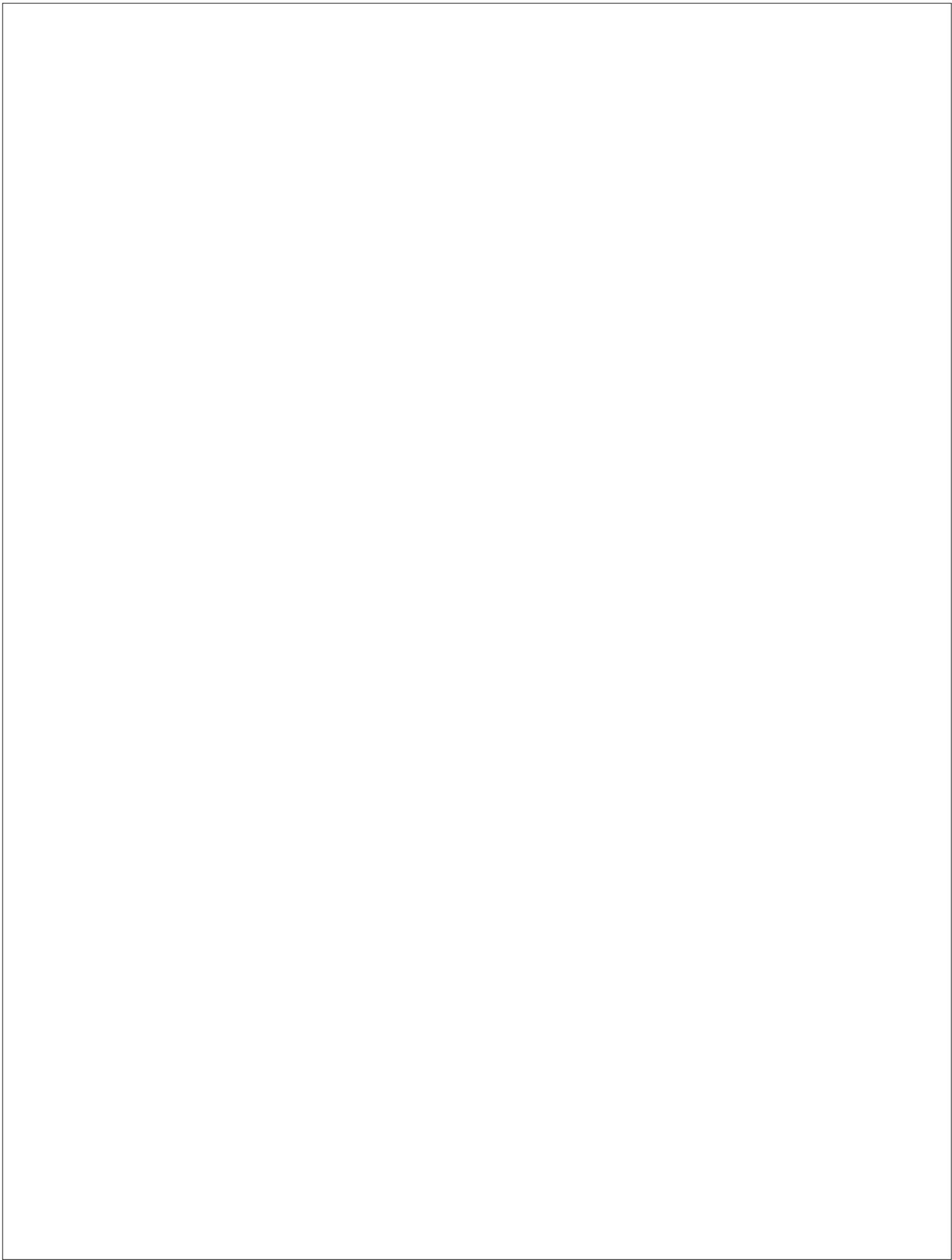
Memorandum To: Official Grant File
From: Steven Schuetz, NEPA Coordinator
Subject: Categorical Exclusion for City of Cape Coral

The recipient agrees to comply with all Federal, State, and local environmental laws and regulations applicable to the development and implementation of the activities to be funded under this award.

Categorical Exclusion: Based upon the information provided by the recipient in its application for these funds, NIJ has determined and the recipient understands that the proposed activities meet the definition of a categorical exclusion, as defined in the Department of Justice Procedures for Implementing the National Environmental Policy Act found at 28 CFR Part 61 (including Appendix D). A categorical exclusion is an action that because of the proposed activities' very limited and predictable potential environmental impacts, both on an individual and a cumulative basis, does not have a significant impact on the quality of the human environment. Consequently, no further environmental impact analysis is necessary under the requirements of the National Environmental Policy Act, 42 U.S.C. 4321, for these categorically excluded activities.

Modifications: Throughout the term of this award, the recipient agrees that for any activities that are the subject of this categorical exclusion, it will inform NIJ of-- (1) any change(s) that it is considering making to the previously assessed activities that may be relevant to the environmental impacts of the activities; or (2) any proposed new activities or changed circumstances that may require assessment as to environmental impact, such as new activities that involve the use of chemicals or involve construction or major renovation. The recipient will not implement a proposed change or new activity until NIJ, with the assistance of the recipient, has completed any applicable environmental impact review requirements necessitated by the proposed change or new activity (or changed circumstances) and NIJ has concurred in the proposed change or new activity. This approval will not be unreasonably withheld as long as any requested modification(s) is consistent with eligible program purposes and found acceptable under an NIJ-conducted environmental impact review process.

	U.S. Department of Justice Office of Justice Programs National Institute of Justice		GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY Grant	
	PROJECT NUMBER 2018-CD-BX-0054		PAGE 1 OF 1	
This project is supported under FY18(NIJ - Coverdell Forensic Science Improvement) 34 USC 10561-10566; 28 USC 530C				
1. STAFF CONTACT (Name & telephone number) Christine Torres (202) 305-1978		2. PROJECT DIRECTOR (Name, address & telephone number) Shannon Northorp Grant Writer/Coordinator PO Box 150027 Cape Coral, FL 33915 (239) 574-0675		
3a. TITLE OF THE PROGRAM NIJ FY18 Paul Coverdell Forensic Science Improvement Grants Program- COMPETITIVE			3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)	
4. TITLE OF PROJECT Cape Coral Forensic Improvement Program				
5. NAME & ADDRESS OF GRANTEE City of Cape Coral PO Box 150027 Cape Coral, FL 33915-0027		6. NAME & ADDRESS OF SUBGRANTEE		
7. PROGRAM PERIOD FROM: 01/01/2019 TO: 12/31/2019		8. BUDGET PERIOD FROM: 01/01/2019 TO: 12/31/2019		
9. AMOUNT OF AWARD \$ 98,043		10. DATE OF AWARD 09/21/2018		
11. SECOND YEAR'S BUDGET		12. SECOND YEAR'S BUDGET AMOUNT		
13. THIRD YEAR'S BUDGET PERIOD		14. THIRD YEAR'S BUDGET AMOUNT		
15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse) The Cape Coral Police Department Forensic Unit is seeking funding to acquire a latent expert workstation and to extend the scope of Department's forensic accreditation certification to include the discipline of latents. Acquiring a latent expert workstation with the interface and connectivity to the county and state automated fingerprint identification system (AFIS) systems, with the same operating system, will streamline the fingerprint process not only for the Department but at the county and state level as well. The system will increase the Department's ability to search tens of millions of prints over the current searchable database of 200,000 prints. It will reduce the burden of manual copying of fingerprint cards on personnel. It will provide an avenue for the Department to add thousands of latent cards into AFIS electronically, without burdening the county or state. ca/ncf				



Item Number: B.(13)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 235-18 Acceptance of a Public Utility and Drainage Easement within a portion of Lots 1 and 2, Block 4898, Unit 74 Cape Coral, (2835 & 2839 SW 33rd Street – Straps # 05-45-23-C1-04898.0010 & -04898.0020) for the relocation of a storm water drainage pipe; Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan? No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. The subject site is located at the west end of the Dale Canal, on SW 33rd Street, just south of Gleason Parkway.
2. Prior to the current property owner taking title to Lots 1 and 2, Block 4898, a previous ownership had split off a portion of Lot 1 and combined it with Lot 2 to make Lot 2 a buildable site. In the platted easement between Lots 1 and 2 is an existing storm water drainage pipe. In order to build on Lot 2, said drainage pipe will need to be relocated to the “newly created” parcel line between the two parcels.
3. The relocation of the pipe requires the property owner to grant an easement to the City. Acceptance of the easement will provide the City with the right to access and maintain its facilities within the easement area, as well as complete the perimeter easement for both sites. This easement is being provided to the City at no cost.
4. Staff recommends acceptance of a Public Utility and Drainage Easement within a portion of Lots 1 and 2, Block 4898, Unit 74 Cape Coral.

LEGAL REVIEW:

EXHIBITS:

Resolution 235-18
Property Appraiser Sheets
Location Map
Plat Map
Drainage Pipe Location Map
Public Utility and Drainage Easement

PREPARED BY:

Dawn Y. Andrews, Property
Broker

Division- Real
Estate

Department- Financial
Services

SOURCE OF ADDITIONAL INFORMATION:

Dawn Y. Andrews, Property Broker
Financial Services / Real Estate Division
239-574-0735

ATTACHMENTS:

Description	Type
▣ Resolution 235-18	Resolution
▣ PA Sheet - Lot 1, Block 4898 - 2839 SW 33rd Street	Backup Material
▣ PA Sheet - Lot 2 & portion of Lot 1, Block 4898 - 2835 SW 33rd Street	Backup Material
▣ Location Map - Block 4898, Lots 1 and 2	Backup Material
▣ Plat Map - Unit 74, Block 4898, Lots 1 and 2	Backup Material
▣ Drainage Pipe Location Map - Block 4898, Lots 1-2	Backup Material
▣ Public Utility & Drainage Easement - Block 4898, Lots 1-2	Backup Material

RESOLUTION 235 - 18

A RESOLUTION OF THE CITY OF CAPE CORAL ACCEPTING A PUBLIC UTILITY AND DRAINAGE EASEMENT LOCATED WITHIN LOTS 1 AND 2, BLOCK 4898, CAPE CORAL UNIT 74, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY IS LOCATED AT 2835 AND 2839 SW 33RD STREET; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the subject site was assembled by combining a portion of Lot 1 with Lot 2; and

WHEREAS, a stormwater drainage pipe is located in the platted easement between the two original parcels; and

WHEREAS, the stormwater drainage pipe must be relocated to the newly created property line between the two parcels, and relocation of the drainage pipe requires the property owner to grant an easement to the City; and

WHEREAS, acceptance of the Public Utility & Drainage Easement attached hereto as Exhibit 1 will provide the City the right to access and maintain its facilities at this location; and

WHEREAS, the easement will be provided to the City at no cost; the property owner is to pay the Lee County recording fees.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby accepts the Public Utility and Drainage Easement attached hereto as Exhibit 1.

Section 2. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

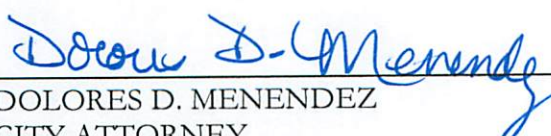
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
res/Accept Public Utility & Drainage Easement-L1-2 B4898

PUBLIC UTILITY & DRAINAGE EASEMENT

This Grant of Easement, made this 14th day of SEPTEMBER, 2018 by and between **James Stroud**, 614 Parkridge Drive, Hockessin, Delaware 19707 as "Grantor", and the **CITY OF CAPE CORAL**, a Florida municipal corporation, as "Grantee".

WITNESSETH that said Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted and conveyed to the said Grantee, and Grantee's successors and assigns forever, a perpetual non-exclusive easement to survey, construct, operate, maintain, remove, replace or abandon utility and/or drainage facilities, in, along, under, above and upon the following described land, situate, lying and being in Lee County, Florida, to wit:

A parcel of land 12.00 foot wide, being a part of Lots 1 and 2, Block 4898, Unit 74, Cape Coral as recorded in Plat Book 22, Pages 111 through 131, inclusive, of the Public Records of Lee County, Florida, for public utility and drainage easement purposes being more particularly described in Exhibit "1", which is attached hereto and incorporated herein by reference.

Reserving unto the Grantor, his successors and assigns forever, the right to construct, maintain, install, operate and place upon the "Easement Area" described herein, any surface improvements, excluding buildings, to include but not be limited to, driveways, sidewalks, curbing, landscaping provided that such does not unreasonably interfere with the utility and/or drainage facilities constructed within said property. Grantor, his successors and assigns, agrees to assume all liability for any damage to any surface improvements constructed by Grantor within the above easement, which result from the actions of the Grantee, including but not limited to any construction, maintenance or repairs to the utility and/or drainage facilities located within the above described easement in accordance with Section 3.14.5 of the City of Cape Coral Land Use and Development Regulations.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

In Witness Whereof, Grantor has hereunto set their hand(s) the day and year first above written.

Witness - Signature

Witness - Print or Type Name

Witness - Signature

Witness - Print or Type Name

James Stroud 9/14/18

STATE OF: Pennsylvania

COUNTY OF: Delaware

The foregoing instrument was acknowledged before me this 14th day September, 2018 by James Stroud, who is / is not personally known by me or has produced Delaware ID as identification. (DESCRIBE IDENTIFICATION)

Laura Rosario
Notary Signature

Print Name: Laura Rosario

(seal)

Commonwealth of Pennsylvania - Notary Seal
Laura Rosario, Notary Public
Montgomery County
My commission expires June 29, 2020
Commission number 1270537
Member, Pennsylvania Association of Notaries

Prepared by:
CITY OF CAPE CORAL
P.O. BOX 150027
CAPE CORAL, FLORIDA 33915-0027

STRAP: 05-45-23-C1-04898.0010 and
05-45-23-C1-04898.0020

EXHIBIT "1"

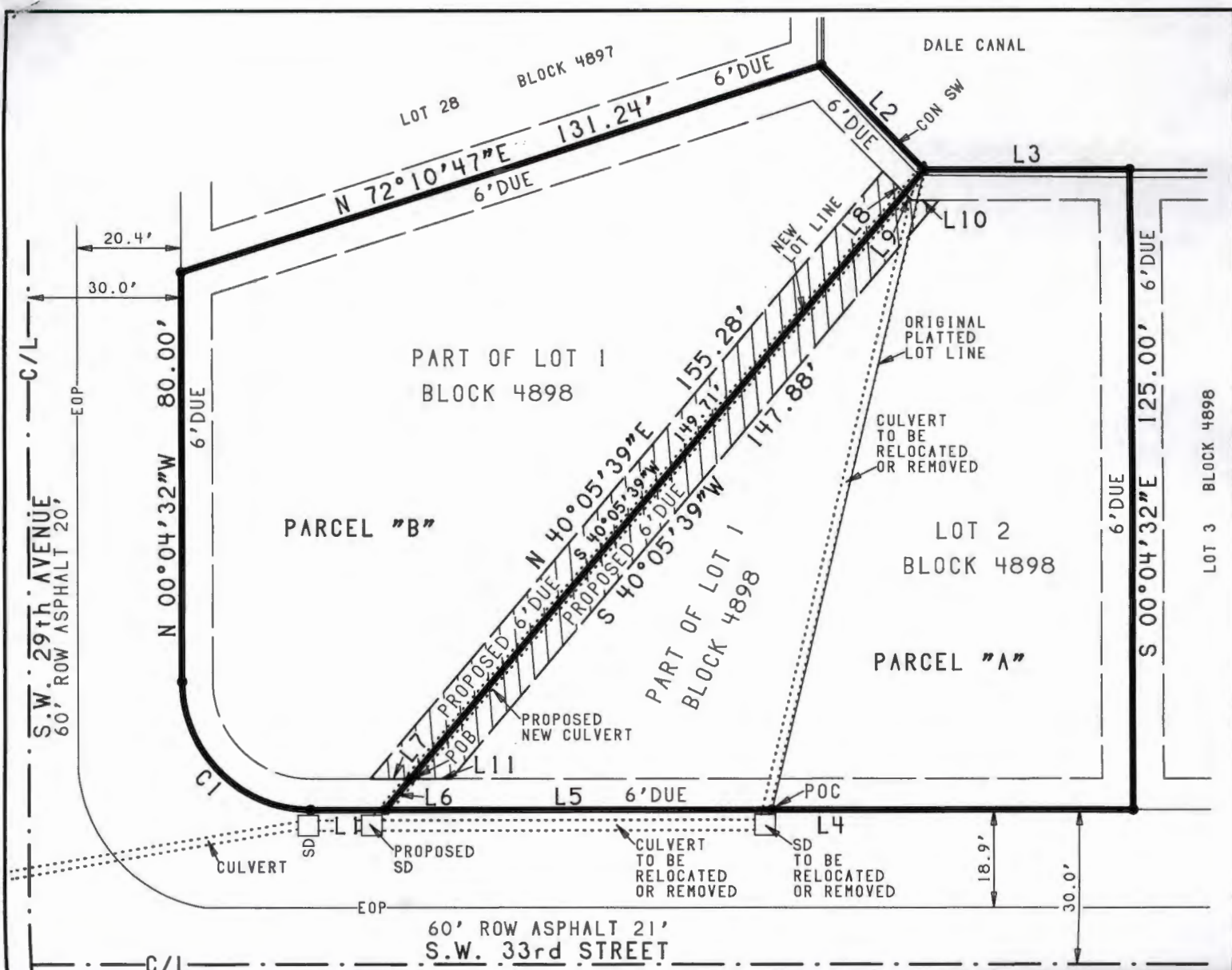
A 6.00 FOOT WIDE DRAINAGE AND UTILITY EASEMENT BEING A PART OF PARCEL "A" AS DESCRIBED IN INSTRUMENT #2006000213120, BEING A RECOMBINATION OF LOT 2 AND A PART OF LOT 1, BLOCK 4898, UNIT 74, CAPE CORAL AS RECORDED IN PLAT BOOK 22, PAGES 111 THROUGH 131 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE RUN S89°55'28"W FOR 75.52 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "A"; THENCE RUN N40°05'39"E ALONG THE COMMON LINE BETWEEN PARCELS "A" & "B" FOR 7.85 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID LINE N40°05'39"E FOR 149.71 FEET; THENCE RUN S45°04'32"E FOR 1.98 FEET; THENCE RUN N89°55'28"E FOR 5.27 FEET; THENCE RUN S40°05'39"W FOR 147.88 FEET; THENCE RUN S89°55'28"W FOR 7.85 FEET TO THE POINT OF BEGINNING.

AND

A 6.00 FOOT WIDE DRAINAGE AND UTILITY EASEMENT BEING A PART OF PARCEL "B" AS DESCRIBED IN INSTRUMENT #2006000213121, BEING A RECOMBINATION OF A PART OF LOT 1, BLOCK 4898, UNIT 74, CAPE CORAL AS RECORDED IN PLAT BOOK 22, PAGES 111 THROUGH 131 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE RUN S89°55'28"W FOR 75.52 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL "B"; THENCE RUN N40°05'39"E ALONG THE COMMON LINE BETWEEN PARCELS "A" & "B" FOR 7.85 FEET TO THE POINT OF BEGINNING; THENCE RUN S89°55'28"W FOR 7.85 FEET; THENCE RUN N40°05'39"E FOR 155.28 FEET; THENCE RUN S45°04'32"E FOR 6.02 FEET; THENCE RUN S40°05'39"W FOR 149.71 FEET TO THE POINT OF BEGINNING.



LINE	BEARING	DISTANCE	L 6	N 40°05'39"E	7.85'
L 1	S 89°55'28"W	14.48'	L 7	S 89°55'28"W	7.85'
L 2	S 45°04'32"E	28.28'	L 8	S 45°04'32"E	6.02'
L 3	N 89°55'28"E	40.00'	L 9	S 45°04'32"E	1.98'
L 4	S 89°55'28"W	145.52'	L 10	N 89°55'28"E	5.27'
L 5	S 89°55'28"W	75.52'	L 11	S 89°55'28"W	7.85'

Plat North
1" = 30'

CURVE	DELTA ANGLE	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C 1	90°00'00"	25.00'	39.27'	25.00'	35.36'	N 45°04'32"W

PROPOSED DRAINAGE & UTILITY EASEMENT:

A 6' DRAINAGE AND UTILITY EASEMENT BEING A PART OF PARCEL "A" AS DESCRIBED IN INSTRUMENT #2006000213120, BEING A RECOMBINATION OF LOT 2 AND A PART OF LOT 1, BLOCK 4898, UNIT 74, CAPE CORAL AS RECORDED IN PLAT BOOK 22, PAGES 111 THROUGH 131 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE RUN S 89°55'28"W FOR 75.52' FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "A"; THENCE RUN N 40°05'39"E ALONG THE COMMON LINE BETWEEN PARCELS "A" & "B" FOR 7.85' TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID LINE N 40°05'39"E FOR 149.71'; THENCE RUN S 45°04'32"E FOR 1.98'; THENCE RUN N 89°55'28"E FOR 5.27'; THENCE RUN S 40°05'39"W FOR 147.88'; THENCE RUN S 89°55'28"W FOR 7.85' TO THE POINT OF BEGINNING.

PROPOSED DRAINAGE & UTILITY EASEMENT:

A 6' DRAINAGE AND UTILITY EASEMENT BEING A PART OF PARCEL "B" AS DESCRIBED IN INSTRUMENT #2006000213121, BEING A RECOMBINATION OF A PART OF LOT 1, BLOCK 4898, UNIT 74, CAPE CORAL AS RECORDED IN PLAT BOOK 22, PAGES 111 THROUGH 131 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE RUN S 89°55'28"W FOR 75.52' FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "B"; THENCE RUN N 40°05'39"E ALONG THE COMMON LINE BETWEEN PARCELS "A" & "B" FOR 7.85' TO THE POINT OF BEGINNING; THENCE RUN S 89°55'28"W FOR 7.85'; THENCE RUN N 40°05'39"E FOR 155.28'; THENCE RUN S 45°04'32"E FOR 6.02'; THENCE RUN S 40°05'39"W FOR 149.71' TO THE POINT OF BEGINNING.

THIS IS NOT A BOUNDARY SURVEY

NOTES:

- 1) DIMENSIONS ARE IN FEET AND DECIMALS THEREOF EXCEPT AS SHOWN.
- 2) NO UNDERGROUND UTILITIES OR STRUCTURES WERE LOCATED EXCEPT AS SHOWN.
- 3) ONLY THOSE IMPROVEMENTS WHICH ARE SHOWN WERE LOCATED. THERE MAY BE OTHER IMPROVEMENTS OR ITEMS OF INTEREST ON THE SUBJECT PROPERTY WHICH WERE NOT OBSERVED OR LOCATED.
- 4) NO TITLE RESEARCH WAS DONE BY THIS COMPANY. NO ABSTRACT OF TITLE WAS PROVIDED EXCEPT AS STATED.
- 5) PARCEL MAY BE SUBJECT TO OTHER EASEMENTS, RESTRICTIONS, OR RESERVATIONS, THE EXISTENCE OF WHICH WERE NOT PROVIDED TO THIS COMPANY.

R.K.BURNS SURVEYING, INC. LB 6133

3507 LEE BLVD. # 246
LEHIGH ACRES, FL. 33971
239-303-0764
239-303-0832 (FAX)
INFO@BURNSSURVEYING.COM

SKETCH &
LEGAL DESCRIPTION

SHEET 1 OF 1

LEGEND:

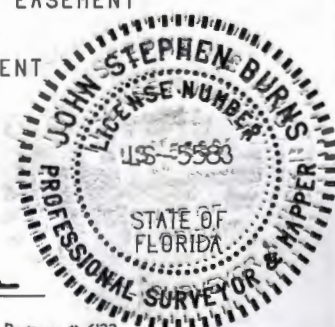
C/L = CENTERLINE
CON = CONCRETE
DUE = DRAINAGE & UTILITY EASEMENT
EOP = EDGE OF PAVEMENT
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
ROW = RIGHT-OF-WAY
SD = STORM DRAIN

W0#: 18-0642DED

THE SEAL APPEARING ON THIS
DOCUMENT WAS AUTHORIZED BY
JOHN S. BURNS LS 5583
ON (09-10-2018)

By:

John S. Burns, Sr., PS&M-LS#5583
R. K. Burns Surveying, Inc. Licensed Survey Business # 6133





Lee County Property Appraiser

Tax Year
[Next Parcel Number](#) [Previous Parcel Number](#) [Tax Estimator](#) [Cape Coral Fees](#) [Tax Bills](#) [Print](#)

Property Data

STRAP: 05-45-23-C1-04898.0010 Folio ID: 10103184

Owner Of Record - Sole Owner

STROUD JAMES
614 PARKRIDGE DR
HOCKESSIN DE 19707

Site Address

2839 SW 33RD ST
CAPE CORAL FL 33914

Property Description

Do not use for legal documents!

CAPE CORAL UNIT 74
BLK 4898 PB 22 PG 129
LOT 1 LESS PART AS DESC IN
INST #2006-213121

Classification / DOR Code

VACANT RESIDENTIAL / 00

[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)


[Pictometry Aerial Viewer]



Current Working Values



Just 53,400 **As Of** 07/16/2018

Attributes

Land Units Of Measure	UT
Units	1.00
Frontage	0
Depth	0
Total Number of Buildings	0
Total Bedrooms / Bathrooms	0
Total Living Area	0
1st Year Building on Tax Roll	N/A
Historic District	No

Image of Structure



Exemptions



Values (2018 Trim)



Taxing Authorities



Sales / Transactions

Sale Price	Date	OR Number	Type	Description	Vacant/Improved
Sales qualified but excluded from sales ratio analysis					
152,000.00	04/01/2016	2016000068678	05	Arm's length transaction transferring multiple parcels with multiple parcel identification numbers There are 1 additional parcel(s) with this document (may have been split after the transaction date)... 05-45-23-C1-04898.0020	V
Sales qualified but excluded from sales ratio analysis					
35,000.00	03/12/2012	2012000058594	03	Transfers qualified as arm's length at time of transfer, but the physical property characteristics changed significantly after the transfer, or transfer included property characteristics not present at time of transfer (use these subcodes: 1-parcel split, 2-parcel combination, 3-new construction, 4-deletion, 5-disaster, 6-other (multiple changes/incomplete construction, etc), 7-remodel/renovation)	V
Sales disqualified as a result of examination of the deed					
100.00	05/25/2006	2006000213121	01	Disqualified (Doc Stamp .70 / SP less th \$100 / Other Disq)	V
Sales qualified but excluded from sales ratio analysis					
425,000.00	03/31/2006	2006000153536	02	Qualified (Multiple STRAP # / 06-091) There are 1 additional parcel(s) with this document (may have been split after the transaction date)... 05-45-23-C1-04898.0020	V
100.00	08/10/2001	3493/2041	04		V

				Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	
21,000.00	05/22/2000	3258/4587	06	Sales qualified and included for sales ratio analysis Qualified (Fair Market Value / Arms Length / One STRAP #)	V
220,000.00	04/01/1993	2377/3323	02	Sales qualified but excluded from sales ratio analysis Qualified (Multiple STRAP # / 06-091)	V
100.00	12/01/1991	2262/3623	01	Sales disqualified as a result of examination of the deed Disqualified (Doc Stamp .70 / SP less th \$100 / Other Disq)	V

**Building/Construction Permit Data****Parcel Numbering History****Location Information****Solid Waste (Garbage) Roll Data****Flood and Storm Information****Appraisal Details (2018 Trim)****Appraisal Details (Current Working Values)**

[Previous Parcel Number](#) [Next Parcel Number](#) [New Query](#)
[Search Results](#) [Home](#)

TRIM (proposed tax) Notices are available for the following tax years
 [[2007](#) [2008](#) [2009](#) [2010](#) [2011](#) [2012](#) [2013](#) [2014](#) [2015](#) [2016](#) [2017](#) [2018](#)]



Lee County Property Appraiser

Tax Year
[Next Parcel Number](#) [Previous Parcel Number](#) [Tax Estimator](#) [Cape Coral Fees](#) [Tax Bills](#) [Print](#)

Property Data

STRAP: 05-45-23-C1-04898.0020 Folio ID: 10103185

Owner Of Record - Sole Owner

STROUD JAMES
614 PARKRIDGE DR
HOCKESSIN DE 19707

Site Address

2835 SW 33RD ST
CAPE CORAL FL 33914

Property Description

Do not use for legal documents!

CAPE CORAL UNIT 74
BLK 4898 PB 22 PG 129
LOT 2 + PART OF LOT 1 DESC
IN INST #2006-213120

Classification / DOR Code

VACANT RESIDENTIAL / 00

[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)


[Pictometry Aerial Viewer]



Current Working Values



Just 62,300 **As Of** 07/16/2018

Attributes

Land Units Of Measure	UT
Units	1.00
Frontage	0
Depth	0
Total Number of Buildings	0
Total Bedrooms / Bathrooms	0
Total Living Area	0
1st Year Building on Tax Roll	N/A
Historic District	No

Image of Structure



Exemptions



Values (2018 Trim)



Taxing Authorities



Sales / Transactions

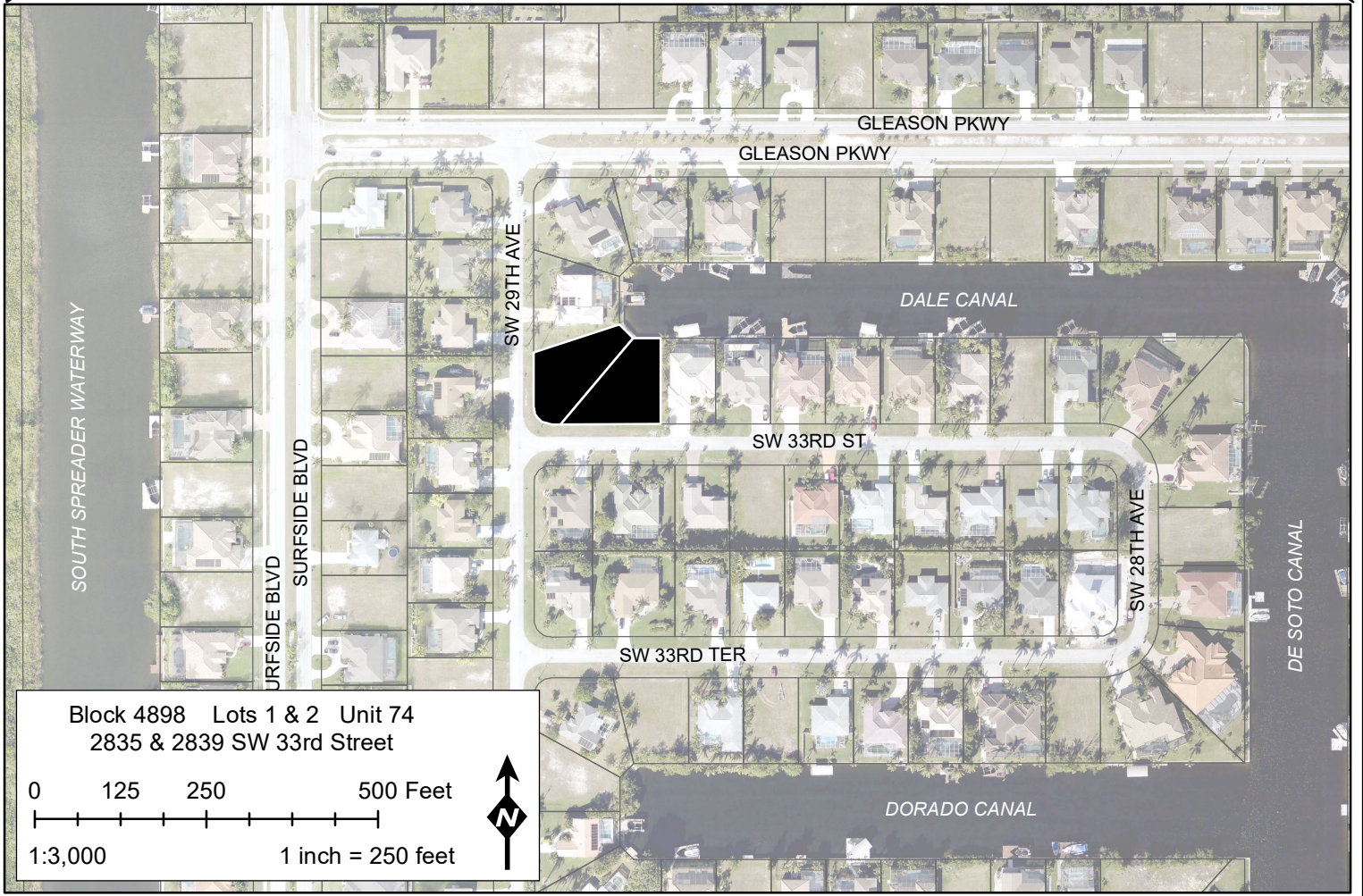
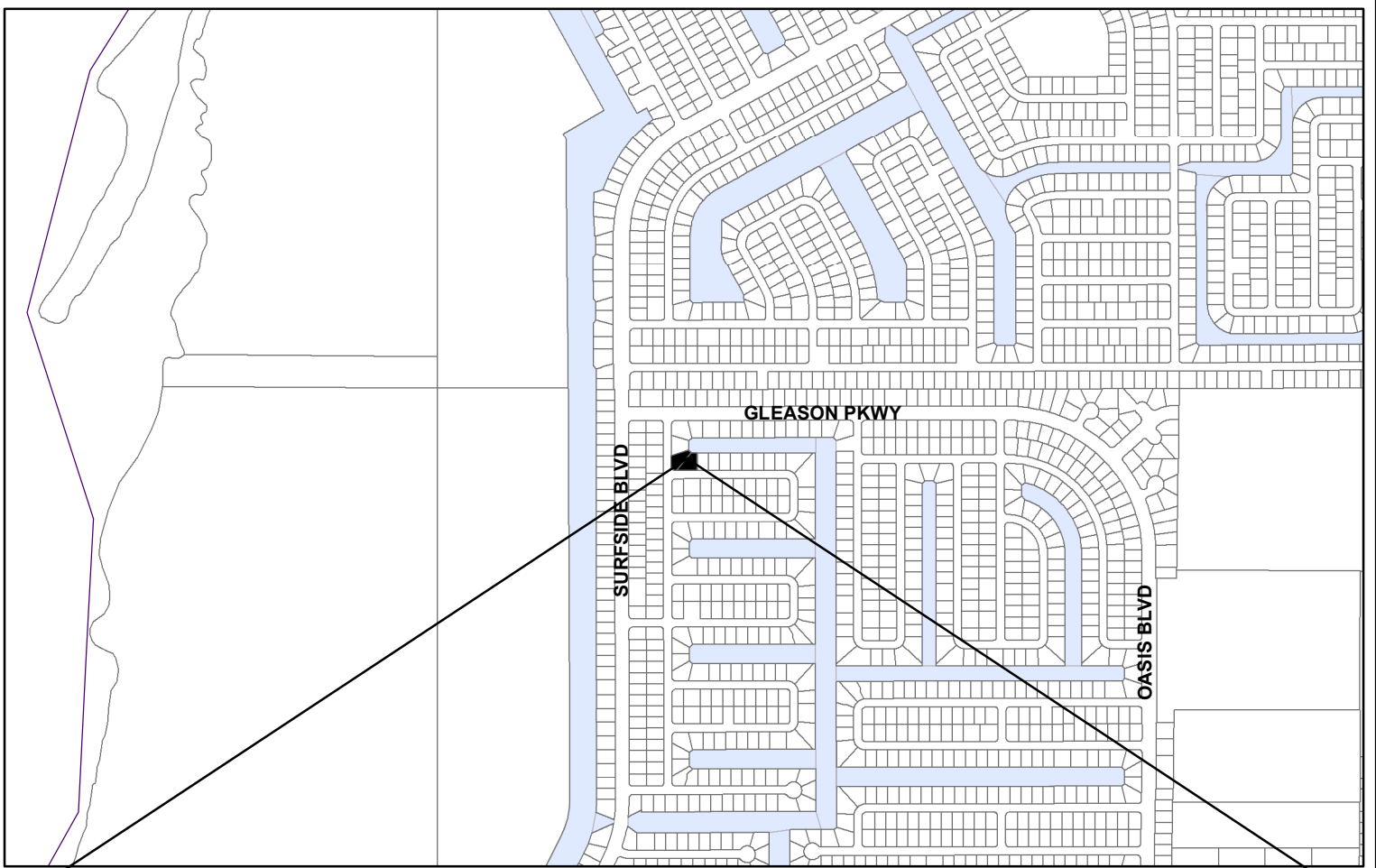
Sale Price	Date	OR Number	Type	Description	Vacant/Improved
Sales qualified but excluded from sales ratio analysis					
152,000.00	04/01/2016	2016000068678	05	Arm's length transaction transferring multiple parcels with multiple parcel identification numbers There are 1 additional parcel(s) with this document (may have been split after the transaction date)... 05-45-23-C1-04898.0010	V
Sales disqualified as a result of examination of the deed					
10.00	09/14/2014	2014000190829	11	Corrective Deed, Quit Claim Deed, or Tax Deed; deed bearing Florida Documentary Stamp at the minimum rate prescribed under Chapter 201, F.S.; transfer of ownership in which no documentary stamps were paid	V
Sales disqualified as a result of examination of the deed					
10.00	09/11/2014	2014000190828	11	Corrective Deed, Quit Claim Deed, or Tax Deed; deed bearing Florida Documentary Stamp at the minimum rate prescribed under Chapter 201, F.S.; transfer of ownership in which no documentary stamps were paid	V
Sales qualified but excluded from sales ratio analysis					
35,000.00	03/12/2012	2012000058603	03	Transfers qualified as arm's length at time of transfer, but the physical property characteristics changed significantly after the transfer, or transfer included property characteristics not present at time of transfer (use these subcodes: 1-parcel split, 2-parcel combination, 3-new construction, 4-deletion, 5-disaster, 6-other (multiple changes/incomplete construction, etc), 7-remodel/renovation)	V

100.00	05/25/2006	2006000213120	01	Sales disqualified as a result of examination of the deed Disqualified (Doc Stamp .70 / SP less th \$100 / Other Disq)	V
425,000.00	03/31/2006	2006000153536	02	Sales qualified but excluded from sales ratio analysis Qualified (Multiple STRAP # / 06-09I) There are 1 additional parcel(s) with this document (may have been split after the transaction date)... 05-45-23-C1-04898.0010	V
100.00	08/10/2001	3493/2041	04	Sales disqualified as a result of examination of the deed Disqualified (Multiple STRAP # - 01,03,04,07)	V
6,000.00	04/01/1993	2380/4039	07	Not Classified No Longer Used (was Disqualified - Mail Order Sales)	V

**Building/Construction Permit Data****Parcel Numbering History****Location Information****Solid Waste (Garbage) Roll Data****Flood and Storm Information****Appraisal Details (2018 Trim)****Appraisal Details (Current Working Values)**

[Previous Parcel Number](#) [Next Parcel Number](#) [New Query](#)
[Search Results](#) [Home](#)

TRIM (proposed tax) Notices are available for the following tax years
 [[2007](#) [2008](#) [2009](#) [2010](#) [2011](#) [2012](#) [2013](#) [2014](#) [2015](#) [2016](#) [2017](#) [2018](#)]



Rader and Associates
Miami, Florida

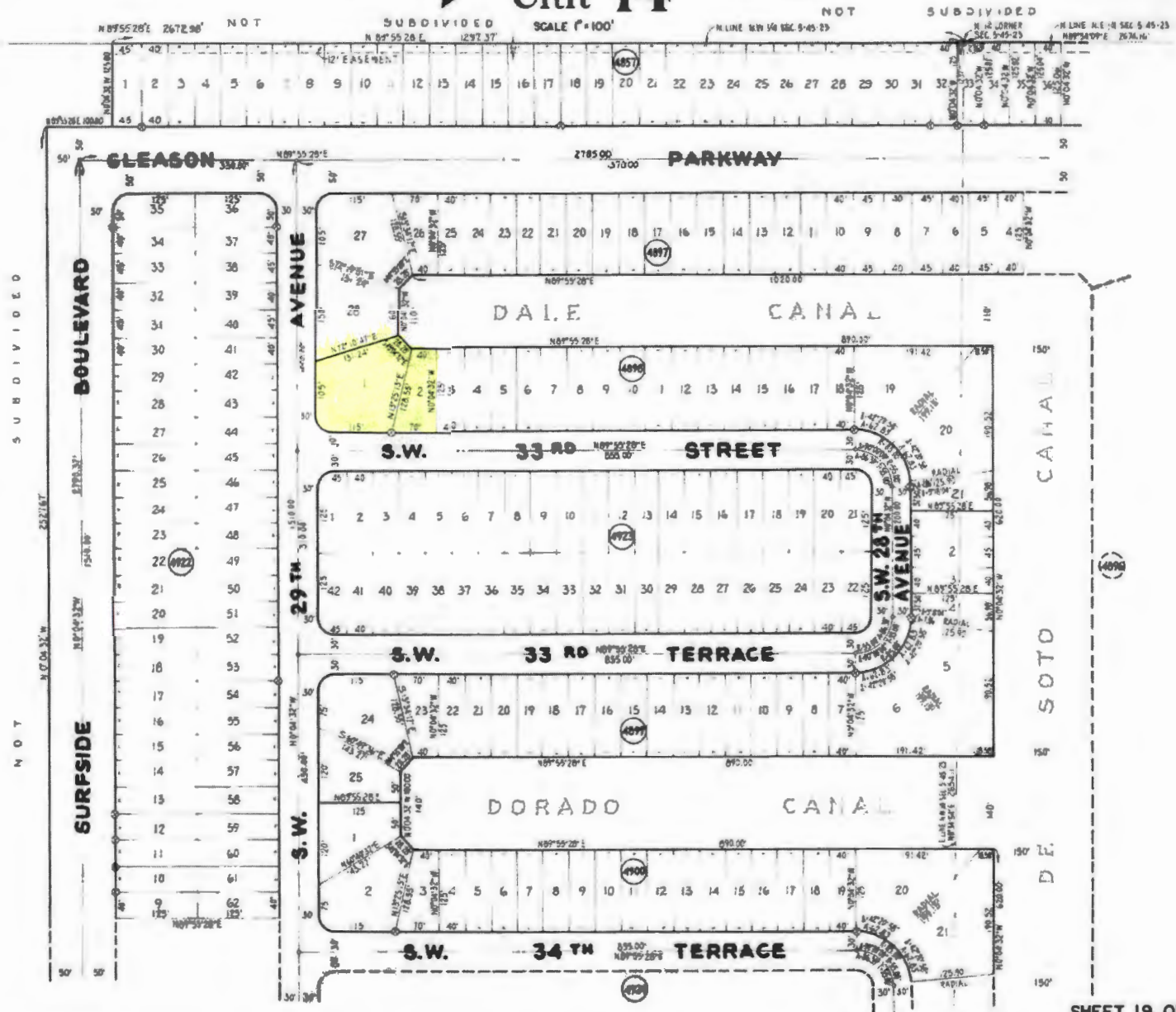
Cape Coral

Unit 74

JOB # 3080

NOVEMBER 1966

PLAT BOOK 22 PAGE 129



REVISIONS
DRAWN BY
CHECKED BY
APPROVED BY

478
PLS. REL
JRW
5



PUBLIC UTILITY & DRAINAGE EASEMENT

This Grant of Easement, made this 14th day of SEPTEMBER, 2018 by and between **James Stroud**, 614 Parkridge Drive, Hockessin, Delaware 19707 as "Grantor", and the **CITY OF CAPE CORAL**, a Florida municipal corporation, as "Grantee".

WITNESSETH that said Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted and conveyed to the said Grantee, and Grantee's successors and assigns forever, a perpetual non-exclusive easement to survey, construct, operate, maintain, remove, replace or abandon utility and/or drainage facilities, in, along, under, above and upon the following described land, situate, lying and being in Lee County, Florida, to wit:

A parcel of land 12.00 foot wide, being a part of Lots 1 and 2, Block 4898, Unit 74, Cape Coral as recorded in Plat Book 22, Pages 111 through 131, inclusive, of the Public Records of Lee County, Florida, for public utility and drainage easement purposes being more particularly described in Exhibit "1", which is attached hereto and incorporated herein by reference.

Reserving unto the Grantor, his successors and assigns forever, the right to construct, maintain, install, operate and place upon the "Easement Area" described herein, any surface improvements, excluding buildings, to include but not be limited to, driveways, sidewalks, curbing, landscaping provided that such does not unreasonably interfere with the utility and/or drainage facilities constructed within said property. Grantor, his successors and assigns, agrees to assume all liability for any damage to any surface improvements constructed by Grantor within the above easement, which result from the actions of the Grantee, including but not limited to any construction, maintenance or repairs to the utility and/or drainage facilities located within the above described easement in accordance with Section 3.14.5 of the City of Cape Coral Land Use and Development Regulations.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

In Witness Whereof, Grantor has hereunto set their hand(s) the day and year first above written.

Witness - Signature

Witness - Print or Type Name

Witness - Signature

Witness - Print or Type Name

James Stroud

9/14/18

STATE OF: Pennsylvania

COUNTY OF: Delaware

The foregoing instrument was acknowledged before me this 14th day September, 2018 by James Stroud, who is / is not personally known by me or has produced Delaware ID as identification. (DESCRIBE IDENTIFICATION)

Notary Signature

Print Name:

(seal)

Commonwealth of Pennsylvania - Notary Seal
Laura Rosario, Notary Public
Montgomery County
My commission expires June 29, 2020
Commission number 1270537
Member, Pennsylvania Association of Notaries

Prepared by:
CITY OF CAPE CORAL
P.O. BOX 150027
CAPE CORAL, FLORIDA 33915-0027

STRAP: 05-45-23-C1-04898.0010 and
05-45-23-C1-04898.0020

EXHIBIT "1"

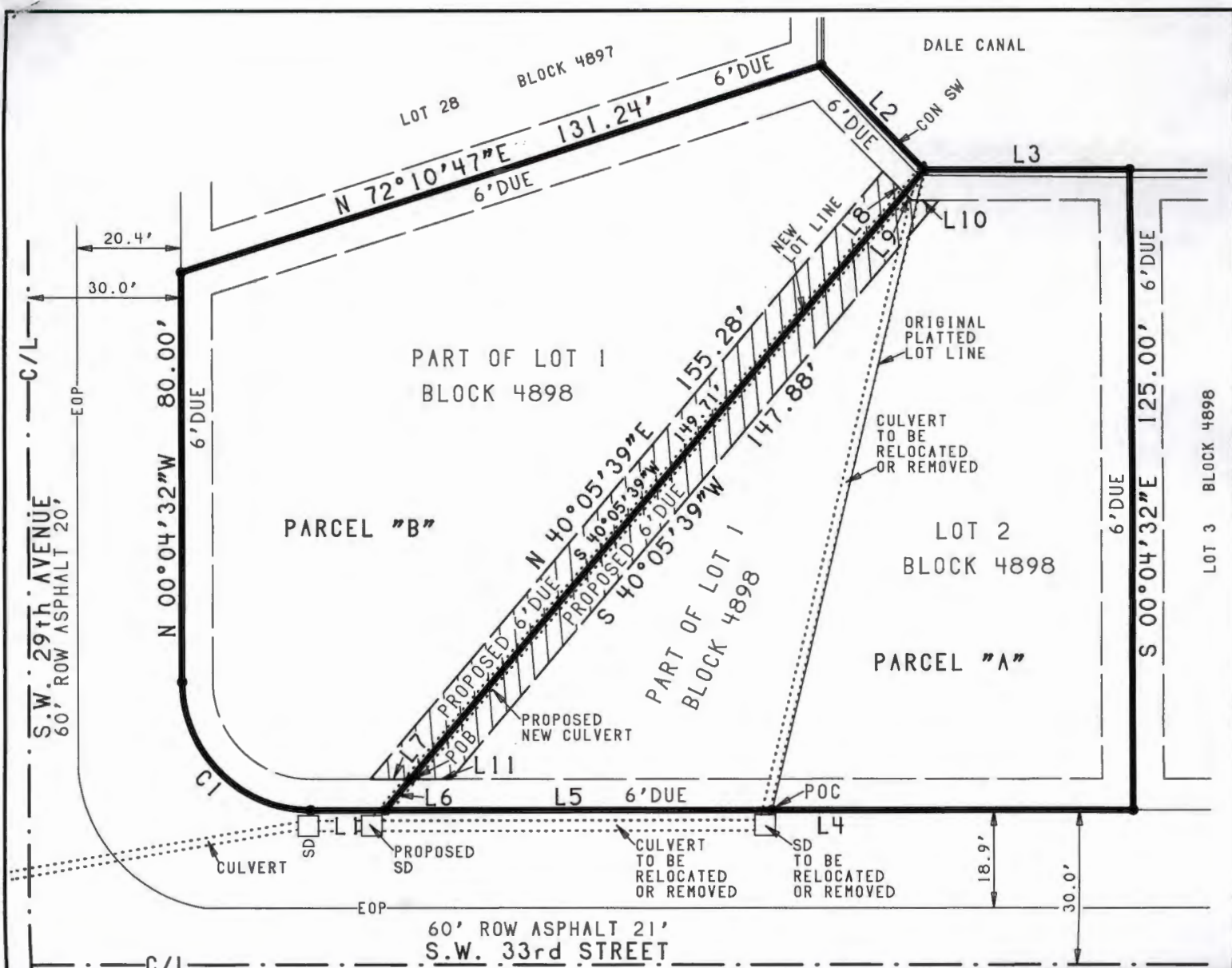
A 6.00 FOOT WIDE DRAINAGE AND UTILITY EASEMENT BEING A PART OF PARCEL "A" AS DESCRIBED IN INSTRUMENT #2006000213120, BEING A RECOMBINATION OF LOT 2 AND A PART OF LOT 1, BLOCK 4898, UNIT 74, CAPE CORAL AS RECORDED IN PLAT BOOK 22, PAGES 111 THROUGH 131 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE RUN S89°55'28"W FOR 75.52 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "A"; THENCE RUN N40°05'39"E ALONG THE COMMON LINE BETWEEN PARCELS "A" & "B" FOR 7.85 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID LINE N40°05'39"E FOR 149.71 FEET; THENCE RUN S45°04'32"E FOR 1.98 FEET; THENCE RUN N89°55'28"E FOR 5.27 FEET; THENCE RUN S40°05'39"W FOR 147.88 FEET; THENCE RUN S89°55'28"W FOR 7.85 FEET TO THE POINT OF BEGINNING.

AND

A 6.00 FOOT WIDE DRAINAGE AND UTILITY EASEMENT BEING A PART OF PARCEL "B" AS DESCRIBED IN INSTRUMENT #2006000213121, BEING A RECOMBINATION OF A PART OF LOT 1, BLOCK 4898, UNIT 74, CAPE CORAL AS RECORDED IN PLAT BOOK 22, PAGES 111 THROUGH 131 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE RUN S89°55'28"W FOR 75.52 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL "B"; THENCE RUN N40°05'39"E ALONG THE COMMON LINE BETWEEN PARCELS "A" & "B" FOR 7.85 FEET TO THE POINT OF BEGINNING; THENCE RUN S89°55'28"W FOR 7.85 FEET; THENCE RUN N40°05'39"E FOR 155.28 FEET; THENCE RUN S45°04'32"E FOR 6.02 FEET; THENCE RUN S40°05'39"W FOR 149.71 FEET TO THE POINT OF BEGINNING.



LINE	BEARING	DISTANCE	L 6	N 40°05'39"E	7.85'
L 1	S 89°55'28"W	14.48'	L 7	S 89°55'28"W	7.85'
L 2	S 45°04'32"E	28.28'	L 8	S 45°04'32"E	6.02'
L 3	N 89°55'28"E	40.00'	L 9	S 45°04'32"E	1.98'
L 4	S 89°55'28"W	145.52'	L 10	N 89°55'28"E	5.27'
L 5	S 89°55'28"W	75.52'	L 11	S 89°55'28"W	7.85'

Plat North
1" = 30'

CURVE	DELTA ANGLE	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C 1	90°00'00"	25.00'	39.27'	25.00'	35.36'	N 45°04'32"W

PROPOSED DRAINAGE & UTILITY EASEMENT:

A 6' DRAINAGE AND UTILITY EASEMENT BEING A PART OF PARCEL "A" AS DESCRIBED IN INSTRUMENT #2006000213120, BEING A RECOMBINATION OF LOT 2 AND A PART OF LOT 1, BLOCK 4898, UNIT 74, CAPE CORAL AS RECORDED IN PLAT BOOK 22, PAGES 111 THROUGH 131 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE RUN S 89°55'28"W FOR 75.52' FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "A"; THENCE RUN N 40°05'39"E ALONG THE COMMON LINE BETWEEN PARCELS "A" & "B" FOR 7.85' TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID LINE N 40°05'39"E FOR 149.71'; THENCE RUN S 45°04'32"E FOR 1.98'; THENCE RUN N 89°55'28"E FOR 5.27'; THENCE RUN S 40°05'39"W FOR 147.88'; THENCE RUN S 89°55'28"W FOR 7.85' TO THE POINT OF BEGINNING.

PROPOSED DRAINAGE & UTILITY EASEMENT:

A 6' DRAINAGE AND UTILITY EASEMENT BEING A PART OF PARCEL "B" AS DESCRIBED IN INSTRUMENT #2006000213121, BEING A RECOMBINATION OF A PART OF LOT 1, BLOCK 4898, UNIT 74, CAPE CORAL AS RECORDED IN PLAT BOOK 22, PAGES 111 THROUGH 131 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE RUN S 89°55'28"W FOR 75.52' FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "B"; THENCE RUN N 40°05'39"E ALONG THE COMMON LINE BETWEEN PARCELS "A" & "B" FOR 7.85' TO THE POINT OF BEGINNING; THENCE RUN S 89°55'28"W FOR 7.85'; THENCE RUN N 40°05'39"E FOR 155.28'; THENCE RUN S 45°04'32"E FOR 6.02'; THENCE RUN S 40°05'39"W FOR 149.71' TO THE POINT OF BEGINNING.

THIS IS NOT A BOUNDARY SURVEY

NOTES:

- 1) DIMENSIONS ARE IN FEET AND DECIMALS THEREOF EXCEPT AS SHOWN.
- 2) NO UNDERGROUND UTILITIES OR STRUCTURES WERE LOCATED EXCEPT AS SHOWN.
- 3) ONLY THOSE IMPROVEMENTS WHICH ARE SHOWN WERE LOCATED. THERE MAY BE OTHER IMPROVEMENTS OR ITEMS OF INTEREST ON THE SUBJECT PROPERTY WHICH WERE NOT OBSERVED OR LOCATED.
- 4) NO TITLE RESEARCH WAS DONE BY THIS COMPANY. NO ABSTRACT OF TITLE WAS PROVIDED EXCEPT AS STATED.
- 5) PARCEL MAY BE SUBJECT TO OTHER EASEMENTS, RESTRICTIONS, OR RESERVATIONS, THE EXISTENCE OF WHICH WERE NOT PROVIDED TO THIS COMPANY.

R.K.BURNS SURVEYING, INC. LB 6133

3507 LEE BLVD. # 246
LEHIGH ACRES, FL. 33971
239-303-0764
239-303-0832 (FAX)
INFO@BURNSSURVEYING.COM

SKETCH &
LEGAL DESCRIPTION

SHEET 1 OF 1

LEGEND:

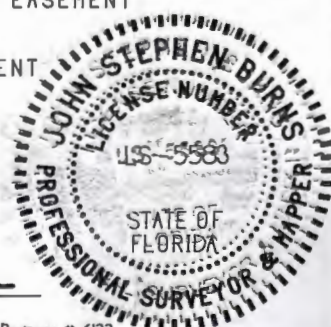
C/L = CENTERLINE
CON = CONCRETE
DUE = DRAINAGE & UTILITY EASEMENT
EOP = EDGE OF PAVEMENT
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
ROW = RIGHT-OF-WAY
SD = STORM DRAIN

W0#: 18-0642DED

THE SEAL APPEARING ON THIS
DOCUMENT WAS AUTHORIZED BY
JOHN S. BURNS LS 5583
ON (09-10-2018)

By:

John S. Burns, Sr., PS&M-LS#5583
R. K. Burns Surveying, Inc. Licensed Survey Business # 6133



Item Number: B.(14)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Resolution 238-18 Acceptance of Edward Byrne Memorial Justice Assistance Grant (JAG)
Funding to purchase license plate reader camera system; Department: Police; Dollar Value
\$16,382; No cash match

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? Yes

2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are
listed below.

If No, will it harm the intent or success of
the Strategic Plan?

**ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING
PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY**

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. Funding in the amount of \$16,382 is provided by the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance.
2. Funding is available October 15, 2018 - September 30, 2019.
3. Funds will be used to purchase license plate reader equipment.
4. The Police Department is requesting approval for the City Manager or his designee to execute all procurement-related purchase orders and contracts specific to the grant award.
5. The Police Department is requesting approval for the Mayor to execute the award documents.
6. Award documents will be presented to the Mayor or signature upon approval.

LEGAL REVIEW:

EXHIBITS:

Resolution 238-18

PREPARED BY:

Shannon

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▢ Resolution 238-18	Resolution

RESOLUTION 238 - 18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING THE ACCEPTANCE OF THE THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT AWARD #2018-DJ-BX-0539, IN THE AMOUNT OF \$16,382; AUTHORIZING THE MAYOR TO EXECUTE RELATED DOCUMENTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Edward Byrne Memorial Justice Assistance Grant program is a federal program that provides grant funds to counties in Florida and all eligible agencies within the county; and

WHEREAS, the City of Cape Coral has been awarded \$16,382 for the purpose of purchasing license plate reader equipment; and

WHEREAS, the City Council desires to accept the grant award in the amount of \$16,382.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves the acceptance of grant funds from the Edward Byrne Memorial Justice Assistance Grant program in the amount of \$16,382 for the purpose of purchasing license plate reader equipment.

Section 2. The Mayor is authorized to execute the Grant Award Acceptance attached hereto as Exhibit 1 and all related documents necessary to receive the grant award.

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

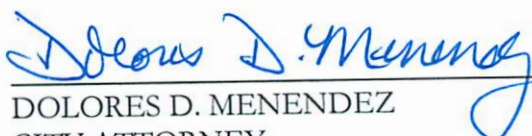
COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
Res\Grant -JAG License Plate Reader



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

October 1, 2018

The Honorable Joe Coviello
City of Cape Coral
Post Office Box 150027
Cape Coral, FL 33915-0027

Dear Mayor Coviello:

On behalf of Attorney General Jefferson Sessions III, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 18 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation in the amount of \$16,382 for City of Cape Coral.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Linda Hill, Program Manager at (202) 598-7514; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in cursive script that reads "Matt Dummermuth".

Matt Dummermuth
Principal Deputy Assistant Attorney General

Enclosures



OFFICE FOR CIVIL RIGHTS

Office of Justice Programs

U.S. Department of Justice

810 7th Street, NW
Washington, DC 20531

Tel: (202) 307-0690

TTY: (202) 307-2027

E-mail: askOCR@usdoj.gov

Website: www.ojp.usdoj.gov/ocr

OCR Letter to All Recipients

October 1, 2018

The Honorable Joe Coviello
City of Cape Coral
Post Office Box 150027
Cape Coral, FL 33915-0027

Dear Mayor Coviello:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of federal funding to compliance with federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is responsible for ensuring that recipients of financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) comply with the applicable federal civil rights laws. We at the OCR are available to help you and your organization meet the civil rights requirements that come with DOJ funding.

Ensuring Access to Federally Assisted Programs

Federal laws that apply to recipients of financial assistance from the DOJ prohibit discrimination on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in employment but also in the delivery of services or benefits. A federal law also prohibits recipients from discriminating on the basis of age in the delivery of services or benefits.

In March of 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013. The statute amends the Violence Against Women Act of 1994 (VAWA) by including a nondiscrimination grant condition that prohibits discrimination based on actual or perceived race, color, national origin, religion, sex, disability, sexual orientation, or gender identity. The new nondiscrimination grant condition applies to certain programs funded after October 1, 2013. The OCR and the OVW have developed answers to some frequently asked questions about this provision to assist recipients of VAWA funds to understand their obligations. The Frequently Asked Questions are available at <https://ojp.gov/about/ocr/vawafaqs.htm>.

Enforcing Civil Rights Laws

All recipients of federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to prohibitions against unlawful discrimination. Accordingly, the OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, the OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal opportunity standards.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). See U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website <https://www.lep.gov>.

Ensuring Equal Treatment of Faith-Based Organizations and Safeguarding Constitutional Protections Related to Religion

The DOJ regulation, Partnerships with Faith-Based and Other Neighborhood Organizations, 28 C.F.R. pt. 38, updated in April 2016, prohibits all recipient organizations, whether they are law enforcement agencies, governmental agencies, educational institutions, houses of worship, or faith-based organizations, from using financial assistance from the DOJ to fund explicitly religious activities. Explicitly religious activities include worship, religious instruction, or proselytization. While funded organizations may engage in non-funded explicitly religious activities (e.g., prayer), they must hold them separately from the activities funded by the DOJ, and recipients cannot compel beneficiaries to participate in them. The regulation also makes clear that organizations participating in programs funded by the DOJ are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. Funded faith-based organizations must also provide written notice to beneficiaries, advising them that if they should object to the religious character of the funded faith based organization, the funded faith-based organization will take reasonable steps to refer the beneficiary to an alternative service provider. For more information on the regulation, please see the OCR's website at <https://ojp.gov/about/ocr/partnerships.htm>.

SAAs and faith-based organizations should also note that the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 34 U.S.C. § 10228(c); the Victims of Crime Act of 1984, as amended, 34 U.S.C. § 20110(e); the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 34 U.S.C. § 11182(b); and VAWA, as amended, 34 U.S.C. § 12291(b)(13), contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the DOJ has concluded that it may construe the Religious Freedom Restoration Act (RFRA) on a case-by-case basis to permit some faith-based organizations to receive DOJ funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions. Please consult with the OCR if you have any questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment.

Using Arrest and Conviction Records in Making Employment Decisions

The OCR issued an advisory document for recipients on the proper use of arrest and conviction records in making hiring decisions. See Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: *Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013)*, available at https://ojp.gov/about/ocr/pdfs/UseofConviction_Advisory.pdf. Recipients should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. In light of the Advisory, recipients should consult local counsel in reviewing their employment practices. If warranted, recipients should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plans (EEOPs) (see below).

Complying with the Safe Streets Act

An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act, must meet two obligations: (1) complying with the federal regulation pertaining to the development of an EEOP (see 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (see 28 C.F.R. §§ 42.204(c), .205(c)(5)).

Meeting the EEOP Requirement

An EEOP is a comprehensive document that analyzes a recipient's relevant labor market data, as well as the recipient's employment practices, to identify possible barriers to the participation of women and minorities in all levels of a recipient's workforce. As a recipient of DOJ funding, you may be required to submit an EEOP Certification Report or an EEOP Utilization Report to the OCR. For more information on whether your organization is subject to the EEOP requirements, see <https://ojp.gov/about/ocr/eeop.htm>. Additionally, you may request technical assistance from an EEOP specialist at the OCR by telephone at (202) 616-1771 or by e-mail at EEOPforms@usdoj.gov.

Meeting the Requirement to Submit Findings of Discrimination

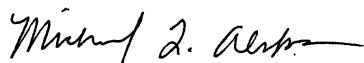
If in the three years prior to the date of the grant award, your organization has received an adverse finding of discrimination based on race, color, national origin, religion, or sex, after a due-process hearing, from a state or federal court or from a state or federal administrative agency, your organization must send a copy of the finding to the OCR.

Ensuring the Compliance of Subrecipients

SAAAs must have standard assurances to notify subrecipients of their civil rights obligations, written procedures to address discrimination complaints filed against subrecipients, methods to monitor subrecipients' compliance with civil rights requirements, and a program to train subrecipients on applicable civil rights laws. In addition, SAAAs must submit to the OCR every three years written Methods of Administration (MOA) that summarize the policies and procedures that they have implemented to ensure the civil rights compliance of subrecipients. For more information on the MOA requirement, see <https://ojp.gov/funding/Explore/StateMethodsAdmin-FY2017update.htm>.

If the OCR can assist you in any way in fulfilling your organization's civil rights responsibilities as a recipient of federal financial assistance, please contact us.

Sincerely,



Michael L. Alston
Director

cc: Grant Manager
Financial Analyst



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Grant

PAGE 1 OF 22

1. RECIPIENT NAME AND ADDRESS (Including Zip Code)

City of Cape Coral
Post Office Box 150027
Cape Coral, FL 33915-0027

4. AWARD NUMBER: 2018-DJ-BX-0539

5. PROJECT PERIOD: FROM 10/01/2017 TO 09/30/2019
BUDGET PERIOD: FROM 10/01/2017 TO 09/30/2019

6. AWARD DATE 10/01/2018

7. ACTION

Initial

2a. GRANTEE IRS/VENDOR NO.

591312997

8. SUPPLEMENT NUMBER

00

2b. GRANTEE DUNS NO.

081119948

9. PREVIOUS AWARD AMOUNT

\$ 0

3. PROJECT TITLE

FY 18 JAG Project

10. AMOUNT OF THIS AWARD

\$ 16,382

11. TOTAL AWARD

\$ 16,382

12. SPECIAL CONDITIONS

THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).

13. STATUTORY AUTHORITY FOR GRANT

This project is supported under FY18(BJA - JAG State & JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10101 - 10726), including subpart I of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a)

14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)

16.738 - Edward Byrne Memorial Justice Assistance Grant Program

15. METHOD OF PAYMENT

GPRS

AGENCY APPROVAL

GRANTEE ACCEPTANCE

16. TYPED NAME AND TITLE OF APPROVING OFFICIAL

Matt Dummermuth
Principal Deputy Assistant Attorney General

18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL

Joe Coviello
Mayor

17. SIGNATURE OF APPROVING OFFICIAL

19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL

19A. DATE

AGENCY USE ONLY

20. ACCOUNTING CLASSIFICATION CODES

FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. REG.	OFC.	SUB.	POMS	AMOUNT
X	B	DJ	80	00	00		16382

21. TDJUGT0560



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 2 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2018 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2018 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2018 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 3 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2016, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after-- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2016, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 4 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

9. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient)-- 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or 2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

10. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 5 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

11. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$150,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$150,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$150,000)), and are incorporated by reference here.

12. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

13. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

14. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

15. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 6 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

16. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

17. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

18. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

19. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

20. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 7 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

21. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

22. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2018)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2018, are set out at <https://ojp.gov/funding/Explore/FY18AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

23. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (2) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 8 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

24. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 9 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

25. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

26. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

27. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

28. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 10 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

29. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

30. Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

31. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

32. Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://it.ojp.gov/gsp_grantcondition. The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

33. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

34. Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 11 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

35. Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

36. Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

37. Verification and updating of recipient contact information

The recipient must verify its Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

38. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership (www.ctfli.org). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

39. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 12 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

40. Submission of eligible records relevant to the National Instant Background Check System

Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the recipient (or any subrecipient at any tier) uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

In the event of minor and transitory non-compliance, the recipient may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.

41. Certification of Compliance with 8 U.S.C. 1373 and 1644 (within the funded "program or activity") required for valid award acceptance by a local government

In order validly to accept this award, the applicant local government must submit the required "State or Local Government: FY 2018 Certification of Compliance with 8 U.S.C. 1373 and 1644" (executed by the chief legal officer of the local government). Unless that executed certification either-- (1) is submitted to OJP together with the fully-executed award document, or (2) is uploaded in OJP's GMS no later than the day the signed award document is submitted to OJP, any submission by a local government that purports to accept the award is invalid.

If an initial award-acceptance submission by the recipient is invalid, once the local government does submit the necessary certification regarding 8 U.S.C. 1373 and 1644, it may submit a fully-executed award document executed by the local government on or after the date of that certification.

For purposes of this condition, "local government" does not include any Indian tribe.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 13 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

42. Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance

1. With respect to the "program or activity" funded in whole or part under this award (including any such program or activity of any subrecipient at any tier), throughout the period of performance, no State or local government entity, - agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in either 8 U.S.C. 1373(b) or 1644. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

2. Certifications from subrecipients. The recipient may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373 and 1644, properly executed by the chief legal officer of the government or educational institution that would receive the subaward, using the appropriate form available at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>. Also, the recipient must require that no subrecipient (at any tier) may make a further subaward to a State, a local government, or a public institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373 and 1644, properly executed by the chief legal officer of the government or institution that would receive the further subaward, using the appropriate OJP form.

3. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

4. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

5. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.

(2) A "public" institution of higher education is defined as one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.")

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means under 8 U.S.C. 1373 and 8 U.S.C. 1644; and terms that are defined in 8 U.S.C. 1101 mean what they mean under that section 1101, except that "State" also includes American Samoa.

(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 and 1644 are to be read as references to particular components of the Department of Homeland Security (DHS).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.

IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 14 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

award acceptance.

43. Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement (8 U.S.C. 1373 and 1644); unallowable costs; notification
1. If the recipient is a "State," a local government, or a "public" institution of higher education:
- A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."
- B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.
- C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) that is a State, local government, or public institution of higher education, is in compliance with the award condition entitled "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance."
- D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient at any tier that is either a State or a local government or a public institution of higher education, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient have such credible evidence regarding an information-communication restriction.
2. Any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.
3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "Noninterference ... 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition.
4. Rules of Construction
- A. For purposes of this condition "information-communication restriction" has the meaning set out in the "Noninterference ... 8 U.S.C. 1373 and 1644 and ongoing compliance" condition.
- B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference ... 8 U.S.C. 1373 and 1644 and ongoing compliance" condition are incorporated by reference as though set forth here in full.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 15 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

44. Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward (at any tier).

1. Noninterference: No public disclosure of federal law enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no public disclosure may be made of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 -- without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

- A. For purposes of this condition--

(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3));

(2) the term "federal law enforcement information" means law enforcement sensitive information communicated or made available, by the federal government, to a State or local government entity, -agency, or -official, through any means, including, without limitation-- (1) through any database, (2) in connection with any law enforcement partnership or -task-force, (3) in connection with any request for law enforcement assistance or -cooperation, or (4) through any deconfliction (or courtesy) notice of planned, imminent, commencing, continuing, or impending federal law enforcement activity;

(3) the term "law enforcement sensitive information" means records or information compiled for any law enforcement purpose; and

(4) the term "public disclosure" means any communication or release other than one-- (a) within the recipient, or (b) to any subrecipient (at any tier) that is a government entity.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 16 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

45. Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

1. Noninterference with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations -- including 8 U.S.C. 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 C.F.R. 287.5(a), under which that power may be exercised "anywhere in or outside the United States" -- within the funded program or activity, no State or local government entity, -agency, or -official may interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition:

(1) The term "alien" means what it means under section 101 of the Immigration and Nationality Act (INA) (see 8 U.S.C. 1101(a)(3)).

(2) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7)).

(3) The term "impede" includes taking or continuing any action, or implementing or maintaining any law, policy, rule, or practice, that--

(a) is designed to prevent or to significantly delay or complicate, or

(b) has the effect of preventing or of significantly delaying or complicating.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 17 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

46. Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

1. Noninterference with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual DOJ report to Congress on "the number of illegal alien[felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- within the funded program or activity, no State or local government entity, -agency, or -official (including a government-contracted correctional facility) may interfere with the "removal" process by failing to provide -- as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition:

(1) The term "alien" means what it means under section 101 of the INA (see 8 U.S.C. 1101(a)(3)).

(2) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7)).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual otherwise would have been released.

C. Applicability

(1) Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). If (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to allow for the advance notice that DHS has requested, it shall NOT be a violation of this condition to provide only as much advance notice as practicable.

(2) Current DHS practice is to use the same form for a second, distinct purpose -- to request that an individual be



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 18 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.

D. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.

47. Requirement to collect certain information from subrecipients

The recipient may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains from the proposed subrecipient responses to the questions identified in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)." All subrecipient responses must be collected and maintained by the recipient, consistent with regular document retention requirements, and must be made available to DOJ upon request. Responses to these questions are not required from subrecipients that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 19 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

48. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

a. New construction;

b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;

c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;

d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and

e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

49. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The trust fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 20 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

50. Prohibition on use of award funds for match under BVP program

JAG funds may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

51. Certification of body armor "mandatory wear" policies

The recipient agrees to submit a signed certification that all law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

52. Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx>). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

53. Body armor - impact on eligibility for other program funds

The recipient understands that the use of funds under this award for purchase of body armor may impact eligibility for funding under the Bulletproof Vest Partnership (BVP) program, a separate program operated by BJA, pursuant to the BVP statute at 34 USC 10531(c)(5).

54. Reporting requirements

The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

55. Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.

56. Expenditures prohibited without waiver

No funds under this award may be expended on the purchase of items prohibited by the JAG program statute, unless, as set forth at 34 U.S.C. 10152, the BJA Director certifies that extraordinary and exigent circumstances exist, making such expenditures essential to the maintenance of public safety and good order.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 21 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

57. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2017

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2017), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds in violation of the recipient's certification (executed by the chief executive of the State or local government) that federal funds will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

58. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS.

No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA.

Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

59. Three percent set-aside for NIBRS compliance

The recipient must ensure that at least 3 percent of the total amount of this award is dedicated to achieving full compliance with the FBI's National Incident-Based Reporting System (NIBRS), unless the FBI or appropriate State official has certified that the recipient locality is already NIBRS compliant, and evidence of this has been submitted to and approved by BJA. The recipient will be required by BJA to make revisions to budgets that do not clearly indicate what projects will be supported by this 3 percent set-aside, unless evidence of NIBRS compliance has been submitted to and approved by BJA. Recipients serving as fiscal agents for "disparate jurisdictions," (as defined at 34 USC 10156(d)(4)) have to pass this requirement through to in subawards to other localities in the disparate jurisdiction, so that each locality in a disparate jurisdiction group dedicates at least 3 percent of award funds to NIBRS compliance, unless, with respect to each locality in the disparate jurisdiction group, evidence of NIBRS compliance has been submitted to and approved by BJA.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 22 OF 22

PROJECT NUMBER 2018-DJ-BX-0539

AWARD DATE 10/01/2018

SPECIAL CONDITIONS

60. Encouragement of submission of "success stories"

BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to a My BJA account at [https:// www.bja.gov/ Login.aspx](https://www.bja.gov/Login.aspx) to access the Success Story Submission form. If the recipient does not yet have a My BJA account, please register at [https:// www.bja.gov/ profile.aspx](https://www.bja.gov/profile.aspx). Once registered, one of the available areas on the My BJA page will be "My Success Stories." Within this box, there is an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the BJA Success Story web page at [https:// www.bja.gov/ SuccessStoryList.aspx](https://www.bja.gov/ SuccessStoryList.aspx).

61. Withholding of funds: Required certification from the chief executive of the applicant government

The recipient may not obligate, expend, or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

62. Initial period of performance; requests for extension

The recipient understands that the initial period of performance for this award is two years. The recipient further understands that any requests for an extension of the period of performance for this award will be approved automatically for up to a total of two additional years, pursuant to 34 U.S.C. 10152(f) and in accordance with the program solicitation associated with this award.

Any request for an extension of the period of performance beyond a four-year award period will require approval, and the approval (if any) will be at the discretion of the Director of BJA.

63. Recipient may not obligate, expend or drawdown funds until the Bureau of Justice Assistance, Office of Justice Programs has received and approved the required application attachment(s) and has issued a Grant Adjustment Notice (GAN) releasing this special condition.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Cape Coral

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <https://www.bja.gov/Funding/nepa.html>.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

	U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance		GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY	
			Grant	
		PROJECT NUMBER 2018-DJ-BX-0539	PAGE 1 OF 1	
This project is supported under FY18(BJA - JAG State & JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10101 - 10726), including subpart I of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a)				
1. STAFF CONTACT (Name & telephone number) Linda Hill (202) 598-7514		2. PROJECT DIRECTOR (Name, address & telephone number) Shannon Northorp Grant Writer/Coordinator PO BOX 150027 Cape Coral, FL 33915-0027 (239) 574-0675		
3a. TITLE OF THE PROGRAM BJA FY 18 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation			3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)	
4. TITLE OF PROJECT FY 18 JAG Project				
5. NAME & ADDRESS OF GRANTEE City of Cape Coral Post Office Box 150027 Cape Coral, FL 33915-0027		6. NAME & ADDRESS OF SUBGRANTEE		
7. PROGRAM PERIOD FROM: 10/01/2017 TO: 09/30/2019		8. BUDGET PERIOD FROM: 10/01/2017 TO: 09/30/2019		
9. AMOUNT OF AWARD \$ 16,382		10. DATE OF AWARD 10/01/2018		
11. SECOND YEAR'S BUDGET		12. SECOND YEAR'S BUDGET AMOUNT		
13. THIRD YEAR'S BUDGET PERIOD		14. THIRD YEAR'S BUDGET AMOUNT		
15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse) The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of criminal justice related activities based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following purpose areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; 7) crime victim and witness programs (other than compensation); and 8) mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams. This Local JAG award will be used to support criminal justice initiatives that fall under one or more of the allowable program areas above. Any equipment purchases or funded initiatives such as overtime, task forces, drug programs or information sharing, will be aimed at reducing crime and enhancing public and				

officer safety.

NCA/NCF

Item Number: B.(15)
Meeting Date: 10/15/2018
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Authorization to convey an Offer of Judgment in the amount of \$525,000 in an effort to resolve the eminent domain case of City of Cape Coral v. Florida Properties III, LLC, et al., Case Number 2017-CA-002626

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

On May 15, 2017, the City Council adopted Resolution 79–17, declaring a reasonable necessity to acquire 4.92 acres of a 125-acre tract owned by Florida Properties III for the construction of a water storage tank and related facilities to support the City's irrigation utility system. The City initiated negotiations with the owner based upon an independent appraisal conducted on its behalf.

The City was unable to reach a negotiated agreement after several months of negotiations and filed an eminent domain action to acquire title to the property on August 4, 2017. The owner entered into a stipulated order of taking enabling the City to acquire title to the property in advance of final judgment. Pursuant to the order, the City deposited its initial appraised value of \$321,600 into the registry of the court on November 20, 2017. The remaining issue to be determined is the ultimate compensation to be paid to the owner. **Under Florida law the City, as the condemning authority, is responsible for the attorney's fees and all reasonable expert and other costs incurred by the owner.**

Florida Properties subsequently submitted its own appraisal report which valued the land acquired at \$589,617. The appraisal additionally stated the taking changed the highest and best use of a portion of the remainder property. This resulted in damages of \$527,127, for a total compensation claim of \$1,116,814. The appraisal also noted an alternative methodology for damages that when

applied would result in a total compensation claim of \$692,577. This would likely be the number testified to at trial on behalf of the property owner. It is important to note the property was listed for sale at the time the City initiated negotiations with Florida Properties. Utilizing the listed price for the 125 acres would equate to a value of \$295,000 for the 4.92 acres acquired, without any consideration for potential damages.

On September 20, 2018, a formal mediation conference was held in an effort to settle the claim prior to trial. The City's staff and the representative of Florida Properties III were not able to agree on a settlement figure after a full day of mediation.

Staff recommends the Council authorize conveying an offer to the property owner that judgment be entered in the amount of \$525,000, exclusive of attorney's fees and costs – an Offer of Judgment. The property owner will have 30 days to accept or reject the offer of judgment. In the event the owner rejects the offer and does not recover a judgment at trial exceeding the amount of the offer of judgment, the owner would not be entitled to recover any expert or other costs incurred after the date the offer is rejected.

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department- City
 Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker
Financial Services / Real Estate Division

Item Number:	F.(1)
Meeting Date:	10/15/2018
Item Type:	APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL



TITLE:

Affordable Housing Advisory Committee - 2 vacancies (1 for the P&Z member vacancy and 1 for the Resident vacancy)

REQUESTED ACTION:

Appoint

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan? No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

Action Item #1: 1 Vacancy for (h) Member of Local Planning and Zoning Commission. At their meeting held on October 3, 2018, the Planning and Zoning commission recommended Jim Ranfranz as the P&Z Representative for AHAC. The commission respectfully requests that the City Council accept and affirm the appointment as a ministerial duty of the Council. Jim Ranfranz is currently the P&Z Representative for AHAC with an appointment expiration date of 10/31/2018. This would extend the appointment through 10/31/2021.

- Action Item #2: 1 Vacancy for (i) Resident. 3 applications: Franklin Lee, Stephen Stefanik and Daniel Kasperkoski.

Vacancy occurred due to the resignation of Nasser Altidor. Advertised in the Breeze on October 3, 2018, on the City's Facebook page, and City's website. The member selection shall fill the existing vacancy and with Council's approval, shall expire on 11/30/2021.

LEGAL REVIEW:

EXHIBITS:

Applicant: Franklin Lee

Applicant: Daniel Kasperkoski
Applicant: Stephen Stefanik
Board Sheet

PREPARED BY:

Kimberly
Bruns

Division- Managerial

Department- City Clerk's
Department

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns
Assistant City Clerk
1-239-242-3243

ATTACHMENTS:

Description	Type
▣ Applicant: Franklin Lee	Backup Material
▣ Applicant: Daniel Kasperkoski	Backup Material
▣ Applicant: Stephen Stefanik	Backup Material
▣ Board Sheet	Backup Material

**CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORM**

RECEIVED

Initials:

**This Appointment Information Form, when completed, signed and filed with the City Clerk's Office, 2018
is a PUBLIC RECORD under Chapter 119, Florida Statutes, and, therefore, is open to public inspection by any
person.**

**YOU ARE RESPONSIBLE TO KEEP THE INFORMATION ON THIS FORM CURRENT. APPLICATIONS WILL
BE RETAINED IN THE CLERK'S OFFICE IN ACCORDANCE WITH STATE RECORDS RETENTION LAWS.**

Please Type, if possible (or print clearly)

Date: 10/1/2018

Name: Lee Franklin C
(Last) (First) (Middle)

E-mail address: franklee@sales-academy.com

Address: (H) 409 SE 8th Terrace, Cape Coral Zip Code 33990
(O) _____ Zip Code _____

Phone: (H) _____ (O) _____ (C) 214-695-4180

Occupation: Retired

Employer: _____ Position: _____ How Long: _____

Education: Highest education level achieved and institutions attended:

Name & Location Dates Attended Degrees Earned

Richardson Community College, Richardson, TX

1992-1994 Part time

Associates

Have you ever held a professional or business license or certificate? Yes _____ No X

If "Yes", please provide the title, issue date and issuing authority.

License/Certificate Title Issue Date Issuing Authority

Board(s) /Commission(s) for which you are applying: Affordable Housing Advisory Committee

1. Are you a U.S. Citizen? Yes X No _____
2. Are you a Cape Coral Resident? Yes X No _____
3. Are you currently serving on a City Board(s)? Yes _____ No X
If yes, which Board(s) and since when?

4. Have you ever served on a City Board(s)? Yes X No _____

If yes, which Board(s) and when?

2016 Animal Services Board, Flower Mound, TX

5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?

Yes _____ No X If yes, what Board, etc. and since when?

Work Experience:

1994 – 2016 President, Sales Academy, sales training consultant specializing in farm equipment industry.

1992 – 1994 Vice President, Behavioral Sciences, Dallas, TX

1984 – 1994 Own businesses – video stores, clothing factory

Community Involvement:

Past President, Sales & Marketing Executives, Texas

Past President, Lions Club, Texas

Treasurer, Cape Coral Lions Club (current)

Interests/Activities:

Photography, reading, theater

Why do you desire to serve on this/these Board(s)?

I have the time and would like to become involved with city affairs particularly in a position where

I can help fellow citizens. I am a big believer in affordable housing for people less fortunate.

How did you learn about the vacancy? ☒ Cape Coral Website ☐ Newspaper ☐ Facebook ☐ Word of Mouth

A resume or separate sheet with additional information may be included.

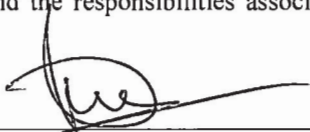
Florida law requires that members of certain Boards file a financial disclosure form. Would you be willing to file a financial disclosure form? Yes ☒ No ☐

The City of Cape Coral Code of Ordinances, Section 2-60 has a limitation on offices held; however, this can be waived by a two-thirds (2/3) vote of City Council. If you are already serving on a Board, Authority, or Commission for the City of Cape Coral or for another governmental agency, you would have to be approved by a two-thirds (2/3) vote.

The City of Cape Coral Code of Ordinances, Section 2-57 states that an applicant for membership on a board, committee, or commission or a sitting member of those bodies shall not have any delinquent accounts with the City of Cape Coral at the time of appointment.

I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).

Signature



Date

10/1/2018

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY

Interviewed:

Date: _____

Yes ☐ No ☐

Council Action:

Date: _____

**CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORM**

OCT 12 2018

Initials: DK

This Appointment Information Form, when completed, signed and filed with the City Clerk's Office, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and, therefore, is open to public inspection by any person.

YOU ARE RESPONSIBLE TO KEEP THE INFORMATION ON THIS FORM CURRENT. APPLICATIONS WILL BE RETAINED IN THE CLERK'S OFFICE IN ACCORDANCE WITH STATE RECORDS RETENTION LAWS.

Please Type, if possible (or print clearly)

Date: 10/11/2008

Name: Kasperkoski Daniel
(Last) (First) (Middle)

E-mail address: dankas@PTP.netAddress: (H) 421 SE 13th Street Zip Code 33990

(O) _____ Zip Code _____

Phone: (H) _____ (O) _____ (C) 484-515-7150Occupation: Executive Director

Employer: _____ Position: _____ How Long: _____

Education: Highest education level achieved and institutions attended:

Name & Location	Dates Attended	Degrees Earned
<u>Excelsior College</u>	<u>Albany NY</u>	<u>B.S.</u>
		<u>Psychology</u>
		<u>Management Studies</u>

Have you ever held a professional or business license or certificate? Yes _____ No ☒

If "Yes", please provide the title, issue date and issuing authority.

License/Certificate Title	Issue Date	Issuing Authority

Board(s)/Commission(s) for which you are applying:

Affordable Housing Advisory Committee
Audit Committee
1. Are you a U.S. Citizen? Yes ☒ No _____2. Are you a Cape Coral Resident? Yes ☒ No _____3. Are you currently serving on a City Board(s)? Yes _____ No ☒

If yes, which Board(s) and since when?

4. Have you ever served on a City Board(s)? Yes _____ No ☒

If yes, which Board(s) and when?

5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?Yes _____ No ☒ If yes, what Board, etc. and since when?

Work Experience:

15 years of senior level management
in the Social Welfare Field

Community Involvement:

Monroe County Woman's Shelter
Community Outreach and Education

Interests/Activities:

Leadership, Community Welfare, Child
Welfare

Why do you desire to serve on this/these Board(s)?

See Attached Resume - to serve the needs of
the community. Also have experience that could
benefit the City and Residents.

How did you learn about the vacancy? ☒ Cape Coral Website ☐ Newspaper ☐ Facebook ☐ Word of Mouth

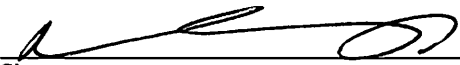
A resume or separate sheet with additional information may be included.

Florida law requires that members of certain Boards file a financial disclosure form. Would you be willing to file a financial disclosure form? Yes ☒ No ☐

The City of Cape Coral Code of Ordinances, Section 2-60 has a limitation on offices held; however, this can be waived by a two-thirds (2/3) vote of City Council. If you are already serving on a Board, Authority, or Commission for the City of Cape Coral or for another governmental agency, you would have to be approved by a two-thirds (2/3) vote.

The City of Cape Coral Code of Ordinances, Section 2-57 states that an applicant for membership on a board, committee, or commission or a sitting member of those bodies shall not have any delinquent accounts with the City of Cape Coral at the time of appointment.

I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).


Signature

10/11/2018
Date

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY

Interviewed: Date: _____

Yes ☐ No ☐

Council Action: Date: _____

DANIEL KASPERKOSKI, JR.

421 SE 13th St. Cape Coral, FL 33990 - 484-515-7150 - dankas@ptd.net

CAREER OBJECTIVE

Performance-focused senior management leader eager to contribute dynamic program administration, human resource management and administrative operation skills to a progressive organization to maximize results.

PROFILE

- **Over 15 years of senior level management** and direction of multiple sites experience.
- **Over 25 years' experience in the behavioral health field.** Directing, open and secure residential programs, serving sex offenders, delinquent, gender specific program, abuse neglect, chemical dependency, and addiction recovery programs.
- Comprehensive P&L, revenue and expense management background. Managed budgets in excess of 8 million.
- Exceptional marketing and public relations experience. Including directing admissions, policies, bed management and census projections.
- Effectively define, develop and implement targeted action plans to maximize operational productivity, efficiency and delivery of services.
- Proactively hire, train, develop and motivate teams, creating a collaborative environment conducive to achieving high levels of employee retention and job satisfaction.
- Dynamic communication, presentation, relationship building and problem-solving abilities.
- Excel at interacting with broad populations including senior management and staff, clients, federal, state, local political stakeholders and external contractors.

KEY ACHIEVEMENTS

- Responsible for startup of a 125-bed residential out of state program. Solely accountable for building renovation, monitoring, sourcing and staffing of all departments, licensing and accreditation.
- Involved in over 5 start up and / or expansion projects with 3 different companies.
- Targeted and achieved a \$600K federal HUD grant via relationship development with federal and state political leaders.
- Implemented one of the first residential charter schools in the country.
- Awarded \$120K charter school grant / start up grant.
- Identified, pursued and was awarded a state-issued \$1 million contract to provide services to children in residential care.
- Presented the "Key to the City" Buhl, Minnesota for social and economic contributions.

PROFESSIONAL EXPERIENCE

Mountain Laurel Recovery Center Executive Director

**Westfield, Pa
9/2017 to 9/2018**

- Responsible for all aspects of private adult addiction recovery center. The program including medically assisted detoxification center, residential treatment and partial hospitalization treatment.
- Accountable for all budgeted line items and meeting expected monthly EBITDA margins.
- Developed systems to better manage census, thus increasing expected length of stay with insurance companies.
- Instrumental renewing the programs Pennsylvania Department of Drug and Alcohol Program 2017 - 2018 operating license.
- Revitalize the nursing department by assessing the quality of personnel and re-establishing standards, engaging in sourcing and directing newly hired nursing staff.

**Children's Network of SWFL
Quality Management**

**Fort Myers, FL
5/2017 to 9/2017**

- Conduct case management reviews for accuracy and deficiencies submitted by contracted reporting agents. Present findings to the Department of Quality Management State of Florida and specific agency leadership.
- Analyses state mandated performance indicators submitted by contracted agents. Presented weekly variance reports to Office of Child Welfare Data Reporting Unit and specific agency leadership.
- Identify System of Care needs and provide technical assistance to contracted agencies.
- Develop and implement System of Care policies and procedures.
- Full oversight of contracted agencies providing Independent Living services in the South West Region of Florida. Interface with director level vendors to ensure program services are being provided within the Florida Department of Family Services regulations and state statute.

**Cornell Companies
Program Manager II**

**Marienville, Pa.
8/2008 to 4/2011**

- Hired to assist in the process to revitalize, underperforming and unsafe treatment center.
- Responsible for a 60-bed expansion project, post stabilization.
- Directed and lead a team of professional and para professional 45 staff that operated a total of 80 beds. Population consisted of sex offenders, behavioral health and chemical dependency.
- Under limited supervision managed facility personnel, residents and budget.
- Managed monthly line items to maintain department's financial health.

**KidsPeace Inc
Director of Residential Care**

**Orefield, PA.
11/2006 to 7/2008**

- Contributes dynamic leadership skills in managing all aspects of 3 campuses and a total of 270-beds. Campus specific programs included Juvenile Justice behavioral disorders, sex offenders and abuse and neglect residential programs with a total staffing complement of over 160 professional and paraprofessional staff.
- Maintained full accountability for the development of new programs treating the delinquent population for both male and females.
- Spearheaded diverse administrative activities ranging from staff training and performance evaluation to workflow planning and policy / procedure development.
- Responsible for a 9 million dollar operational budget.

**Bonnie Brae Residential Treatment
Assistant Program Director**

**Liberty Corner, NJ.
6/2004 to 11/2006**

- Directly led a 60-bed treatment center and implemented all programs, while developing and managing a \$4 million budget.
- Managed a 50-bed expansion project.
- Efficiently supervised a team of 45 staff, coordinated workflow, defined staffing requirements and assigned projects to optimize utilization of human capital and operational resources.
- Relied upon to design, train and implement a treatment program to effectively treat highly aggressive delinquent population.
- Applied project management and multitasking abilities in increasing trainings in Gang Awareness, Sex Offending Behavior, Group and Milieu management and directing the redesign of the summer program to handle the increased acuity level and increased population.

KidsPeace Inc**Orefield, Pa.****Director of Program Improvement / Business Development,****4/2002 to 2/2004**

- Conducted comprehensive review and evaluation of the effectiveness of the entire organization and recommend actionable solutions to support program outcomes, reporting directly to the VP of Programs and the VP of Business Development
- Built and established key relationships and liaised with all levels of personnel, state and federal agencies and clients.
- Steered revenue enhancement and expense management supporting enterprise-wide operations, while improving measured quality and maintaining regulatory and legal compliance in all business units, demonstrating exceptional project management abilities in achieving operational goals.
- Increased census by \$130K annually by assisting a mid-western facility to expand program offerings.

Executive Director – KidsPeace, Mesabi Academy**4/1998 to 4/2002**

- Applied sharp business acumen toward effectively spearheading organization startup. Strategically defining new business development plans to create cost-effective operating budgets.
- Maintained full P&L responsibility for managing a 124-bed juvenile treatment facility including a charter school and oversaw director level program management, education, operations, finance, human resources and marketing with a total complement of 140 personnel and an annual operating budget of \$5 million.
- Exhibited solid leadership qualities in selecting, managing and retaining staff, while handling quality control, legal compliance and licensure requirements.
- Reporting to the VP of Programs and School Board.

EDUCATION

Bachelor of Science in Psychology and Administrative/Management Studies –

Excelsior College (Albany, NY)

VOLUNTEER

Monroe County Woman's Shelter,

Responsibility - Community Outreach and Education, Stroudsburg, Pa

RECEIVED

CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORM

Initials: SJS

OCT 10 2018

This Appointment Information Form, when completed, signed and filed with the City Clerk's Office, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and, therefore, is open to public inspection by any person.

YOU ARE RESPONSIBLE TO KEEP THE INFORMATION ON THIS FORM CURRENT. APPLICATIONS WILL BE RETAINED IN THE CLERK'S OFFICE IN ACCORDANCE WITH STATE RECORDS RETENTION LAWS.

Please Type, if possible (or print clearly)

Date: 10/9/18

Name: STEFANIK STEPHEN JOHN
(Last) (First) (Middle)

E-mail address: SJS@StefanikLaw.com

Address: (H) 102 NE 7th Ave Zip Code 33909

(O) _____ Zip Code _____

Phone: (H) (239) 877-6437 (O) _____ (C) (239) 877-6437

Occupation: Attorney

Employer: Self-employed Position: Attorney How Long: 2 years

Education: Highest education level achieved and institutions attended:

Name & Location	Dates Attended	Degrees Earned
<u>Ave Maria School of Law</u>	<u>8/10 - 5/13</u>	<u>Juris Doctorate</u>
<u>Robert Morris University</u>	<u>8/06 - 5/10</u>	<u>B.S. in Economics</u>

Have you ever held a professional or business license or certificate?

Yes ☒ No ☐

If "Yes", please provide the title, issue date and issuing authority.

License/Certificate Title	Issue Date	Issuing Authority
<u>Attorney and Counselor at Law</u>	<u>9/15</u>	<u>Supreme Court of Florida</u>

Board(s) /Commission(s) for which you are applying:

AFFORDABLE HOUSING ADVISORY COMMITTEE

1. Are you a U.S. Citizen? Yes ☒ No ☐

2. Are you a Cape Coral Resident? Yes ☒ No ☐

3. Are you currently serving on a City Board(s)? Yes ☐ No ☒

If yes, which Board(s) and since when?

N/A

4. Have you ever served on a City Board(s)? Yes ☐ No ☒

If yes, which Board(s) and when?

N/A

5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?

Yes ☐ No ☒ If yes, what Board, etc. and since when?

N/A

Work Experience:

- In-House Counsel for Kegan Plastering, Inc. (Paralegal)
- (Associate Attorney) Kubick Neper → Focusing in Construction Defect Law
- Law Office of Stephen J. Stefaniuk

Community Involvement:

- High School Football Official

Interests/Activities:

- Golf
- Reading
- Traveling

Why do you desire to serve on this/these Board(s)?

As a relatively new resident of the Cape, I want to have a positive impact on my community. I believe with my background I could contribute to the Affordable Housing Committee. Also, with a grandparent who relies on affordable housing I understand the importance of the role this committee plays.

How did you learn about the vacancy? ☒ Cape Coral Website ☐ Newspaper ☐ Facebook ☐ Word of Mouth

A resume or separate sheet with additional information may be included.

Florida law requires that members of certain Boards file a financial disclosure form. Would you be willing to file a financial disclosure form? Yes ☒ No ☐

The City of Cape Coral Code of Ordinances, Section 2-60 has a limitation on offices held; however, this can be waived by a two-thirds (2/3) vote of City Council. If you are already serving on a Board, Authority, or Commission for the City of Cape Coral or for another governmental agency, you would have to be approved by a two-thirds (2/3) vote.

The City of Cape Coral Code of Ordinances, Section 2-57 states that an applicant for membership on a board, committee, or commission or a sitting member of those bodies shall not have any delinquent accounts with the City of Cape Coral at the time of appointment.

I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).

Signature 

Date 10/9/18

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY

Interviewed: Date: _____

Yes ☐ No ☐

Council Action: Date: _____

CITY OF CAPE CORAL - BOARDS AND COMMISSIONS

AFFORDABLE HOUSING ADVISORY COMMITTEE

BOARD INFO	MEMBERS	PHONE NUMBER	QUAL	INITIAL APPOINT	LAST REAPPT	TERM EXPIRES
<p>Established by Resolution 23-08</p> <p>Florida Statute 420.9076 requires each municipality that participates in the State Housing Incentives Partnership Program (SHIP) to establish an Affordable Housing Advisory Committee to recommend monetary and non-monetary incentives for affordable housing.</p> <p>Reviews established policies and procedures, ordinances, land development regulations, and adopted local comprehensive plans and makes recommendations to encourage or facilitate affordable housing. There are 11 members on this Committee and they meet quarterly unless there is no business to conduct.</p> <p>11 Members - Six members needed for a Quorum Appointments will be for 3 years. NO COUNCIL LIAISON Presiding officers shall preside for 1 year. Meets: Quarterly or more often when business requires in Conference Room 220 A at 5:30 p.m. Qualifications: Resident of Cape Coral and Citizen of U.S.</p> <p>Membership shall consist of the following: (a) Residential home building industry (b) Banking or Mortgage Banking industry (c) Labor - home building (d) Advocate for low income persons (e) For-profit provider of affordable housing (f) Not-for-profit provider of affordable housing (g) Real estate professional (h) Member of local planning and zoning commission (i) Resident (j) Representative of employers (k) Essential services personnel Contact Amy Yearsley to review applications for this Committee Financial Disclosure Required: No.</p>	<p>VICE CHAIR Courtney Neuhausel 2649 Stonyhill Court Cape Coral, FL 33991</p>	940-1807	a	11/26/2012	10/26/2015	11/30/2018
	<p>Richard "Dick" Peppe (EXEMPT)</p>		b	10/22/2012	10/26/2015	10/31/2018
	<p>Christopher Cheney 3429 SW 9th Avenue Cape Coral, FL 33914</p>	218-4030 (c) 628-4555 (o)	c	2/22/2016		2/22/2019
	<p>Blanca Contreras 1109 SW 45TH St Cape Coral, FL 33914</p>	239-560-2712 (c) 239-540-6634(o)	d	9/17/2018		2/22/2019
	<p>Kenneth Jenkins 1321 SW 11TH Place Cape Coral, FL 33914</p>	239-273-3688 (c) 239-768-4500 (o)	e	9/17/2018		6/30/2020
	<p>Bonnie Schnell 1711 SE 10th Ave Cape Coral, FL 33990</p>	994-3753 (c) 471-0922 (o)	f	6/2/2008	6/9/2014 7/31/2017	6/30/2020
	<p>Eric Urban 102 SE 39th Terrace Cape Coral, FL 33914</p>	560-1099 (c) 945-1414 (o)	g	7/31/2017		6/30/2020
	<p>Jim Ranfranz 1942 SE 36th Street Cape Coral, FL 33904</p>	542-0194 (h) 699-5762 (c)	h	10/22/2012	10/26/2015	10/31/2018

CITY OF CAPE CORAL - BOARDS AND COMMISSIONS

AFFORDABLE HOUSING ADVISORY COMMITTEE

BOARD INFO	MEMBERS	PHONE NUMBER	QUAL	INITIAL APPOINT	LAST REAPPT	TERM EXPIRES
Department of Community Development/Planning Division Amy Yearsley, CDBG/SHIP Coordinator, 573-3183 Recording Secretary: Patricia Sorrels Ph: 239-242-4415 Fax:	VACANT		i			11/30/2018
	John McBrearty 1101 SW Embers Terrace Cape Coral, FL 33991	new number 10/4/18 239 224-0634 610 761-9120 h/c	j	10/26/2015	7/31/2017	6/30/2020
	VACANT		k			10/31/2019

Item Number:	A.(1)
Meeting Date:	10/15/2018
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL



TITLE:

Ordinance 43-18/LU 17-0012 2nd and Final Public Hearing

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

Planning & Zoning Recommendation: At their June 6, 2018 meeting, Planning & Zoning voted (5-2) to recommend approval of the Ordinance.

Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral Comprehensive Plan by amending the Future Land Use Map from Mixed Use Preserve (MUP), Class III, Type D to Multi-Family Residential (MF) and from Urban Services Reserve Area to Urban Services Transition Area for a parcel lying in a portion of the Southwest Quarter of Section 29, Township 44 South, Range 23 East, Lee County Florida; property located northeast of Veterans Parkway and to the west of the Sandoval Subdivision.
(Applicant: MSI Holdings, LLC)

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 43-18/LU 17-0012

Backup Materials

Staff Presentation - Public Hearing

PREPARED BY:

Division- Department- City
Attorney

SOURCE OF ADDITIONAL INFORMATION:

Chad Boyko, Principal Planner

ATTACHMENTS:

Description	Type
▣ Ordinance 43-18/LU 17-0012	Ordinance
▣ Backup Material	Backup Material
▣ Staff Presentation - Public Hearing	Backup Material

ORDINANCE 43 - 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM MIXED USE PRESERVE (MUP), CLASS III, TYPE D TO MULTI-FAMILY RESIDENTIAL (MF) AND FROM URBAN SERVICES RESERVE AREA TO URBAN SERVICES TRANSITION AREA FOR A PARCEL LYING IN A PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED NORTHEAST OF VETERANS PARKWAY AND TO THE WEST OF THE SANDOVAL SUBDIVISION; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral on February 13, 1989, adopted a Comprehensive Plan pursuant to the Comprehensive Planning Act; and

WHEREAS, as part of the Comprehensive Plan the City of Cape Coral adopted therewith a future land use map designating land uses and proposed land uses throughout the City of Cape Coral consistent with the Comprehensive Plan and Comprehensive Planning Act; and

WHEREAS, the City of Cape Coral City Council has considered the testimony, evidence, and documentation for the Land Use Amendment initiated by MSI HOLDINGS, LLC, regarding the below described property, and considered the recommendation of the Planning & Zoning Commission/Local Planning Agency and City staff.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. That the below described real property located within the City of Cape Coral, Florida, is hereby amended consistent with the City of Cape Coral Comprehensive Plan as follows:

FROM MIXED USE PRESERVE (MUP), CLASS III, TYPE D TO MULTI-FAMILY
RESIDENTIAL (MF) AND
FROM URBAN SERVICES RESERVE AREA TO URBAN SERVICES TRANSITION AREA

A PLOT OR PARCEL LYING IN A PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER, WEST LINE OF SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.89°51'53"E. ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF THE AFORESAID SECTION 29 TO A POINT ALONG THE EASTERLY RIGHT OF WAY LINE OF VETERANS PARKWAY AS RECORDED IN OFFICIAL RECORDS BOOK 2910, PAGE 2471 PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR 566.85 FEET; THENCE RUN S.89°51'53"E. FOR 2192.43 FEET; THENCE RUN S.00°12'27"W. TO A POINT ALONG THE ARC OF A CURVE AND THE AFORESAID RIGHT OF WAY LINE OF VETERANS PARKWAY FOR 2702.64 FEET; THENCE RUN ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST FOR 1871.14 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 1565.02 FEET, A CENTRAL DELTA ANGLE OF 68°30'11" A CHORD THAT BEARS N.49°41'42"W. AND A CHORD DISTANCE OF 1761.67 FEET TO A POINT OF TANGENCY; THENCE RUN N.15°26'36"W. TO A POINT OF CURVATURE FOR 480.72 FEET; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT, CONCAVE TO THE SOUTHWEST FOR 1001.86 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 2067.90 FEET, A CENTRAL DELTA ANGLE OF 27°45'32", A CHORD THAT BEARS N.29°19'22"W. AND A CHORD DISTANCE OF 992.09 FEET TO A POINT OF TANGENCY; THENCE RUN N.43°12'08"W. FOR 329.10 FEET TO THE POINT OF BEGINNING.

CONTAINING; 3,689,459.55 SQ FEET OR 84.7 ACRES, MORE OR LESS

SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this plan amendment shall be thirty-one (31) days after the state land planning agency notifies the City that the plan amendment package is complete, or if timely challenged, the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184(3)(c)4., F.S., whichever is applicable.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord/LU17-0012



DEPARTMENT OF COMMUNITY DEVELOPMENT
LARGE SCALE COMPREHENSIVE LAND USE MAP AMENDMENT
Questions: 239-574-0553

Case # _____

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT Shellie Johnson and/or Brian Smith
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE PLANNING & ZONING COMMISSION/ LOCAL
PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR
Large Scale Comprehensive Plan Map Amendment
(Type of Public Hearing – i.e., PDP, Zoning, Special Exception, Variance, etc.)

UNIT BLOCK LOT(S) SUBDIVISION

OR LEGAL DESCRIPTION Lee County STRAP #29-44-23-C4-00002.0000

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

MSI Holdings, LLC

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

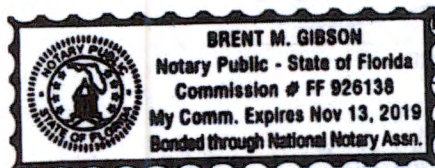
STATE OF

FL

COUNTY OF

LEE

Subscribed and sworn to (or affirmed) before me this 16th day of NOVEMBER, 2017, by
H. CHARLES TALAMAN who is personally known or produced FL DL T145-323-39-066-0
as identification.



Exp. Date:

11/13/19

Commission Number:

FF 926138

Signature of Notary Public:

Printed name of Notary Public:

Billy

BRENT M. GIBSON

Note: Please list all owners. If a corporation, please supply the Planning Division with a copy of corporation papers.



DEPARTMENT OF COMMUNITY DEVELOPMENT
LARGE SCALE COMPREHENSIVE LAND USE MAP AMENDMENT
Questions: 239-574-0553

Case # _____

Estimated peak hour trip ends:

If 300 or less peak hour trip ends are projected, the applicant must provide the source of the traffic projection.
If more than 300 peak hour trip ends are projected, a traffic impact study must be completed and submitted as part of the application (see attachments).

City Sewer: Yes ☒ No ☐
City Water: Yes ☒ No ☐

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

H. CHARLES TAPALIAN
NAME (PLEASE TYPE OR PRINT)

[Signature]
AUTHORIZED SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL, COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 16 day of NOVEMBER, 2017, by
H. CHARLES TAPALIAN who is personally known or produced FL DL T145-323-39-D66-0
as identification.

Exp. Date: 11/13/19 Commission Number: FF 926138
Signature of Notary Public: [Signature]
Printed name of Notary Public: BRENT M. GIBSON





DEPARTMENT OF COMMUNITY DEVELOPMENT
LARGE SCALE COMPREHENSIVE LAND USE MAP AMENDMENT
Questions: 239-574-0553

Case # _____

ACKNOWLEDGEMENT FORM

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals, and Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

I hereby acknowledge that I have read and understood the above affidavit on the

_____ day of _____, 20____
H. CHARLES TAPALIAN _____
NAME (PLEASE TYPE OR PRINT) APPLICANT'S SIGNATURE
STATE OF FL, COUNTY OF LEE

Subscribed and sworn to (or affirmed) before me this 16th day of November, 2017, by
H. CHARLES TAPALIAN who is personally known or produced FL DL T145-323-39-066-0
as identification.



Exp. Date: 11/13/19 Commission Number: FF 926138
Signature of Notary Public: Brent M. Gibson
Printed name of Notary Public: Brent M. Gibson



DEPARTMENT OF COMMUNITY DEVELOPMENT
LARGE SCALE COMPREHENSIVE LAND USE MAP AMENDMENT
Questions: 239-574-0553

Case # _____

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT Shellie Johnson and/or Brian Smith
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE PLANNING & ZONING COMMISSION/ LOCAL
PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR
Large Scale Comprehensive Plan Map Amendment
(Type of Public Hearing – i.e., PDP, Zoning, Special Exception, Variance, etc.)

UNIT BLOCK LOT(S) SUBDIVISION

OR LEGAL DESCRIPTION Lee County STRAP #29-44-23-C4-00002.0000

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

MSI Holdings, LLC H. CHARLES TALACIA
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Please Print)

H. Charles Talacia
PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF LEE

Subscribed and sworn to (or affirmed) before me this 16th day of NOVEMBER, 2017, by
H. CHARLES TALACIA who is personally known or produced FL DL T145-323-39-066-0
as identification.



Exp. Date: 11/13/19 Commission Number: FF 926138
Signature of Notary Public: Billy
Printed name of Notary Public: BRENT M. GIBSON

Note: Please list all owners. If a corporation, please supply the Planning Division with a copy of corporation papers.

MSI Cape 80 Large Scale Comprehensive Plan Map Amendment



Resubmittal, January 2018

Application Narrative

The applicant is requesting a Comprehensive Plan Map Amendment for ±84.7 acres located on the northeast side of Veterans Parkway, adjacent and west of the Sandoval Subdivision. The property falls within the Mixed Use Preserve (MUP) Land Use Class III, Type D category and the applicant is requesting a map amendment to change the Land Use category to Multi-Family to allow for development of a multi-family residential community. The subject property is located in the Urban Services Reserve Area, and the applicant is requesting a change to Transition Area as part of this application.

The subject property is currently undeveloped but is disturbed, containing two large excavation lakes that are surrounded by long, narrow areas of wooded vacant land. The property is currently zoned Agriculture, however the intent of the owner is to rezone the property immediately following approval of the Land Use Map Amendment. Water and sewer are available to the property, though not directly adjacent to the site.

Land Use, zoning and use information of surrounding properties is provided below:

	Future Land Use	Zoning	Existing Use
North	Rural (Lee County)	RS-2 (Lee County)	Residential
South	Mixed Use Preserve / Single Family Residential	Agriculture (A) / Single Family Residential (R-1B)	Vacant / Residential
East	Single Family/Multi-Family	Single Family Residential (R-1 B) / Multi-Family (R-3)	Residential
West	Mixed Use Preserve Class III, Type D	Agriculture (A)	Vacant

The applicant desires to develop the vacant areas of the subject property with multi-family residential units. While the MUP Class III, Type D category does allow for up to 20% of the land area to be developed residentially, the allowable average density is limited to 4.4 dwelling units per acre. The property has a greater development potential, hence the request to amend the Land Use designation to Multi-Family which will allow for a maximum density of 16 development units per acre.

While the MUP Class III, Type D Land Use category does allow for commercial development, location of the property is not ideal for commercial use. The property is situated with significant frontage on Veterans Parkway which has a posted speed in this location of 55 miles per hour and is a divided roadway with limited access to the property. The high speed, combined with road curvature and access challenges is not conducive for commercial success and points of access would likely have to occur at the curvature of the road, creating potential safety issues. Additionally, a substantial commercial development already exists in near proximity to the subject

property, precluding the need for additional services. Approximately 1/3 mile east at the intersection of Surfside and Veterans is the Shops at Surfside commercial center. Approximately 1.5 miles to the north at the intersection of Burnt Store Road and Pine Island Road is the Coral Shores Shopping Plaza. These two large commercial centers are located more ideally for commercial development.

The proposed multi-family residential development will offer a compatible land use with the surrounding development. The residential development to the east (Sandoval) is comprised of a mix of single family and multi-family development. The site configuration provides extensive separation from the single family lots via existing large lake areas. The single-family properties within the northern development (Royal Tee) are separated by a fairway, and development of the subject property will focus activity areas internal to the property to the greatest extent possible.

Comprehensive Plan Consistency

Future Land Use Element

Goal: "To protect the public investment by encouraging efficient use of community infrastructure...assure orderly and efficient growth of the City encouraging development in those areas which are best served by infrastructure and community services..."

The subject property is ideally located to offer orderly and efficient growth of the City of Cape Coral. Water and sewer are available to the site and the property is surrounded by similar residential development to the north, east and south. Veteran's Parkway to the west provides adequate access to the site and commercial supportive services are available within close proximity to the property.

Policy 1.15: Multiple Family Residential, not more than 16 units per acre.

The applicant is requesting a Land Use change to this category. The proposed development will not exceed 16 units per acre.

Policy 4.1: Requirement for public water and wastewater will be directed into the Urban Services Infill and Transition Areas; and

Policy 7.1: Appropriateness of additional lands into the Urban Services Transition Area.

As part of this application, the applicant is requesting changing the urban services designation of the subject property from Urban Reserve to Urban Transition. Water and wastewater are available to the site, and the applicant understands that extension of such services is the responsibility of the developer.

The Urban Services Map reflects adjacent properties to the east and south are within the Transition Area and the property to the north, in Lee County is fully developed. The land use pattern suggests Veterans Parkway as a logical boundary for urban service area transition. The

subject property can be considered an isolated parcel with regard to Urban Reserve service area description.


Housing Element

GOAL: To provide good quality housing in safe, clean neighborhoods, offering a broad choice of options in both type (single family and multi-family) and tenure (owner and renter occupied) to meet the needs of present and future residents of the City, regardless of age or income status.

The applicant is proposing a multi-family residential development supporting housing options that meet the needs of present and future residents of the City of Cape Coral.

PLANNING DIVISION STAFF REPORT
LU17-0012

SITE ADDRESS No site address. Site is east of Veterans Parkway and west of Surfside Boulevard.	APPLICANTS/PROPERTY OWNERS MSI Holdings, LLC
--	--

SUMMARY OF REQUEST The applicant proposes a Future Land Use Map Amendment for an 84.47 acre site from Mixed Use Preserve (MUP) Type III to Multi-Family Residential (MF). The existing zoning is Agricultural (A). The applicant is also requesting to change the Urban Services designation from Reserve to Transition.	
--	---

MAP SOURCE

STAFF RECOMMENDATION:

Positive Aspects of Application:	The amendment addresses a need for multi-family development. Site has ideal frontage and size for large multi-family development. Majority of surrounding development is residential.
Negative Aspects of Application:	The amendment would constitute a loss of commercial land that is large enough to accommodate a quality commercial development.
Mitigating Factors:	The site is ideal for commercial or multi-family, both of which are needed in Cape Coral.

Site Information

Urban Service Area: The site is in the Urban Service Reserve Area. Utilities have been installed in areas surrounding the site.

City Water and Sewer: The site is not connected to City water and sewer, however, connection would be possible from nearby sites.

Street Access: The site has road frontage on Veterans Memorial Parkway, which is classified as a principal arterial.

STRAP Number: 29-44-23-C4-00002.0000

Block/Lot(s): The site is not platted within a subdivision.

Zoning and Land Use Information:

Subject Property:	Future Land Use	Zoning
Current:	Mixed Use Preserve (MUP)	Agricultural (A)
Proposed:	Multi-Family Residential (MF)	N/A

Surrounding Areas	Future Land Use	Zoning
North:	Lee County Future Land Use	Lee County Zoning
South:	Single-Family Residential (SF)	Single-Family Residential (R-1B)
East:	Single-Family/Multi-Family (SM)	R-1B
West:	MUP Type III	A

Background

The 84.47 site is in the southwestern quadrant of the City and was formerly used a borrow pit that has ceased operations for several years. The site has frontage along Veterans Parkway West and is surrounded by two residential subdivisions¹ to the north and east, an undeveloped site to the west², and single-family homes to the south. The site topography is similar to many former borrow pits with the majority of the site consisting of two large lakes where soil was dredged out. The site also has two driveway stubs that would allow access at the time of development.

The original future land designation was Single-Family/Multi-Family (SM)³. In 2007, the future land use designation was amended to Mixed Use Preserve (MUP) Type III, Class D. The future land use amendment was City-initiated and intended to make the site and a site to the west across Veterans Parkway available for commercial development. The sites were seen as a good fit for commercial development because of the sites are large, un-platted, and have access along a major arterial. The site has retained Agricultural (A) zoning since 1989.

The applicant states in their "Letter of Intent" that the owners intend to construct multi-family residences, rather than commercial or mixed use. The applicants state the current future land use designation allows residential units but only 20% of the area can be developed residentially and the maximum density is 4.4 units per acre. The requested future land use designation of MF would allow 16 units per acre. The applicant also states they do not believe commercial is ideal based upon several factors such as limited roadway access, the curvature and speed of traffic on Veterans Parkway, and the presence of existing commercial in the area.

Additional Site Information

Protected Species

The applicant has not submitted an Environmental Species Survey, however, the applicant will be required to submit the survey prior to any development of the site. Should protected species be identified on the site as part of the development review of the site, the City will abide by Policy 1.2.5 of the Conservation and Coastal Management Element, which states:

"Policy 1.2.5: The City will assist in the implementation of and compliance with all state and federal regulations concerning species listed as endangered, threatened, species of special concern, or commercially exploited by monitoring development activities, providing information on listed species in building permit packages, and assisting in investigations as requested."

Soils and Drainage

The site has one soil classification; Boca Fine Sand. This soil has limitations for development, which are typically overcome using various engineering solutions such as importing fill. The soil type should not present an obstacle to future land development although special feasibility studies may be required.

¹ The subdivision to the north is within unincorporated Lee County.

² The site is also owned by the applicant.

³ From the 1989 adoption of the Comprehensive Plan.

Analysis

Planning staff analysis will analyze the appropriateness of the existing future land use designation – Mixed Use Preserve (MUP) and the proposed Multi-Family Residential (MF) future land use designation with several Comprehensive Plan policies.

Comprehensive Plan

Mixed Use Preserve (MUP) Class III, Type D Future Land Use Designation

The site has a Future Land Use Designation of MUP Class III, Type D. The MUP designation is defined in the Comprehensive Plan in Chapter, Policy 1.15.Q. The MUP designation was created promote non-residential and mixed use development that would create employment centers while simultaneously creating open spaces. The MUP designation also has five classes that determine the allowable uses and four types that determine the development percentage of those uses. The site is designated Class III, Type D which allows a maximum residential allocation of 20% or the option to develop a site with 100% non-residential uses. The maximum residential density is 4.4 units per acre and a maximum floor area ratio (FAR) of 2.0. MUP also allows shifting of residential density or commercial intensity from wetlands areas to upland areas.

Multi-Family Residential (MF) Future Land Use Designation

The applicant is seeking an amendment to the MF future land use designation. The MF future land use designation allows a maximum of 16 dwelling units per acre, except for large assemblies of land that may construct 20 dwelling units per acre.

The applicant's proposed Future Land Use Map amendment would allow the site to develop with multi-family dwelling units⁴ on 100% of the site.

Chapter 4 – Future Land Use Element

Policy 1.13

Policy 1.13 encourages commercial development at commercial nodes to decrease the potential for strip development and to facilitate compact development that encourages pedestrian friendliness. A commercial node is defined as the intersection of two four-lane parkways or boulevards. The site has frontage along Veterans Parkway, which is a 4-lane roadway, but the site is over 2,500 feet away from the nearest commercial node⁵, **therefore, staff finds that the site may not be appropriate for commercial or mixed-use development according to Policy 1.13.**

Policy 1.14

Policy 1.14 addresses eight commercial siting guidelines that provide guidance on whether or not a site is appropriate for a commercial or mixed-use Future Land Use designation. The MUP designation is not listed as a Future Land Use designation that should be evaluated according the commercial siting guidelines, however, the MUP has development allocations similar to the Commercial Activity Center (CAC). The MUP allows primarily commercial development, therefore

⁴ Or any use permitted in the site's current zoning district at the time.

⁵ Veterans Parkway and Surfside Boulevard.

the commercial siting guidelines are an appropriate method of evaluating the applicant's request. The guidelines are also a guide on determining compatibility between existing residential uses and potential commercial uses. A response to each of the commercial siting guidelines follows in **bold**.

Major Intersection

Preferred locations for commercial properties are in the vicinity of major intersections (i.e., intersections of two or more arterial and/or collector roadways). Development of a commercial node at such an intersection may involve multiple parcels and, sometimes, multiple quadrants of the intersection. The benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance, but the distance at which a property ceases to derive benefit from proximity to the intersection varies, based upon whether the subject property would represent a 'new' commercial property (a commercial property not abutting any existing commercial properties) or an expansion of an existing commercial area. New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly represent an expansion of an existing commercial area can be any distance from the intersection, provided that such properties are integrated with existing properties (see below: Integration).

Staff Response: The site has frontage on a principal arterial, however, the site is over 2,000 feet away from the nearest major intersection. Planning staff finds that the current MUP future land use designation is not consistent with the above guideline.

Adequate Depth

Ideally, a commercial property should extend not only along the adjacent collector or arterial roadway, but also should extend inward with adequate depth to accommodate the necessary parking, buffering, retention, and open area for the future commercial development. In Cape Coral, most City blocks are rows of back-to-back lots approximately 250 feet deep. Preferably adequate depth is achieved if any number of contiguous properties, owned by the same landowner (see "Ownership Pattern", below) occupy the entire 250 feet of depth. Adequate depth would not be achieved if the subject properties have different owners, and if the contiguous properties are not reasonably compact (see below, "Compactness").

Staff Response: The site has an irregular shape, however, the property has varying depths between 500 feet and 1,500 feet, therefore, Planning staff finds that the MUP future land use designation is consistent with the above guideline.

Compactness

Compactness measures the ability of a property proposed for a commercial future land use to take advantage of economies of scale. The shape of an ideal compact commercial property approaches that of a square or rectangle. This quality allows for an orderly arrangement of development on the subject property and acts to reduce adverse visual, noise or aesthetic impacts to neighboring properties.

Staff Response: The site has an irregular shape that does not resemble a compact square or a rectangle, therefore, Planning staff finds that the MUP future land use designation is not consistent with the above guideline.

Integration

Integration, for the purposes of these guidelines, refers to the interrelatedness of development within a commercial node or area. The presence of features, such as internal access roads, shared parking, courtyards, walkways, or other features, binds the various commercial properties within the node together. This pattern of development reduces the traffic impacts associated with commercial development and often promotes a pedestrian-friendly environment. Integration of neighboring commercial properties should always be encouraged. Therefore, properties proposed for conversion to a commercial future land use should be evaluated for the likelihood that such properties would or could be integrated with adjacent existing commercial properties.

Staff Response: The site is over 1,300 feet away from the nearest commercial or mixed-use development, which reduces or eliminates potential integration. The site is a unique area of the City, where there are several large housing developments adjacent to the site, both to the north and the east. These large developments are generally master-planned with significant buffers and have more separation from surrounding development than many other pre-platted areas of the City which may not have significant buffers between developments. The nature of this area reduces the need for true integration of commercial uses, however, Planning staff finds that the lack of nearby commercial nodes makes existing MUP future land use designation not consistent with the above guideline.

Assembly

For commercial areas to provide the most benefit to the surrounding community, they must be of relatively large size. The majority of buildable lots within the City of Cape Coral are approximately 10,000 square feet (0.23 acre) in size. These lots were designed primarily for single family residential development and do not typically have adequate width or depth for larger commercial development that might serve the City as shopping or employment centers. Therefore, it is important for the City to encourage commercial applicants to assemble relatively large parcels (properties comprising 3 acres or more). Assembly of pre-platted parcels into tracts of 3 acres or more will promote the development of commercial properties that do not express the indicators of strip commercial development. Assembly of larger parcels also allows the developer to provide a greater variety of commercial land uses, and to provide architectural and landscape features that result in a more attractive end-product.

Properties proposed for conversion to a commercial future land use, where such properties would represent an expansion of an existing commercial area may be considered “assembled,” for the purposes of these guidelines if the proposed expansion properties are either owned by the landowner of one or more adjacent commercial properties, or if the expansion property is likely to be integrated with (see above) adjacent commercial properties.

Staff Response: The site is not considered an assemblage of property because the site is an unplatted tract. The site is also much larger than the three acres recommended in the guideline. The site would allow for development that does not resemble “strip commercial”. Planning staff finds that the MUP future land use designation is consistent with the above guideline.

Intrusion

“Intrusion,” as defined for the purpose of these guidelines, is a measure of the objectionable qualities of the proposed commercial development. This guideline applies primarily to new commercial property (a property proposed for conversion to a commercial future land use in an area where it would not abut existing commercial

properties). Intrusion evaluates the potential adverse impacts on surrounding properties that could be caused by converting a property from its existing future land use to a commercial use. There are no definite guidelines for determining when a proposed commercial use would be intrusive to surrounding development. However, expansions of existing commercial areas are generally considered less intrusive than the establishment of new commercial areas. Commercial areas may be considered less intrusive to adjacent multi-family development than to adjacent single family development. Commercial development that is separated from a residential area by a street, canal, vegetative buffer, or other geographic features may be considered less intrusive than a commercial development that directly abuts a residential area. The degree of compactness (see "Compactness" above) of a commercial property can also reduce or increase its intrusion upon adjacent or nearby properties.

Typically, new commercial properties are less likely to be considered intrusive if the surrounding or adjacent residential areas are sparsely developed. While the finding of intrusion is subjective and depends on many factors, the principle is the proposed commercial property would not likely be intrusive *if* adjacent residential areas are 25% or less developed. The area analyzed to determine the percentage of adjacent residential development may vary from 300 feet to 1,000 feet from the subject property, depending upon the degree to which streets, canals, landscaping or other geographic features separate the subject property from nearby residential areas.

Staff Response: The surrounding residential areas to the north, south, and east within 1,000 feet are more than 25% developed. The area to the west is undeveloped. Staff finds that the majority of the surrounding is more than 25% developed, therefore, Planning staff finds that the MUP future land use designation is not consistent with the above guideline.

Access

In the City of Cape Coral there are two ideal access provisions for a commercial property. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged. These provisions are as follows:

- a) Access via a platted City parking area. The City of Cape Coral contains a number of dedicated commercial parking areas; some created by plat, and some deeded to the City by landowners. The Comprehensive Plan and City Land Use and Development Regulations refer to these as "dedicated City parking areas." These parking areas are often surrounded by smaller platted lots originally intended for commercial development with access to these lots only, or primarily, from the dedicated City parking area. In implementing this provision, it may sometimes be in the City's interest to promote conversion of a dedicated City parking area to a fully functional commercial development (i.e., a portion of the dedicated parking area would become a commercial building site) in return for the applicant's agreement to own and manage the site.
- b) Direct access onto an arterial or collector roadway having an adopted City access management plan. The City has adopted access management plans for certain arterial and collector roadways. Access management plans serve to facilitate mobility of the traveling public; therefore, such roadways more readily accommodate the impacts of commercial development than roadways without such access management plans.

Staff Response: As stated previously, the site has frontage on Veterans Parkway, which is maintained by Lee County and has an access management plan adopted by Lee County. The site is not within close proximity to any dedicated City parking area. The site has frontage on an arterial roadway with an approved access management plan, therefore, Planning staff finds that the MUP future land use designation is consistent with

the above guideline.

Ownership Pattern

An ideal commercial node is a cohesive, compact, interrelated network of commercial properties. Properties proposed for conversion to a commercial future land use that consist of multiple parcels, or groups of parcels, or under multiple ownerships are unlikely to develop as a true “commercial node.” Instead, these properties are more likely to develop as separate, small commercial developments with multiple access points, leading to adverse, unsafe traffic conditions. Each small development may also have its own stormwater management pond, dumpster, and an appearance and/or landscaping design that is inconsistent with surrounding development. This pattern is a characteristic of strip commercial development (see Policy 1.13, above). Therefore, the City of Cape Coral encourages land owners and developers to assemble the properties involved in a commercial future land use request under common ownership. Multiple, small properties under separate ownership, even if such properties are included in a single future land use amendment request, may not be appropriate for the full array of commercial uses.

Staff Response: The site is one property that is over 80 acres in size with one owner. The site does not consist of multiple parcels with similar ownership as mentioned in the guideline, however, the site is large enough to develop a commercial site that is not considered “strip commercial”. Planning staff finds that while the site is not a cohesive, compact, or interrelated network of commercial properties, the site is a large tract that offers the potential for a quality commercial development based upon factors such as size and access, therefore, the MUP future land use designation is consistent with the above guideline.

In summary, Policy 1.14 contains eight commercial siting guidelines. The site is consistent with four of these guidelines (Adequate Depth, Assembly, Access, and Ownership Pattern) and is inconsistent with four guidelines (Compactness, Integration, Intrusion, and Major Intersection). Policy 1.14 does not require a proposed amendment to meet a certain threshold number of guidelines for approval or denial, rather the guidelines are meant to provide a compatibility analysis. Staff finds that upon analysis of these guidelines, the site is appropriate for commercial or mixed-use development and the current MUP future land use designation may be compatible with the surrounding area.

Policy 3.1

Policy 3.1 states that the City of Cape Coral will encourage commercial development at transportation nodes by designating areas with appropriate future land use categories. Planning staff finds that the proposed amendment is not at a transportation node, therefore, **this policy is not supportive of the current MUP future land use designation.**

Objective 3, Policy 3.3

Policy 3.3 identifies commercial corridors and the projected amount of commercial square footage and the type of developments (Neighborhood Shopping Center, Power Center, Regional Shopping Center, etc) that would meet the needs of the community in the future. The Veterans Parkway corridor is projected to need 188 acres of commercial land along with two neighborhood shopping centers, a community shopping center and one power center. The amendment would remove over 80 acres of land that could be used for commercial development⁶. This policy does not prohibit future land use map amendments that remove commercial land from these corridors, however, in order for the future needs of the

⁶ This is not considering the unique topography of the site.

community to be met, additional land should potentially be considered for a conversion from residential to commercial.

Regional Plan Analysis

Southwest Florida Regional Planning Council's (SWFRPC) Strategic Regional Policy Plan (SRPP):

This existing MUP future land use designation is consistent with the SRPP Strategy that prioritizes locating commercial development along transportation corridors. Veterans Parkway is a four-lane arterial roadway and is considered a major transportation corridor.

Lee County Metropolitan Planning Organization's (MPO) 2040 Long Range Transportation Plan:

Veterans Parkway has not been identified for improvements or widening in the MPO's 2040 Long Range Transportation Plan.

Cape Coral Economic Development Plan

The proposed amendment is supported by the City Economic Development Master Plan (EMDP). The site is not designated as an "Area of Economic Opportunity" per the EDMP. The amendment to Multi-Family Residential (MF) would be supported by Initiative 6, Objective 2, Strategy 2.1 which is to "Increase the amount of multi-family residential dwelling units" in the City. The amendment could potentially add over 1,200 multi-family dwelling units based upon the size of the parcel and the density allowed by the MF future land use designation. The addition of the multi-family dwelling units is also supported by a needs analysis⁷ that was conducted which determined that the City needs 1,450 multi-family units per year for the next 5 years in order to keep up with demand.

Analysis Summary

After a review of the Comprehensive Plan and analyzing the proposed MF future land use designation, Planning staff finds that the existing MUP designation or the proposed MF designation can both be viewed as appropriate and compatible with the surrounding area. The site is large and has ideal access to support a quality commercial development. The site is also bordered by large residential communities on two sides and multi-family development would be compatible with these developments. Furthermore, the City has an identified need for both large-scale commercial development and large multi-family developments. Commercial or multi-family development are also supported by several Comprehensive Plan policies and studies. While the topography was not part of the analysis, the site does have some unusual site conditions because it was used as a borrow pit in the past. Future development may be impacted by this topography as a large portion of the site is a man-made lake.

Urban Service Boundary Amendment

The applicant has requested to amend the Urban Service area for the site from a Reserve classification to a Transition classification. The Reserve classification is for sites that do not have access to utilities and for areas that are not anticipated to have utilities for several years. The Transition classification is for site and areas that are anticipated to have utilities installed in the near future⁸ or may already have utilities installed.

⁷ Need for Multi-Family Rental Apartments

⁸ 1-3 years.

The site is surrounded by properties that have had City utilities for several years. Utilities were not provided to the site given uncertainty regarding future development, however, utilities can be provided from nearby sites. The applicants request to amend to Urban Service boundary is supported by the following Comprehensive Plan policies.

Objective 4, Policy 4.1: Future development requiring access or connect to public water and sewer facilities will be located within either the Urban Services Infill or Transition Areas.

Response: Future development of the site will require public water and wastewater, therefore, the Urban Services boundary should be extended to the site.

Objective 7. Development in the Urban Services Area: The City will discourage premature “leap-frog” development within the Urban Services Reserve Area.

Response: Development of the site would not be considered leap frog development, however, the site has access to utilities and is near large development with municipal water and wastewater service.

Impact Assessment Summary

The following calculations summarize approximate conditions for each municipal service analyzed. To determine the impact assessment, staff utilized the adopted future land use and zoning designations to determine the existing impacts at buildout. Therefore, the impacts discussed in this assessment do not necessarily reflect the actual number of dwelling units, population, etc. present within the subject area.

The site has a Mixed Use Preserve (MUP) Future Land Use designation. The site is designated Class III, Type D which allows a maximum residential allocation of 20% or the option to develop a site with 100% non-residential uses. The maximum residential density is 4.4 units per acre and a maximum floor area ratio (FAR) of 2.0. MUP also allows the shifting of residential density or commercial intensity from wetlands areas to upland areas. The site is zoned Agricultural (A) and the site would need a rezone to achieve the maximum density and intensity.

This analysis will be based upon 80% of the site developing with non-residential uses at an FAR of 2.0⁹ and 20% of the site developing with residential uses with a density of 4.4 dwelling units. Based upon the calculations, a future development could be built that includes 5,837,040 sq. ft. and 74 dwelling units.

The analysis will also consider the proposed Multi-Family Residential (MF) future land use designation. The MF designation would allow 16 dwelling units per acre. The site is 84.47 acres which would allow a maximum of 1,351 dwelling units. This analysis will be based upon the maximum amount of development allowed by the Comprehensive Plan and the Land Use Development Regulations (LUDR).

Dwelling Units

Existing:	74
Proposed:	1,351
Net Change:	+1,277

⁹ Developing at an FAR of 2.0 is unlikely given topography of the site and historical Cape Coral development patterns.

Population*

Existing:	188
Proposed:	3,432
Net Change:	+3,244

* 2.54 persons/household = avg. household size; 2010 Census

Non-Residential Square Footage

Existing:	5,837,040 sq. ft.
Proposed:	0 sq. ft.
Net Change:	-5,837,040 sq. ft.

Water Use

Existing:	<u>1,765,912 gal/day total</u> (74 dwelling units x 200 gal/day) + (5,837,040 sq. ft. x 0.3 gal/sq ft/day)
Proposed:	<u>270,200 gal/day total</u> (1,351 dwelling units x 200 gal/day)
Net Change:	-1,495,712 gal/day
Facility Capacity:	30.1 MGD
Permitted Usage:	16.9 MGD
Avg. Daily Usage:	9.4 MGD

Sewage

Existing:	<u>1,765,912 gal/day total</u> (74 dwelling units x 200 gal/day) + (5,837,040 sq. ft. x 0.3 gal/sq ft/day)
Proposed:	<u>270,200 gal/day total</u> (1,351 dwelling units x 200 gal/day)
Net Change:	-1,495,712 gal/day
Facility Capacity:	28.4 MGD
Avg. Daily Usage:	12.8 MGD

Solid Waste

Existing Generation:	<u>794,728 lbs. total/day</u> (188 persons x 4.74 lbs/person/day) + (51,836 sq. ft. x 0.136 lbs/sq ft/day)
Proposed:	<u>16,268 lbs. total/day</u> (3,432 persons x 4.74 lbs/person/day)
Net Change:	-48,460 lbs/day
Facility Capacity:	1,836 tons/day
Existing Demand:	1,384 tons/day
Capacity Available:	Yes

Traffic/Daily Trips

Existing Generation:	6,629 PM peak trips/hour
----------------------	--------------------------

Proposed: 838 PM peak trips/hour
 Net Change: -5,791 AM peak trips/hour and -100 PM peak trips/hour
 Facility Capacity: Veterans Parkway meets the minimum acceptable Level of Service Standard of "D."
 Capacity Available: Yes

Hurricane Evacuation

The subject area is in Evacuation Zone A, however, this amendment would result in an increase of dwelling units. This would have a negative effect on the evacuation times for the surrounding road network.

Park Lands

The levels of service standard (LOS) for parkland and facilities is based on permanent population. Based on potential development of 1,351 dwelling units (3,342 persons), additional park land would be needed for regional, neighborhood, community and specialty parks.

Protected Species

The City requires an environmental survey prior to the issuance of any land clearing, site clearing, or development permits. Any future land alteration activities will be preceded by the completion of an environmental survey identifying the presence of protected flora and fauna. Based on the results of the environmental survey, City, state, or federal protective or mitigation measures may be required by the developer to proceed.

School Impacts

There will be an increase in dwelling units based upon the requested future land use designation. The Lee County School estimates that the amendment will generate 119 additional school students. The school district has indicated that there is sufficient elementary school capacity, however, the amendment will increase a deficit in middle and high school capacity. The school district does indicate that sufficient school seating for middle and high school is available in their service areas.

Recommendation:

Planning Division staff finds that the proposed Future Land Use amendment is consistent with several policies of the City's Comprehensive Plan and is compatible with the surrounding neighborhood and therefore recommends **approval** of the proposed large-scale future land use map amendment request.

Planning Staff Contact Information

Chad Boyko, AICP, Principal Planner

239-573-3162/cboyko@capecoral.net



NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: LU17-0012

REQUEST: The applicant proposes a Future Land Use Map Amendment for an 84.47 acre site from Mixed Use Preserve (MUP) Type III to Multi-Family Residential (MF). The existing zoning is Agricultural (A). The applicant is also requesting to change the Urban Services designation from Reserve to Transition.

LOCATION: Site is east of Veterans Parkway and west of Surfside Boulevard.

CAPE CORAL STAFF CONTACT: Chad Boyko, Principal Planner, 239-573-3162, cboyko@capecoral.net

APPLICANT: EnSite, Inc.

AUTHORIZED REPRESENTATIVE: Avalon Engineering

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Local Planning Agency will hold a public hearing at 9:00 A.M. on Wednesday June 6, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the City of Cape Coral Local Planning Agency will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

After City of Cape Coral Local Planning Agency has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice when this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

APPEALS: If a person decides to appeal any decision made by the City of Cape Coral Local Planning Agency with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



NOTICE OF CHANGE OF LAND USE

The City of Cape Coral proposes to adopt ORDINANCE 43-18, AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE MAP FROM MIXED USE PRESERVE (MUP), CLASS III, TYPE D TO MULTI-FAMILY RESIDENTIAL (MF) AND FROM URBAN SERVICES RESERVE AREA TO URBAN SERVICES TRANSITION AREA FOR A PARCEL LYING IN A PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROPERTY LOCATED NORTHEAST OF VETERANS PARKWAY AND TO THE WEST OF THE SANDOVAL SUBDIVISION; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

A public hearing on the ordinance will be held Wednesday, June 6, 2018 at 9:00 a.m. at the City of Cape Coral, City Hall Chambers, 1015 Cultural Park Blvd., Cape Coral, Florida 33990. At this public hearing, the Planning and Zoning Commission will consider a recommendation to change the City's future land use map amendment request. Accordingly, members of the general public and real property owners in the community are invited to appear and speak at the public hearing. Written comments filed with the Director will also be entered into the record. A copy of the map and the proposed amendment under consideration will be available for inspection and will be provided to the public at cost at the City Clerk's office between 7:30 a.m. and 4:30 p.m., Monday through Friday excluding holidays. Any person who decides to appeal any decision made by the City Council at that meeting will need a record of proceedings, and that subject person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the City Clerk no later than 4:00 p.m. on the day prior to the meeting.

Rebecca Van Deutekom, CMC
City Clerk



Ordinance 43-18
LU17-0012

MIXED USE PRESERVE (MUP),
CLASS III, TYPE D TO MULTI-
FAMILY RESIDENTIAL (MF)
AND FROM URBAN SERVICES
RESERVE AREA TO URBAN
SERVICES TRANSITION AREA
FOR AREA NORTH OF
VETERANS PKWY AND SOUTH
OF PINE ISLAND ROAD

NP-0000961361

☐ PROOF O.K. BY: _____ ☐ O.K. WITH CORRECTIONS BY: _____

PLEASE READ CAREFULLY • SUBMIT CORRECTIONS ONLINE

ADVERTISER: CITY OF CAPE CORAL_DEPT
SALES PERSON: Legal Display
PUBLICATION: NP-DAILY
SIZE: 3 col X 9.25 in

PROOF CREATED AT: 5/21/2018 4:14 PM
PROOF DUE: -
NEXT RUN DATE: 05/27/18

NP-0000961361.INDD

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: MSI Holdings, LLC

APPLICATION NO: LU17-0012

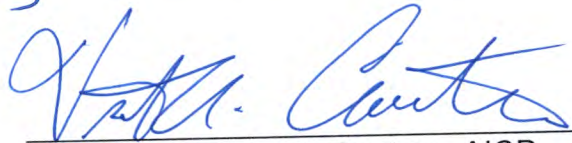
STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Vincent A. Caution, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this 29th day of May, 2018.

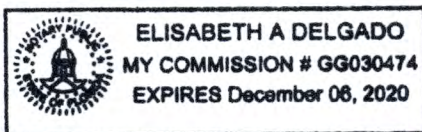


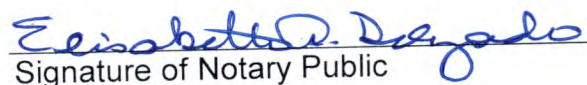
Vincent A. Caution, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 29th day of May, 2018, by Vincent A. Caution, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # 66030474




Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public



SUBJECT PARCEL

ROYAL TEE CIR

BELLINGHAM CT

WOODBOURNE PL

SANDOVAL BLVD

SUNVALE CT

SOMERV


VET

MIRACLE PKWY

DANI

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. LU17-0012

 Subject Parcel



JANUARY 9TH, 2017










This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT FUTURE
LAND USE MAP
500' Proximity Boundary

Case No. LU17-0012

LEGEND

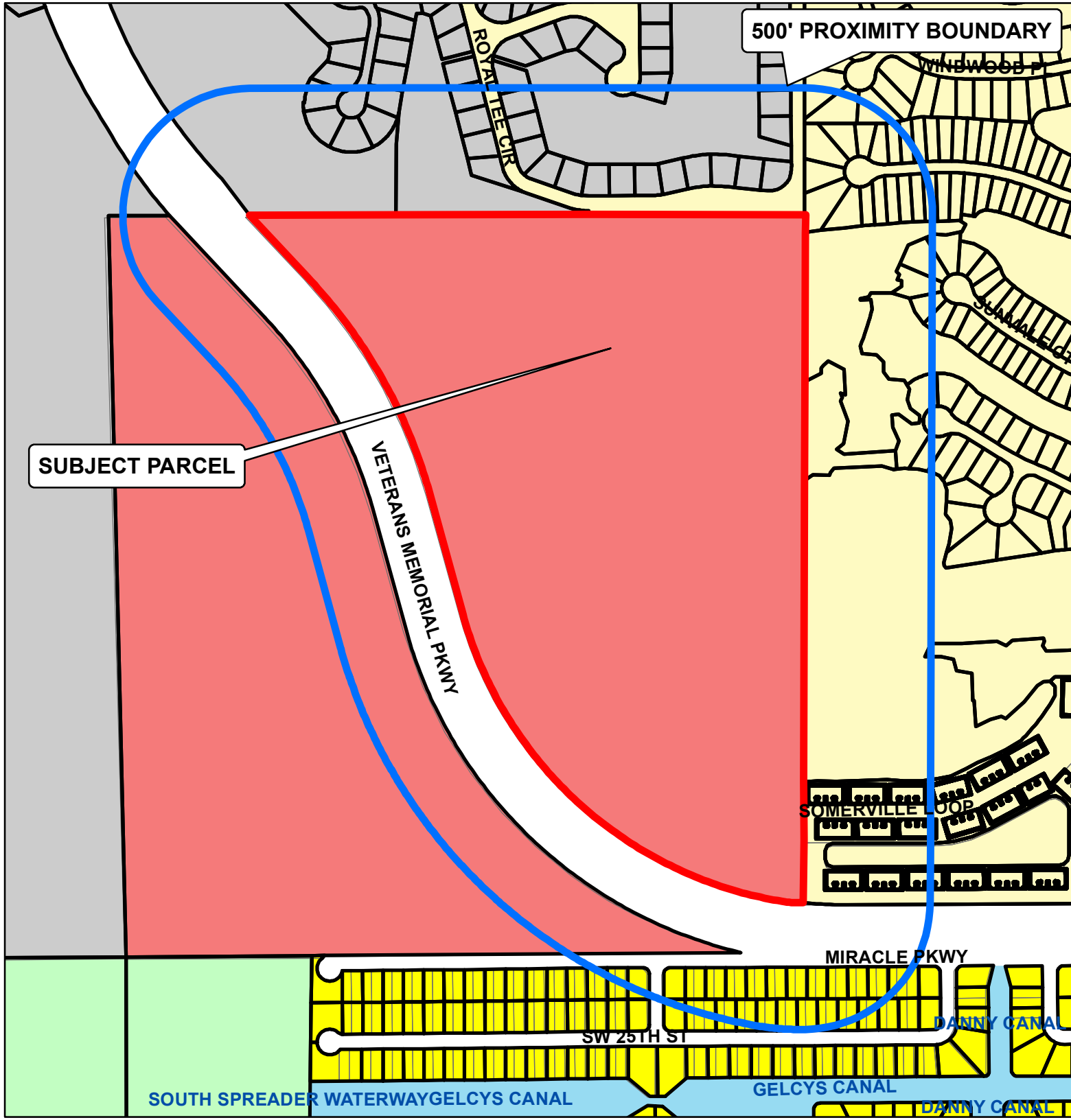
-  Subject Parcel
-  500' Proximity Boundary
- Future Land Use**
 -  SF
 -  SM
 -  MUP
 -  PR
 -  LEE COUNTY FLU



JANUARY 9TH, 2017



This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.





CITY OF CAPE CORAL
Department of
Community Development
Planning Division







CURRENT ZONING MAP
500' Proximity Boundary

Case No. LU17-0012

LEGEND

-  500' Proximity Boundary
 Subject Parcel

Zoning

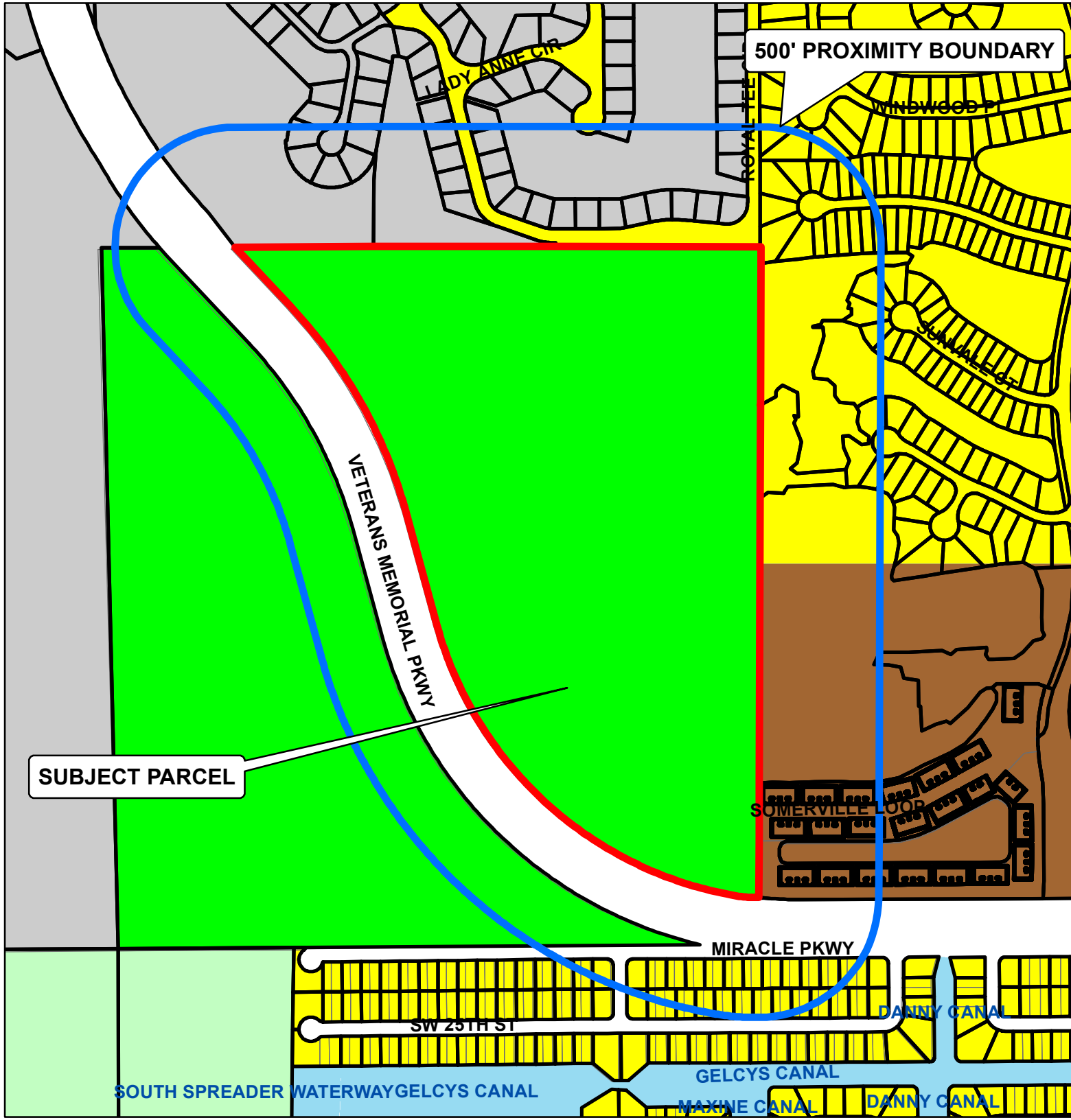
-  A
 C-1
 PRES-Regulated by FLU
 R-1B
 R-3
 LEE COUNTY ZONING



JANUARY 9TH, 2017



This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.





CITY OF CAPE CORAL
Department of
Community Development
Planning Division







PROPOSED FUTURE
LAND USE MAP
500' Proximity Boundary

Case No. LU17-0012

LEGEND

-  Subject Parcel
-  500' Proximity Boundary

Future Land Use

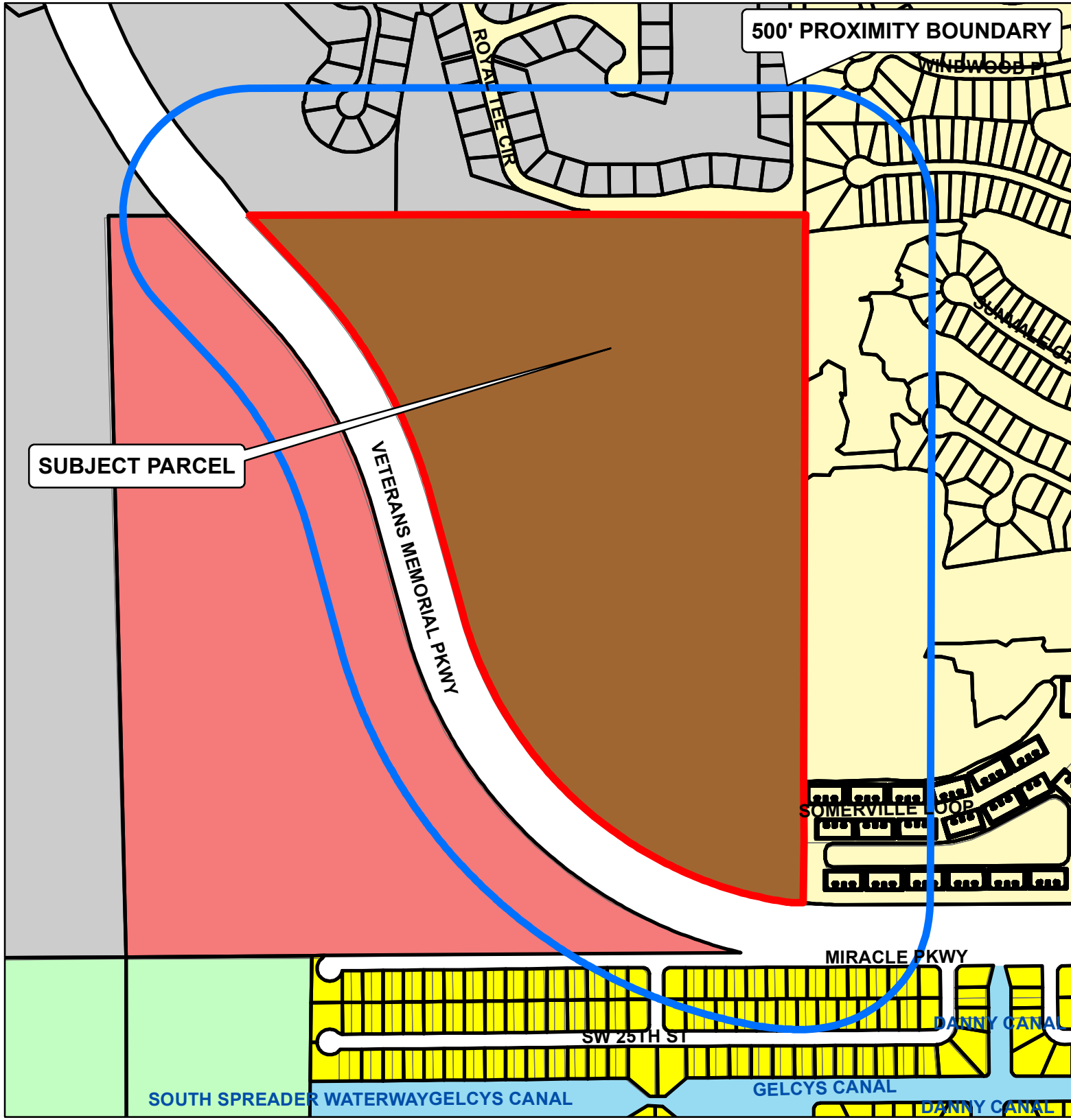
-  SF
-  SM
-  MUP
-  PR
-  MF
-  LEE COUNTY FLU



JANUARY 9TH, 2017



This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.



Ordinance 43-18

LU17-0012

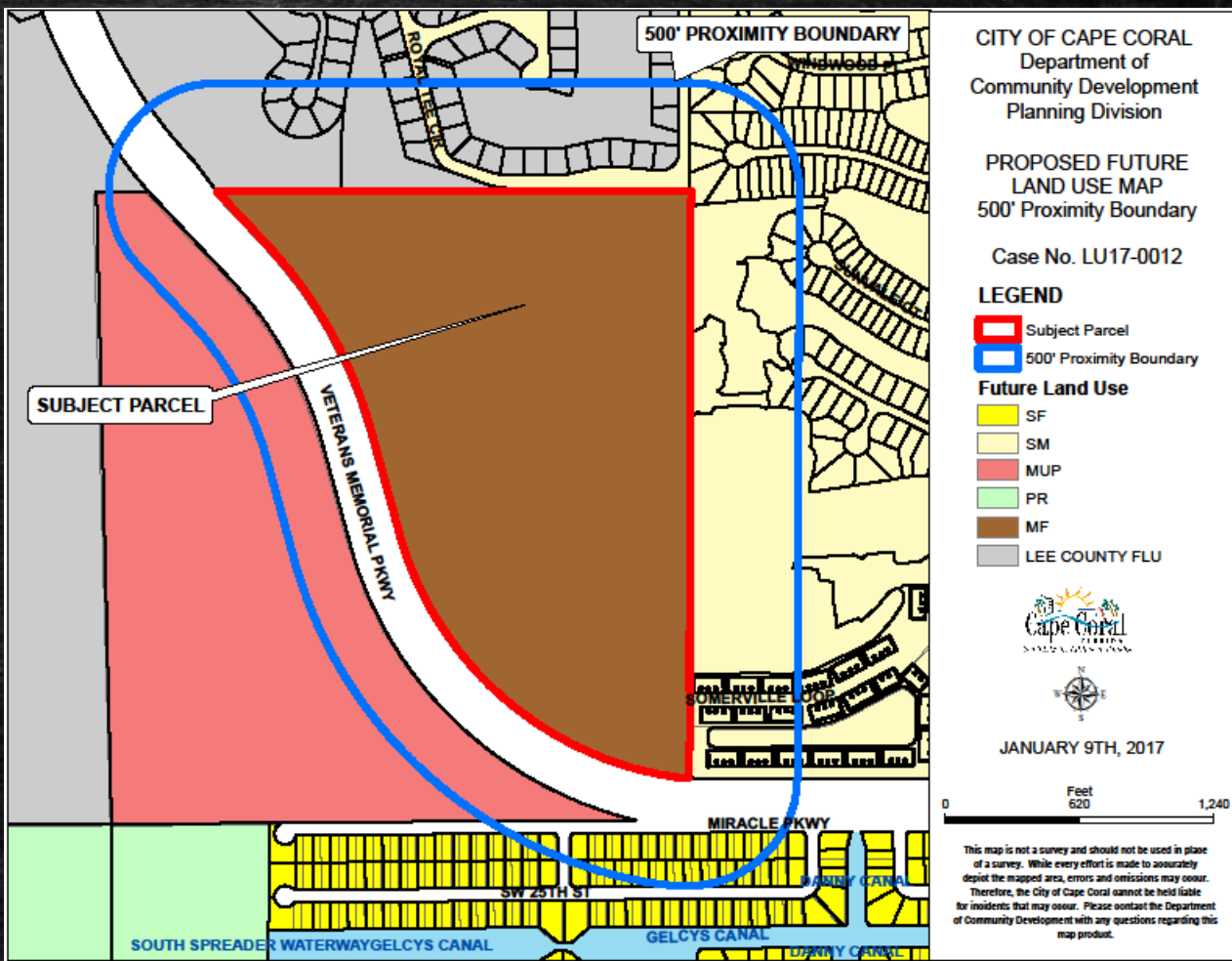
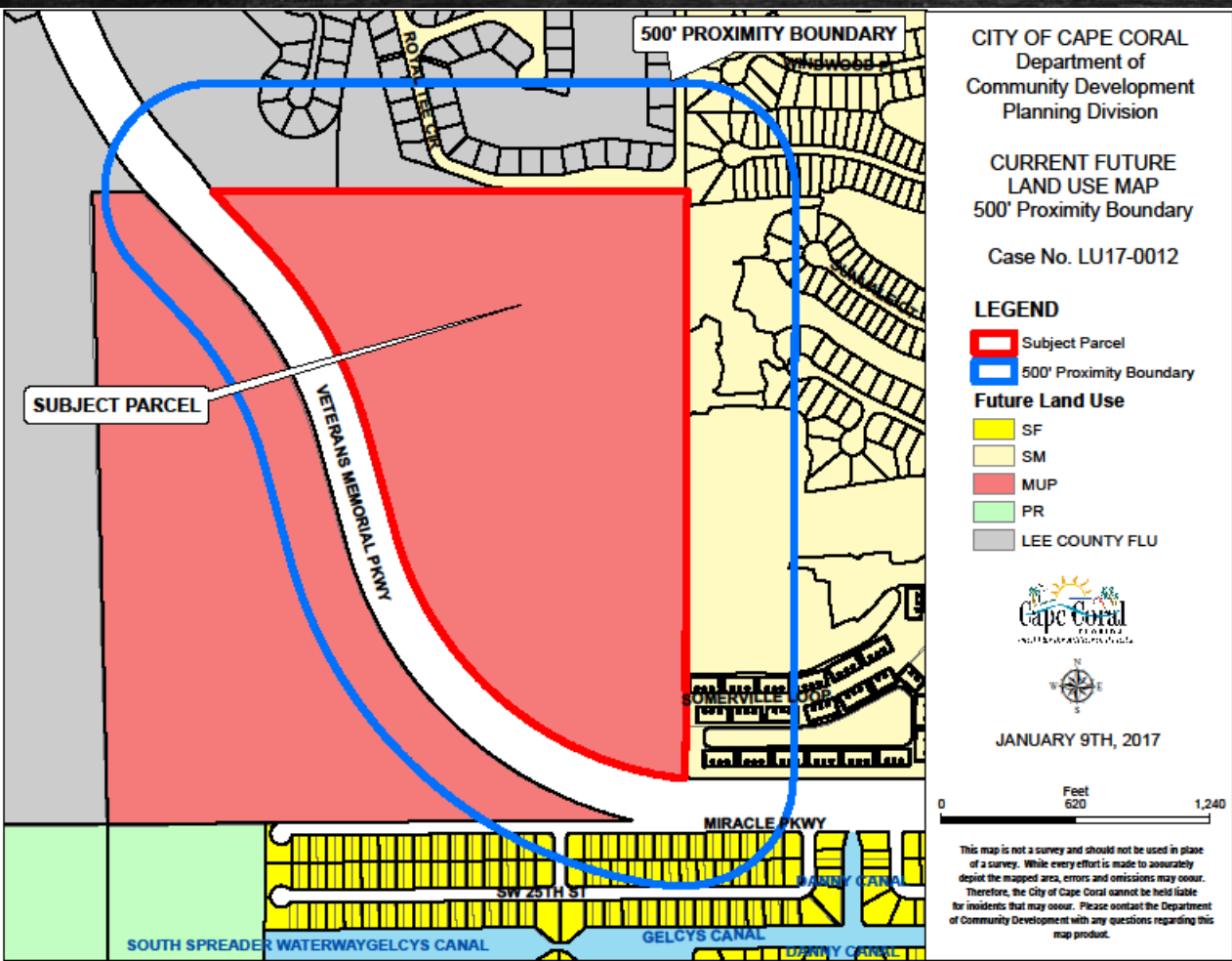
Cape Coral City Council

Ordinance 43-18

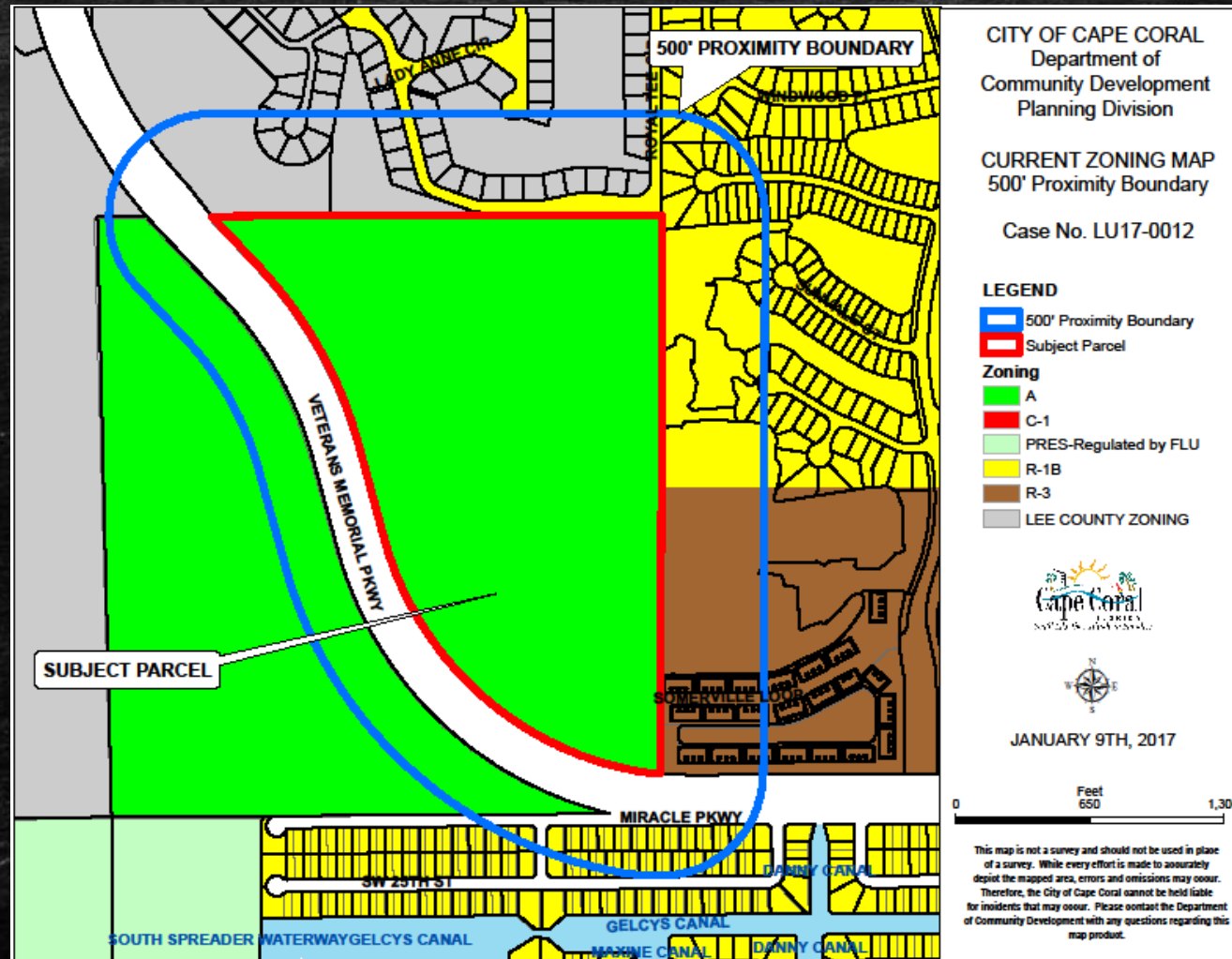
- Applicant: MSI Holdings, LLC
- Size: 84.47 acres
- Location: North of Veterans Parkway/East of Surfside Boulevard
- Zoning: Agricultural
- Request: A future land use map amendment from Mixed Use Preserve Type 3, Class D (MUP 3D) to Multi-Family Residential (MF) and an Urban Service designation change from Reserve to Transition.

Current Future Land Use

Proposed Future Land Use



Current Zoning



Findings of Fact

- The site is a former borrow pit that ceased operations several years ago.
- Site is characterized by 2 large lakes.
- Frontage on Veterans Parkway – principal arterial – there are 2 existing stub outs for future access.
- Surrounding development is 2 large residential subdivisions.
- The future land use of the site was amended in 2007 from Single-Family/Multi-Family (SM) to Mixed Use Preserve, Type 3, Class D.
- The site has been zoned Agricultural (A) since 1989.

Mixed Use Preserve

- Mixed Use Preserve (MUP) was created to promote non-residential and mixed-use development while also creating open spaces.
- There are 5 classes and 4 types that determine allowable uses and development scale (density and square footage).
- The site is Class 3, Type D which allows 20% maximum of residential development at 4.4 du's/acre and a Floor Area Ratio of 2.0.
- Based upon current designation, the maximum development potential of the site is 5.8 million square feet of commercial space and 74 residential units.

Multi-Family Residential

- Multi-Family Residential (MF) allows maximum density of 16 units per acre.
- MF designation would allow applicant to develop the site with 100% residential uses or any other use allowed in compatible zoning district.
- MF designation would allow a maximum of 1,351 multi-family units on the site.

Analysis – Future Land Use Element

Policy 1.13 – This policy encourages commercial development at commercial nodes to decrease strip development and facilitate compact development.

- The site has frontage on a principal arterial but is 2,500 feet away from nearest intersection. The site is also separated from existing commercial development by residential development. The MUP designation is not fully consistent with Policy 1.13.

Policy 1.14 – This policy has 8 commercial siting guidelines that help determine if a site is ideal for a commercial future land use designation.

- The site is consistent with 4 guidelines (adequate depth, assembly, access, and ownership pattern) and not consistent with 4 guidelines (integration, intrusion, compactness, major intersection).

Analysis – Future Land Use Element

Policy 3.1 – This policy encourage commercial development at transportation nodes.

- The site is not at or near a transportation node. This policy is not supportive of existing future land use designation.

Objective 3, Policy 3.3 – This policy states that the Veterans Parkway corridor will need approximately 188 acres of commercial land to meet needs of surrounding residential areas.

- This policy does not prohibit future land use amendments, however, additional future land use amendments may be required to replace the loss of 80 acres.

Analysis – Economic Development Master Plan

- 1) The site is not listed as an area of “Economic Opportunity”
- 2) The amendment is supported by the City’s documented need for multi-family housing (1,500 units per year for the next 5 years)

Analysis – Urban Service Boundary

Objective 4, Policy 4.1 – Requires that developments requiring access or connection to municipal utilities shall be in the Urban Service Infill or Transition area

- The boundary line amendment will place the site within the Transition Area and will meet this policy.

Objective 7 – This objective discourages leap frog development within Urban Services Reserve areas.

- While the development is not leapfrog development, the boundary line amendment will meet the objective by placing the site within the Transition Area.

Development Impact Analysis

Existing – Mixed Use Preserve, Type 3, Class D

- 74 Dwelling Units
- 5.83 Million sq. ft. of Commercial
- 6,629 Peak Hour Trips
- 1.7 million GPD Water/Sewer

Proposed – Multi-Family Residential

- 1,351 Dwelling Units
- 0 sq. ft. of Commercial
- 838 Peak Hour Trips
- 270,000 GPD Water/Sewer

Recommendation

- Planning staff finds that the site is suitable for residential and non-residential development.
- The site is large enough to accommodate quality residential or non-residential development.
- The site has frontage on a principal arterial with a minimum of 2 access points.
- The site is bordered by residential developments and staff finds that the proposed future land use designation is more compatible with these developments.
- Planning staff recommends approval of the proposed future land use designation.
- The Local Planning Agency recommends approval by a vote of 5-2.

Correspondence

- Planning staff received 8 emails/letters of opposition and 5 phone calls of opposition.
- Staff received 3 phone calls for more information or didn't indicate opposition.

Item Number:	A.(2)
Meeting Date:	10/15/2018
Item Type:	ORDINANCES/RESOLUTIONS - Public Hearings

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 44-18 Public Hearing

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No

2. Is this a Strategic Decision? No

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance amending the City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article III, Personnel Rules and Regulations, Division 12, "Classifications," to amend the requirements for Council approval regarding the addition of regular full-time positions within a classification and to amend the requirements for Council approval based on the new pay grade for a reclassification.

LEGAL REVIEW:

Dolores D. Menendez, City Attorney

EXHIBITS:

Memo

Ordinance 44-18

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:

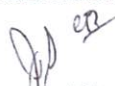

ATTACHMENTS:

Description		Type
▢	Memo	Backup Material
▢	Ordinance 44-18	Ordinance

MEMORANDUM

CITY OF CAPE CORAL
CITY MANAGER'S OFFICE

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager 
Lisa Sonogo, Human Resources Director 

DATE: September 18, 2018

SUBJECT: Ordinance 44-18, Modification and Reclassification of Full-Time Regular Positions

Ordinance 44-18 will provide City management the authority to modify existing regular full-time equivalent (FTE) positions strictly within the approved operating budget adopted by Council. This ordinance will allow departments to periodically evaluate the workload and staffing needs during the year, and make adjustments as necessary.

Additionally, Ordinance 44-18 allows the City Manager (or the City Attorney or the City Auditor, as applicable) to reclassify a position up to four (4) pay grades higher or lower. A reclassification occurs when the duties and responsibilities of a position materially change, and the current classification does not accurately reflect the role. The current ordinance allows for reclassifications up to two (2) pay grades.

The changes requested in Ordinance 44-18 will enable City management to proactively adapt to business needs and make staffing decisions that will provide efficient and productive service.

City Council approval still will be required for any new classifications (titles) and the addition of new FTEs.

Approval is requested.

JS/LS

ORDINANCE 44 - 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE III, PERSONNEL RULES AND REGULATIONS, DIVISION 12, "CLASSIFICATION", TO AMEND THE REQUIREMENTS FOR COUNCIL APPROVAL REGARDING THE ADDITION OF REGULAR FULL-TIME POSITIONS WITHIN A CLASSIFICATION AND TO AMEND THE REQUIREMENTS FOR COUNCIL APPROVAL BASED ON THE NEW PAY GRADE OF A RECLASSIFIED POSITION; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City currently employs approximately 1,358 regular full-time employees; and

WHEREAS, as workloads shift, employees advance, or vacancies occur in positions, it is in the best interest of the city, and a recognized best practice to periodically evaluate the current distribution of workload and positions; and

WHEREAS, the Code of Ordinances currently requires City Council approval to add a position within an existing classification, or to increase the total number of full time positions within a department and fund, and to reclassify a position when the new pay grade is more than two pay grades higher or lower than the pay grade for the position prior to the reclassification; and

WHEREAS, the City Manager requests that those provisions be clarified in order to provide the ability to respond to the needs of each department as workloads and staffing levels change, providing an opportunity to adjust department resources at these varying points in time to achieve a higher level of efficacy; and

WHEREAS, giving the City Manager the ability to re-evaluate the needs of departments at intervals when adjustments are needed rather than during the budget process would provide the City with a workforce that is appropriately staffed, and thus more responsive to the needs of all stakeholders.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article III, Personnel Rules and Regulations, is hereby amended as follows:

CHAPTER 2 ADMINISTRATION

...

ARTICLE III: PERSONNEL RULES AND REGULATIONS

...

DIVISION 12. - CLASSIFICATION

§ 2-36.4 - Creation of a new classification; creation of additional regular full-time positions.

- (a) When the City Manager, City Attorney or City Auditor determines that the duties and responsibilities of a classification are not appropriately described in any existing specification, the City Manager, City Attorney or City Auditor may create a new classification and assign said classification to an appropriate pay grade on the general appropriate salary schedule provided that the City Council first approves the creation of the classification and the assignment to a pay grade.
- (b) The City Manager, City Attorney or City Auditor may add regular full-time positions within a classification without City Council approval unless the additional position(s) meet the terms stated in (c) below, which would then require Council approval. If an additional position is a reclassification of an existing position, Council approval is required as set forth in Sec. 2-36.6.

~~When the City Manager, City Attorney or City Auditor determine that additional regular full-time positions are required within a classification, a request for the additional position(s) shall~~

~~be submitted to the City Council for approval. The total number of regular full-time positions per department and fund cannot be increased without City Council approval.~~

- (c) The total number of regular full-time positions per department and fund cannot be increased without City Council approval.

...

§ 2-36.6 - Reclassification.

When the City Manager determines that the duties and responsibilities of a position have materially changed, the City Manager may reclassify that position to an appropriate classification and pay grade provided that the new pay grade is not more than ~~two~~ four pay grades higher or lower than the pay grade for the position prior to the reclassification. In the event the pay grade for the position as a result of the reclassification is more than ~~two~~ four pay grades higher or lower than the pay grade for the position prior to the reclassification, the City Manager may reclassify that position to an appropriate classification and pay grade provided that the City Council first approves the reclassification of the position. The incumbent of a reclassified position shall be placed in the new classification, unless the incumbent does not meet the minimum qualifications of the new classification. The incumbent of a reclassified position shall have his or her wages or salary adjusted as specified in Division 13 of this article.

...

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

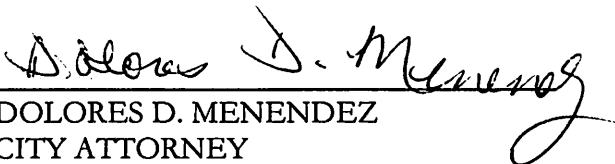
COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



DOLORES D. MENENDEZ
CITY ATTORNEY
ord/Personnel-additional positions
5/18/18
5/21/18

Item Number:	B.(1)
Meeting Date:	10/15/2018
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 70-18 Set Public Hearing Date for November 5, 2018

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

P&Z Recommendation: At their October 3, 2018 meeting, the Planning & Zoning Commission voted unanimously to recommend approval.

Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Land Use and Development Regulations, Article III, Supplementary District Regulations, Section 3.9, Fences, Shrubbery, Walls, by amending the regulations for fence materials in Residential Zoning Districts.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 70-18
Staff Presentation

PREPARED BY:

Division- Department- City
 Attorney

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ Ordinance 70-18	Ordinance
▣ Staff Presentation	Backup Material

ORDINANCE 70 - 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE III, SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 3.9 FENCES, SHRUBBERY, WALLS, BY AMENDING THE REGULATIONS FOR FENCE MATERIALS IN RESIDENTIAL ZONING DISTRICTS; PROVIDING A SEVERABILITY AND EFFECTIVE DATE.

NOW, THEREFORE, MAY IT BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, AS FOLLOWS:

SECTION 1. The City of Cape Coral Land Use and Development Regulations, Article III Supplementary District Regulations, Section 3.9 Fences, Shrubbery, Walls, is hereby amended as follows:

§ 3.9 - Fences, shrubbery, walls.

.1 Residential Zoning Districts.

A. A fence shall not be constructed on unimproved property.

...

F. 1. A fence or wall shall be constructed of one or more of the following materials or finishes:

- a. Wood (decay resistant or pressure treated only);
- b. Concrete block with stucco (CBS);
- c. Concrete with or without stucco;
- d. Stone or brick, including cast (simulated) stone or brick;
- e. Wrought iron;
- f. Aluminum;
- g. Chain-link without slats;
- h. Plastic or vinyl; and
- i. Galvanized steel privacy panels painted with alkali-resistant coatings. Alkali-resistant coatings include, but are not limited to, heavy-bodied bituminous paint or mothacrylate lacquer.

All other finishes and materials are prohibited.

2. For fences or walls located in a public utility or drainage easement, only the following materials or finishes are permitted:

- a. Wood (decay resistant or pressure treated only);
- b. Aluminum;
- c. Chain-link without slats;
- d. Plastic or vinyl; and
- e. Galvanized steel privacy panels painted with alkali-resistant coatings. Alkali-resistant coatings include, but are not limited to, heavy-bodied bituminous paint or mothacrylate lacquer.

...

Section 2. Severability. In the event that any portion of Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall become effective immediately upon adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR
SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord\Fence Materials in Residential Zoning Districts

ORDINANCE 70-18

City Council Introduction

City Council Introduction 10/15/18

City Council 11/5/18

BACKGROUND

- In 2014, the City's fence/wall regulations were amended to include a type/material prohibition for residential fences.
- Currently these types/materials are limited to:
 - Wood
 - Concrete Block with Stucco
 - Concrete with or without stucco
 - Stone or Brick (inc. cast/simulated)
 - Wrought Iron
 - Aluminum
 - Chain-link without slats
 - Plastic/Vinyl

PROPOSED
CHANGE

1. A fence or wall shall be constructed of one or more of the following materials or finishes:
 - a. Wood (decay resistant or pressure treated only);
 - b. Concrete block with stucco (CBS);
 - c. Concrete with or without stucco;
 - d. Stone or brick, including cast (simulated) stone or brick;
 - e. Wrought iron;
 - f. Aluminum;
 - g. Chain-link without slats;
 - h. Plastic or vinyl; and
 - i. Galvanized steel privacy panels painted with alkali-resistant coatings.
Alkali-resistant coatings include, but are not limited to, heavy-bodied bituminous paint or methacrylate lacquer.

All other finishes and materials are prohibited.



STEEL FENCES

LOCAL PLANNING AGENCY RECOMMENDATION

- At the October 3, 2018 Local Planning and Zoning Agency Meeting, the LPA voted unanimously to recommend approval of Ordinance 70-18.

QUESTIONS

Item Number:	B.(2)
Meeting Date:	10/15/2018
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 71-18 Set Public Hearing Date for November 5, 2018

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

P&Z Recommendation: At their October 3, 2018 meeting, the Planning and Zoning Commission voted unanimously to recommend approval for transmittal with changes.

Staff Recommendation: Staff recommends approval for transmittal with changes.

SUMMARY EXPLANATION AND BACKGROUND:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the Conservation and Coastal Management, Housing, Future Land Use, Infrastructure, Recreation and Open Space, and Transportation Elements of the City of Cape Coral Comprehensive Plan.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 71-18 with Exhibits
Staff Presentation

PREPARED BY:

Division- Department- City
 Attorney

SOURCE OF ADDITIONAL INFORMATION:

Wyatt Daltry, Planning Team Coordinator

ATTACHMENTS:

Description	Type
▣ Ordinance 71-18 with Exhibits	Backup Material
▣ Staff Presentation	Backup Material

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL COMPREHENSIVE PLAN BY AMENDING THE CONSERVATION AND COASTAL MANAGEMENT ELEMENT, THE HOUSING ELEMENT, THE FUTURE LAND USE ELEMENT, THE INFRASTRUCTURE ELEMENT, THE RECREATION AND OPEN SPACE ELEMENT, AND THE TRANSPORTATION ELEMENT, ALL AS MORE SPECIFICALLY DESCRIBED HEREIN; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS AS FOLLOWS:

Section 1. The City of Cape Coral hereby adopts Comprehensive Plan amendments necessary to update the Comprehensive Plan as follows:

- A. The amendment to the Conservation and Coastal Management Element replaces references to "Land Use and Development Regulations" with "Land Development Code"; provides revised dates for various plans and target dates; clarifies guidelines for marina placement in Cape Coral; broadens the reference to wildlife-related non-profit organizations supported by the City; eliminates Policy 1.2.7 and Policy 4.3.6; inserts references to Planned Unit Developments. The amendment to the Conservation and Coastal Management Element is more specifically described in Exhibit A, attached hereto and incorporated herein by reference.
- B. The amendment to the Housing Element provides revised dates for various plans and target dates; replaces references to "Land Use and Development Regulations" with "Land Development Code"; eliminates Policy 3.3, Policy 10.6, Policy 10.7 and Policy 10.8. The amendment to the Housing Element is more specifically described in Exhibit B, attached hereto and incorporated herein by reference.
- C. The amendment to the Future Land Use Element establishes policies and guidelines regarding the development of multi-family residential housing; eliminates the Transfer of Development Rights (TDR) Program as described in Policy 1.10; establishes a policy for development of periodic buildout analyses; replaces references to "Land Use and Development Regulations" with "Land Development Code"; eliminates reference to the Development Review Process; amends Policy 1.15 by adding Table 1, listing future land use classifications and the zoning districts which are consistent with and implement the respective future land use classifications, by establishing certain new future land use classifications and eliminating certain existing future land use classifications, zoning districts, and overlay districts, amending the permitted densities and intensities in certain classifications, by deleting provisions for Detached Properties, by establishing the Seven Islands Sub-District, and by establishing guidelines for Council-Adopted Vision Plans; eliminates Policy 1.23, which described the Development Incentive Program (DIP); inserts references to Planned Unit Developments. The amendment to the Future Land Use Element is more specifically described in Exhibit C, attached hereto and incorporated herein by reference.
- D. The amendment to the Infrastructure Element establishes Policy 1.1.8, allowing for incidental utility activities in all future land use classifications and zoning districts. The amendment to the Infrastructure Element is more specifically described in Exhibit D, attached hereto and incorporated herein by reference.
- E. The amendment to the Recreation and Open Space Element provides revised dates for various plans and target dates; eliminates Policy 1.5; eliminates reference to the Transfer of Development Rights (TDR) Program. The amendment to the Recreation and Open Space Element is more specifically described in Exhibit E, attached hereto and incorporated herein by reference.
- F. The amendment to the Transportation Element replaces references to "Land Use and Development Regulations" with "Land Development Code"; replaces references to the Planned Development Project process with the site development plan process or the Planned Unit Development process; updates the references to the Federal program utilized to pursue funding for pedestrian, bicycle and intermodal travel related issues and facilities; eliminates Policy 4.2.2; provides revised dates for various plans and target dates. The amendment to the Transportation Element is more specifically described in Exhibit F, attached hereto and incorporated herein by reference.

Section 2. Severability. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. The effective date of this plan amendment shall be thirty-one (31) days after the state land planning agency notifies the City that the plan amendment package is complete, or if timely challenged, the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184(3)(c)4., F.S., whichever is applicable.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:


COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2016.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
Comp Plan Amendments-LUDR Rewrite

Exhibit A

CONSERVATION AND COASTAL MANAGEMENT GOALS, OBJECTIVES, POLICIES

GOAL 1: Protecting Environmental Resources.

The natural and historic resources of Cape Coral will be preserved, protected, and enhanced. These resources will be managed to ensure the highest environmental quality possible. Development activities will be managed, in accordance with this goal. The scientific and resource management activities outlined under this goal will be coordinated by the City's Environmental Resources Section.

Objective 1.1: Estuarine Water Quality. Cape Coral will maintain and/or improve the environmental quality of estuarine waters within its jurisdiction, and will prevent the degradation of adjacent water bodies.

Policy 1.1.1: The City will maintain and/or improve the environmental quality of its estuarine waters by promoting habitat restoration, developing policies for improving mixing zones through use of the addition of hard substrate, and through public education.

Policy 1.1.2: The City will continue its surface water quality monitoring program to properly evaluate the general environmental condition of its surface waters and estuarine system, to identify any new problem areas, and to evaluate the effectiveness of measures to maintain or improve water quality.

Policy 1.1.3: Pursuant to S.163.3202, F.S., the City will maintain ~~Land Use and Development Regulations~~Land Development Code, which prohibit dredging for the construction of new boat basins in the estuarine system, without proper permits. Marina and multi-dock facilities will be designed, located, constructed and managed so as not to reduce estuarine water quality.

Policy 1.1.4: The City will assure that there will be no dredging of estuarine waterways that reduces estuarine water quality. Dredging activities will be properly permitted by state and federal agencies.

Policy 1.1.5: Pursuant to S.163.3202, F.S., ~~Land Use and Development Regulations~~Land Development Code will be maintained to prohibit dredging at the mouths of canals directly emptying into natural estuarine waters unless, (1) a detailed study of sediment contaminants is performed and adequate safeguards to prevent the release of any contaminants are provided, and (2) a survey of benthic ecological communities is performed to prevent the destruction of any important biological resources (e.g., marine plant beds).

Policy 1.1.6: The City has completed and will maintain a comprehensive stormwater management plan, the primary purpose of which is to minimize the impact of stormwater runoff on estuarine water quality. As part of the comprehensive stormwater management plan, the City will continue to conduct the following activities to minimize the impact of stormwater runoff on estuarine water quality:

- The City will incorporate an acceptable level of stormwater treatment in all newly designed stormwater systems.
- The City will perform maintenance activities in accordance with an annual work plan. The work plan will include but not be limited to the following activities:
- The City will conduct street sweeping at major intersections, along bike paths, paved alleys, curbed roads, and within all City owned paved parking lots. In the Viscaya industrial zoned area, the City will provide street sweeping once every month and will clean catch basins four times per year.

The City will replace deteriorated stormwater drainage pipe and stormwater inlets on an as-needed basis.

The City will periodically clean and inspect catch basins and stormwater pipes.

The City will maintain Engineering Design Standards for paved alleys and roadways.

- The City will require all property development to stabilize all areas not covered with structures, pavement, or landscape beds.
- The City will require all non-paved areas of street right-of-ways and areas within fifteen feet of seawalls to be permanently vegetated.
- The City will require the placement of silt screens on all construction sites to eliminate adverse impacts associated with erosion.
- The City will continue to participate with Lee County and other co-permittees in the NPDES process.
- The City will require applicants for clearing and development permits to provide a letter addressing NPDES standards, if applicable, prior to City inspections.

Policy 1.1.7: The City of Cape Coral will continue to extend sanitary sewer and potable water facilities to previously unserved areas of the City, and will coordinate with private and county sources for the provision of solid waste facilities to meet the existing and projected needs identified within the Capital Improvements and Infrastructure Elements of this Comprehensive Plan, and consisted with the City's Facilities Planning Report, prepared by Montgomery Watson Harza (MWH) in 2005.

Policy 1.1.8: The City will (as a cooperative effort with appropriate governmental agencies,) continue to investigate the effectiveness and function of the spreader waterway systems in reducing the adverse environmental impacts of surface water discharge from Cape Coral into Matlacha Pass State Aquatic Preserve, and will periodically evaluate whether improvements are needed in the spreader system to reduce measurable negative impacts on the Matlacha Pass Ecosystem.

Policy 1.1.9: The City will not permit the construction of interior waterway systems unless their primary purpose is to provide stormwater management, environmental enhancement, or water supply.

Objective 1.2: The City will continue to monitor and inventory all ecological communities, and their component flora and fauna, especially endangered and rare species. The City will implement protective regulations; acquire land or take other actions that are deemed necessary to protect natural communities, listed species and their habitats.

Policy 1.2.1: By ~~2009~~2020, the City of Cape Coral will adopt regulations to ensure that, prior to property development, or habitat alteration, of any kind, owners of properties having viable native habitat and/or, which may contain habitat for protected species, undergoing significant development and/or habitat alteration, will be required to provide an environmental survey of their properties and undertake acceptable mitigation, as appropriate.

Policy 1.2.2: The City will notify state and/or federal agencies if activities, suspected to be in violation of state and/or federal regulations, are known to have been conducted.

Policy 1.2.3: The City will develop and maintain priorities for the acquisition for preservation of vulnerable coastal ecological communities, and acquire this land, either as part of its land banking program, as discussed in the Future Land Use and Recreation and Open Space Elements, or through other feasible methods.

Policy 1.2.4: The City will require a management plan for development other than development of a single-family residence for disturbance of habitat of any state or federally listed species. Any such management plan shall be consistent with Federal and State guidelines and management strategies relative, but not necessarily limited to: the Bald & Golden Eagle Protection Act (U.S. Fish & Wildlife Service); the Florida Scrub-jay Recovery Plan (USFWS); the Gopher Tortoise Recovery Plan (USFWS); and “Burrowing Owl Nest Protection Guidelines and Procedures in Urban Areas”, published by the Florida Fish & Wildlife Conservation Commission.

Policy 1.2.5: The City will assist in the implementation of and compliance with all state and federal regulations concerning species listed as endangered, threatened, species of special concern, or commercially exploited by monitoring development activities, providing information on listed species in building permit packages, and assisting in investigations as requested.

Policy 1.2.6: To protect manatees, the city will cooperate in enforcement of boat speed zones within the City's jurisdiction.

~~Policy 1.2.7: Lee County has adopted a State approved Manatee Protection Plan. By 2009, the City of Cape Coral will assess whether to officially adopt the Lee County Manatee Protection Plan, or whether to pursue development of a City of Cape Coral Manatee Protection Plan.~~

Policy 1.2.87: The City of Cape Coral will protect avian roosting, nesting and feeding areas in estuarine and upland environments through the development of regulations for tree and vegetation clearing.

Policy 1.2.98: The City will adopt and maintain, consistent with the provisions of section 163.3202 Florida Statutes, land development regulations to require that development and redevelopment of properties include the removal and ongoing control of invasive exotic pest plants.

Policy 1.2.409: The City will identify, quantify, and rank existing stormwater discharge sources and consider this data in the prioritization of Capital Improvements.

Policy 1.2.410: The City will continue its street sweeping and catch basin cleaning programs.

Policy 1.2.411: The City will maintain a program to ensure the integrity of vegetation in the swales within the City.

Policy 1.2.412: The City will continue to investigate the benefits and costs of adding hard substrate on the bottom of deep canals with substandard dissolved oxygen levels.

Policy 1.2.413: The City will investigate the benefits and costs of interconnecting saltwater canals for the purpose of providing flushing.

Policy 1.2.414: The City will maintain a program to manage aquatic vegetation in freshwater canals to maintain sufficient abundance to perform valuable environmental functions, but control excessive growth which inhibits recreational opportunities including recreational fisheries and navigation, hinders drainage, and can result ultimately in poor environmental quality. The City will coordinate this effort with the Lee County Hyacinth Control District.

Policy 1.2.415: The City will maintain a program of environmentally sound maintenance dredging to provide adequate depth for environmental flushing (sea water), surface water conveyance (saltwater and freshwater), surface water storage (freshwater), and depth for boats (sea water and freshwater).

Policy 1.2.416: The City shall require, as a condition of approval for Planned Development Projects, Planned Unit Developments, and Site Development Plans ~~Reviews~~, a protected species survey, which reflects the current conditions (at the time of the review) on the development site. If listed species are known to inhabit or use the site, the applicant shall prepare a protected species management plan.

Policy 1.2.417: The City of Cape Coral will acquire land, as opportunity and resources allow for the purpose of preserving natural communities, listed species and their habitats.

Policy 1.2.418: The City will, as opportunity and resources allow, restore and enhance degraded natural areas on City-owned lands through activities such as the recreation of natural communities, restoration of natural hydrology, and the removal of noxious exotic vegetation.

Policy 1.2.2019: In order to support the City's continued protected species coordination efforts with the Florida Fish and Wildlife Conservation Commission and the United States Fish and Wildlife Service, the City of Cape Coral shall require a protected species affidavit to be signed by

the applicant prior to receipt of a development order application. This affidavit will identify whether gopher tortoises, burrowing owls, or bald eagles are located on-site, or on adjacent property(s), and establish if federal or state permits will need to be obtained for the protection of these species during construction activities.

Objective 1.3: Water Dependent/Water Related Land Uses: The City will adopt and maintain, consistent with the provisions of section 163.3202 Florida Statutes, land development regulations to direct the management of water-dependent facilities, including marinas and marine-related support facilities.

Policy 1.3.1: Future public use marinas will be allowed only in ~~commercial, industrial, non-residential~~ and mixed use zoning districts and public parks. ~~Note: A “marina” is hereby defined as a dock or basin providing secure moorings for pleasure boats and often offering supply, repair, and other facilities. For purposes of this policy, A public use marina is one that may be utilized by any boat owner, and which does not require membership or is not restricted to the residents or guests of a specific development.~~

Policy 1.3.2: The City will require that all work area runoff at new marina facilities will obtain any necessary permitting by the SFWMD and the FDEP.

Policy 1.3.3: Pursuant to S.163.3202, F.S., the City will require that prior to the operation of any new marina fueling facility, a fuel management /spill contingency plan will be developed and provided to the City for review as a condition of planned development project approval. Included in this plan shall be descriptions of methods to be used in dispensing fuel and all the procedures, methods, and materials to be used in the event of a fuel spill and shall meet Lee County Fire Prevention Codes and the Rules of the State Fire Marshall's office.

Policy 1.3.4: The City will revise the ~~Land Use and Development Regulations~~Land Development Code, pursuant to S.163.3202, F.S., to require that all marinas will provide sewage pumpout facilities and facilities for proper handling of used oils and contaminated bilge water.

Policy 1.3.5: The City will maintain ~~Land Use and Development Regulations~~Land Development Code, pursuant to S.163.3202, F.S., that do not permit fueling or repair facilities within residential zoning classifications.

Policy 1.3.6: The City will require that proposed marina developments will demonstrate that they have sufficient upland areas to accommodate all needed support facilities including adequate parking, work areas, and retention areas for stormwater and work area runoff and have a hurricane contingency plan in place prior to approving such project.

Policy 1.3.7: During the Planned Development Project and Planned Unit Development process the City will request that marina facilities use dry storage.

Policy 1.3.8: Marina and/or boat ramp siting shall be consistent with the appropriate aquatic preserve management plan, where applicable.

Policy 1.3.9: Marina and boat ramp siting preference shall be given to areas where water depths can accommodate vessels with a four foot, or greater, draft, and to those facilities which are to be available for public use, and where economic need and feasibility can be demonstrated.

Policy 1.3.10: The City will consider consistency with the countywide marina siting plan, adopted on June 29, 2004, in the permitting of marinas. The City will also consider consistency with the general criteria of the Florida Fish and Wildlife Conservation Commission, Boat Facility Siting Guide, adopted August 2000:

- Expansion of existing facilities may be preferred over new facilities, if environmentally sound;
- There should be no impact to seagrass;
- Mitigation for seagrass destruction should not be allowed;
- Areas with adequate depth and good flushing which require no new dredging are preferable;
- Locations near inlets and popular boating destinations are preferable;
- Piling construction is preferred over dredge and fill techniques;
- Marinas should not be sited in essential manatee habitats; and
- Marinas should not be situated in areas with high manatee mortality occurrence.

Objective 1.4: Air Quality. Cape Coral will continue to meet or exceed the air quality standards established by the Florida Department of Environmental Protection (FDEP).

Policy 1.4.1: The City will regularly review reports of the air quality monitoring station in Cape Coral and take appropriate actions indicated.

Policy 1.4.2: Future industrial land uses will be required to locate in those specific areas identified on the Future Land Use Map as "Light Industrial" or, if compatible, "Mixed Use" to minimize the impact of industry on the current air quality of non-industrial areas.

Policy 1.4.3: The City will require industries to take appropriate measures to ensure that state and federal standards for air pollution are met as established by EPA by requiring that applicants for Planned Development Projects obtain necessary state and federal permits to be obtained prior to City approval. If state and/or federal standards are not met by an existing business proposing expansion or additional facilities, the City will deny further inspections to a violating business until such business is brought into compliance. This shall not limit any inspections for permits needed for activities that are necessary for the purpose of correcting a violation.

Policy 1.4.4: The City will lessen the potential impacts of automobile emissions pollution by:

(a) Promoting mixed use development by designating specific prime development sites for Mixed Use Development that combines residential land uses with commercial and professional land uses to reduce trip generation;

(b) Maintaining development standards, pursuant to S. 163.3202, F.S., to require vegetative buffer strips between arterial roadways and residential developments; and

(c) Pursuant to the Transportation Element, providing and/or encouraging alternative means of transportation such as car-pooling, public transit, and bicycle and pedestrian paths.

Objective 1.5: Surface Water. The City of Cape Coral will continue to pursue improvement to the quality of all surface waters within its jurisdiction.

Policy 1.5.1: The City will maintain and/or improve the environmental quality of Cape Coral's surface waters, littoral zone, nutrient input (terrestrial runoff, groundwater) aquatic plant management, and to protect the habitats of aquatic dependent species by encouraging the use of Best Management Practices. The Best Management Practices will be encouraged by distributing information to the citizens and will include the promotion of the following concepts:

- Voluntary fertilization and pesticide application reduction.
- Integrated Pest Management.
- Turf management practices, including mowing practices and irrigation.
- Preservation of areas of existing vegetation.
- Landscaping with appropriate native plants and limiting turf areas.
- Organic pest management.
- Proper hazardous material disposal.

Policy 1.5.2: The City will continue to conserve and protect its wetlands in accordance with standards set by FDEP and SFWMD. The City shall direct future land uses incompatible with protection and conservation of wetlands away from wetlands. The evaluation of incompatibility shall include the following factors for land uses: types, intensity, density, extent, distribution, and location of allowable land uses. The evaluation of incompatibility shall include the following attributes of the wetlands: types, value, function, size, conditions, and location.

Policy 1.5.3: The City has completed and maintains a comprehensive stormwater management plan, the primary purpose of which is to minimize the impact of stormwater runoff on the quality of Cape Coral's surface water and estuarine receiving waters. Level of Service Standards for

drainage will be based upon SFWMD's *Basis of Review for Surface Water Management Permit Applications*.

Policy 1.5.4: The City will reduce the effects of septic tank seepage on surface water quality by extending central sewer service to all areas as rapidly as possible, in accordance with the adopted 2005—2010-Utility Extension Program-(2005).

Objective 1.6: Canal Structures. The City will continue to maintain the design and function of all canal structures.

Policy 1.6.1: The City will inspect all canal structures for structural and functional integrity and take corrective measures as needed.

Objective 1.7: Ground Water Resources. The City will protect the quality of its groundwater resources, and will maintain programs that have the goal of reducing the consumption rate (per dwelling unit) of potable water used for irrigation and other outdoor purposes from (2000) levels.

Policy 1.7.1: The City will continue to adhere to its interlocal agreement with the SFWMD, which requires the plugging of abandoned wells for the purpose of slowing the spread of saltwater intrusion.

Policy 1.7.2: The City will maintain its current policy requiring mandatory connection to sewer and water service when such service is provided, thus reducing the number of septic tanks and wells in use.

Policy 1.7.3: The City will commit to developing regulations that require the disconnection of private self-serve well water supply lines from irrigation systems when City irrigation water is connected.

Policy 1.7.4: The City will protect the functions of natural groundwater recharge areas through means identified jointly by the City and the SFWMD.

Policy 1.7.5: The City will incorporate and/or maintain water conservation measures into its land development regulations (adopted pursuant to F.S. 163.3202) and development orders for Planned Development Projects and Developments of Regional Impact including, but not limited to:

- Adherence to the Standard Plumbing Code to require the use of water saving devices.
- Maintain provisions of the Landscape Ordinance that strongly encourage the use of Florida Yards and Neighborhoods principles.
- Maintain a rate schedule to discourage wasteful use of potable water.
- Establishing conserving time of use restrictions for irrigation.

Policy 1.7.6: The City will continue to comply with, and enforce through its Code Compliance Program, emergency conservation measures as required by the South Florida Water Management District.

Policy 1.7.7: The City will monitor the potential to enhance recreational fisheries (e.g. stocking) and protect and create (e.g. artificial reefs and seawall habitats) fisheries habitats.

Policy 1.7.8: The City will confer with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Department of Interior, Fish and Wildlife Service prior to granting land use approvals that would adversely impact a federal or state listed species.

Policy 1.7.9: The City will continue its policy of requiring all applicants for City building permits to complete an affidavit stating they have inspected the proposed building site for the presence of burrowing owl nests. The applicant shall be required to state whether state and federal permits to remove the owl burrows are needed or whether the development can be completed without removing the owl burrows, in which case the contractor shall accept full responsibility for protecting the owl burrows from actions of employees or sub-contractors.

Policy 1.7.10: The City will maintain a bald eagle protection ordinance with the intention of maintaining Cape Coral's bald eagle population and the successful reproduction of the species in Cape Coral.

Policy 1.7.11: The City will accept and administer private donations of monies and real property for the acquisition and preservation of endangered critical habitat for all endangered and threatened species, and species of special concern, and environmentally sensitive lands within the City's jurisdiction. All funds and the earnings from such funds will be escrowed in a special account administered by the City Manager.

Policy 1.7.12: The City will cooperate with the State of Florida and the Federal Government to maintain the existing natural reservations in the State-owned preservation areas identified in the Recreation and Open Space Element of this plan. These natural reservations include the Four Mile Cove Eco Park and the Matlacha Pass preservation area, including the Matlacha Pass State Aquatic Preserve and the Matlacha Pass National Wildlife Refuge.

Policy 1.7.13: The City, in conjunction with Lee County, has begun development of a Regional Park site in the City's northeast, preserving an upland natural reservation of at least 250 acres as identified in the Recreation and Open Space Element of this plan.

Policy 1.7.14: The management of bays, estuaries, harbors and unique vegetative communities that cross Cape Coral's borders will be coordinated with adjacent local governments including, but not limited to, Lee County, Charlotte County and the City of Fort Myers. Coordination activities may include, but not necessarily be limited to, interlocal agreements, public meetings, staff interaction, written notifications, and joint committees.

Policy 1.7.15: The City of Cape Coral, recognizing the Four Mile Cove Ecological Park area as a unique and irreplaceable example of an estuarine salt marsh, will continue to maintain and protect

this vital state owned, city maintained property in its current capacity as a city park emphasizing passive recreation and nature study. To ensure the protection of this area, the City will continue to abide by all rules and regulations imposed by state authorities. The City will limit development within the park to projects such as boardwalks and displays which enhance the public's knowledge of natural resources. The City will also review adjacent applications for development ~~orders~~ to minimize adverse impacts of development upon the park.

Policy 1.7.16: Recognizing the importance of the Matlacha Pass Preservation Area, including the Matlacha Pass State Aquatic Preserve and the Matlacha Pass National Wildlife Refuge, as representing a unique and vitally important estuarine mangrove community, the City of Cape Coral will continue to abide by all rules and regulations imposed by state authorities to ensure the protection of this area. To implement this policy the City will prohibit all development within the Preservation Area, except for providing public access for enjoyment of the natural area, and will review adjacent applications for development orders to minimize adverse impacts of development upon this unique area.

Policy 1.7.17: The City of Cape Coral recognizes the Yellow Fever Creek Headwaters Area, which is included in the Regional Park site in northeast Cape Coral (see Policy 1.7.13), as a unique upland habitat representative of the upland communities that were destroyed by the development of the City. The City commits itself to the restoration and protection of this area and development of a regional park for passive recreation uses that preserve the area, to the extent possible, in its natural and pristine state.

Policy 1.7.18: The City will discourage the destruction of natural systems by the recreational use of off-road vehicles on public and private property.

Policy 1.7.19: The City will continue to aggressively promote and maintain its established Florida Yards and Neighborhoods (FYN) Program. This program is a partnership of concerned citizens, members of the landscape industry, the University of Florida's Cooperative Extension Service, the Charlotte Harbor National Estuary Program, Florida's Sea Grant College Program and numerous environmental agencies. The program focuses on yards as the first line of water quality defense for our estuaries, rivers, lakes and aquifers.

Objective 1.8: Public Awareness of Natural Resources. The City will maintain and expand a program to enhance public awareness of coastal and other natural resources in order to better understand the importance of these resources and the need for their proper management and conservation. Methods for increasing public awareness may include, but not necessarily be limited to, public presentations, presentations on the Cape Coral Government television channel, education programs, and publications.

Policy 1.8.1: The City will continue to coordinate with Lee County Environmental Learning Center, the Calusa Nature Center, the Cooperative Extension Service, the Cape Coral Friends of Wildlife, and other environmental education organizations to promote the value and conservation of coastal and other natural resources. This shall include, but not be limited to providing or receiving information for public presentations, education programs, and publications.

Policy 1.8.2: The City will educate the public on the value of natural resources, especially species of special concern, threatened, and endangered species, through interpretive displays and trails at recreation sites and parks.

Policy 1.8.3: The City will require that all Planned Development Projects and Planned Unit Developments, which include marinas, multi-slip facilities, and boat ramps having saltwater access post manatee awareness signs and information. This information shall be placed in locations highly visible to the boating public.

Policy 1.8.4: The City of Cape Coral will continue to support ~~the~~ non-profit organizations such as Cape Coral Friends of Wildlife, for the purpose of promoting public awareness of Cape Coral's native wildlife and natural habitats, and to provide volunteer habitat maintenance services in the City's publicly owned parks and natural areas. The City will also continue to support the organization's nature center, and related activities, located at Rotary Park.

Objective 1.9: Mining Activities. The City will ensure that mining activities have a minimal impact on the quality of the environment.

Policy 1.9.1: City ~~Land Use and Development Regulations~~ Land Development Code will be maintained, pursuant to s.163.3202, F.S., to require the use of buffering between mining sites and adjacent land uses to promote an aesthetically pleasing landscape compatible with existing and future land uses adjacent to the site.

Policy 1.9.2: The City will inform every applicant for a ~~P~~planned ~~D~~evelopment ~~P~~project or planned unit development for any mining activities, including, but not limited to borrow pits, that state and/or federal permits may be required.

Policy 1.9.3: The City will require that Planned Development Projects and Planned Unit Developments for mining activities shall be phased, when possible, in an attempt to assure that the land areas affected by such activities at one time shall be minimal.

Policy 1.9.4: The City will require that Planned Development Projects and Planned Unit Developments for mining activities must provide a reclamation plan, to be approved by the City. Reclaimed lands must be returned in a usable state with complete vegetative cover of all disturbed areas and must conform to the Future Land Use Map and to the provisions of the Future Land Use Element.

Policy 1.9.5: The City will require that Planned Development Projects and Planned Unit Developments for mining activities must, when necessary, include a performance bond, or other financial security, assuring that environmental standards are met and reclamation is carried out to the full extent as a condition for approval.

Objective 1.10: Hazardous Waste Management. The City will continue to reduce its levels of hazardous wastes in accordance with the provisions stipulated by the State's Solid Waste Management Act and will coordinate these activities on a City, County, and regionwide basis.

Policy 1.10.1: The City will coordinate with the Lee County Department of Solid Waste and the Lee County Pollution Prevention Program concerning the proper storage, recycling, collection, and disposal of hazardous wastes, and cooperate with the County household "Hazardous Waste Day" program in program promotion and provision of a temporary site within the City.

GOAL 2: Increasing public awareness of coastal natural resources and public access to coastal resources.

Objective 2.1: Public ~~a~~Access to the coast. The City will continue to maintain ~~and~~ or increase public access sites to the coastal zone.

Policy 2.1.1: The City will annually strive to acquire additional estuarine waterfront property for the purpose of establishing or expanding parks and public access locations, including boat ramps, as part of the land banking strategy specified in the Future Land Use Element, and in accordance with the needs identified in the Recreation and Open Space Element. Current waterfront parks will be maintained. Impact fees and user fees will be the principal sources of funding for these projects.

Policy 2.1.2: The City will conduct a user survey of the current public coastal access points to assist in determining the need for additional facilities. The City will evaluate the potential revenue generation and user acceptance of charging users of boat ramps, fishing piers, and/or parking a fee to fund acquisition and/or development of additional facilities.

Policy 2.1.3: All coastal public access development will be done in accordance with the objectives and policies of Goal 1 so as not to destroy or damage coastal natural resources.

Policy 2.1.4: The City will accept donations of shoreline lands suitable for use as public access facilities.

GOAL 3: Historic Resources. There shall be no loss of historic resources on City owned property and historic resources on private property shall be protected, preserved or used in a manner that will allow their continued existence.

Objective 3.1: Protection of Historic Resources. The City will continue to identify the historic resources within its jurisdiction and will work to preserve and protect these resources for future enjoyment. To accomplish this task the City will consult and work with Federal, State, and local historical organizations and will, as opportunity, resources and preservation needs allow, acquire such historical resources and make them accessible to the general public.

Policy 3.1.1: Cape Coral will continue to cooperate with appropriate Federal and State agencies to protect identified historical and archaeological resources from vandalism and desecration, and to preserve them in a manner which promotes an understanding of historic and prehistoric peoples and their times.

Policy 3.1.2: The City will require that applicants for Planned Development Projects and Planned Unit Developments that include undisturbed areas identified in the Archaeological Sensitivity map

of Cape Coral as Sensitivity Level 1 or Sensitivity Level 2 perform an archaeological assessment and provide any appropriate mitigation as a condition of approval.

Policy 3.1.3: The City shall, as opportunity, resources and preservation needs allow, acquire historical and archaeological resources and make them accessible, in a controlled manner, to the general public.

GOAL 4: Reducing Vulnerability to Disasters. The City will maintain programs designed to mitigate the damage to people and property in Cape Coral from the effects of natural or man-made disasters.

Objective 4.1: Evacuation. Consistent with The Lee Plan, Amended November 2006, Objective 109.1, the City of Cape Coral shall continue to fulfill its assigned role as specified within The Lee County Comprehensive Emergency Management Plan and its policies regarding hurricane evacuation.

Policy 4.1.1: The City shall coordinate efforts with Lee County to relieve deficiencies identified in the *Southwest Florida Region, Statewide Regional Evacuation Study Program for Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties*, prepared by the Southwest Florida Regional Planning Council in 2010 and will provide sufficient and appropriate personnel to implement and expedite the County's evacuation plan.

Policy 4.1.2: The Lee County and Cape Coral Comprehensive Emergency Management Plans shall be used as the operational guide in the mitigation of, preparation for, in response to, and for recovery from, any natural or man-made disaster requiring emergency actions by local government officials.

Policy 4.1.3: Development review for projects within the coastal high hazard area shall consider significant impacts upon evacuation routes and sheltering, and shall require appropriate mitigation, if deemed necessary.

Policy 4.1.4: The City shall encourage early hurricane evacuation by residents in the Category A Evacuation Zone through cooperation with Lee County Emergency Management officials and the print and broadcast media in public awareness programs.

Policy 4.1.5: Critical roadway links causing congestion or subject to flooding or blockage on the City's evacuation routes shall receive high priority for capital improvement expenditures.

Policy 4.1.6: The City shall continue to lobby for the establishment or expansion of strategic routes within unincorporated Lee County or the region, which alleviate congestion and improve the City of Cape Coral's hurricane evacuation clearance times.

Policy 4.1.7: All future improvements to City maintained evacuation routes shall include solutions to roadway segments known to be prone to flooding, as identified in the Surface Water Master Plan or through other records.

Policy 4.1.8: The City shall encourage all City residents to know the Evacuation Zone and storm surge flooding zone of their dwelling unit.

Objective 4.2: SHELTER. The City will continue to coordinate with County and State emergency officials, the City of Cape Coral Charter School System and the Lee County Public School System to increase the amount of shelter space that is available to meet the needs of the City's general evacuation and special needs populations.

Policy 4.2.1: In order to mitigate evacuation shelter impacts caused by new development, the City of Cape Coral shall continue to participate in the Lee County All-Hazards Program. The Program includes a municipal services taxing unit (MSTU). Proceeds from the MSTU are used to meet emergency management and evacuation needs in unincorporated Lee County and member municipalities.

Policy 4.2.2: The Lee County Office of Emergency Management shall identify the special needs and special care populations of the City of Cape Coral, shall maintain an inventory of such special needs and special care populations, and shall endeavor to have the special needs of these populations met. The City of Cape Coral shall assist the Lee County Office of Emergency Management relative to special care and special needs populations and continue its procedures to inform persons with special needs of evacuation transportation and shelter services that may be available to them.

Policy 4.2.3: The City will continue to coordinate with County, State and Red Cross public education programs concerned with hurricane preparedness. City staff will periodically meet and work with Emergency Preparedness officials from the Red Cross, the Florida Division of Emergency Management and Lee County to exchange information and to assure that all information provided in the programs is valid. The hurricane preparedness programs shall include, but not be limited to, public presentations and publications.

Objective 4.3: Coastal High-Hazard Area. New public expenditures within the Coastal High-Hazard Area shall be limited to those needed for public health and safety, recreation and open space uses, public land acquisition, and the enhancement and protection of natural resources.

Policy 4.3.1: Cape Coral shall designate the coastal high hazard area as the sum of all of those areas which are within the storm surge flooding zone for a Category 1 hurricane as illustrated on Figure 4: *Coastal High Hazard Areas with Hurricane Evacuation Routes*, based on the *Southwest Florida Region, Statewide Regional Evacuation Study Program for Charlotte, Collier, Glades, Hendry, Lee and Sarasota Counties*, prepared by the Southwest Florida Regional Planning Council in 2010.

Policy 4.3.2: As of the adoption date of the City of Cape Coral 2030 Comprehensive Plan, new public expenditures within the Coastal High-Hazard Area shall be limited to those needed for public health and safety, recreation and open space uses, public land acquisition, and the enhancement and protection of natural resources.

Policy 4.3.3: The City shall not approve any future land use map amendment that would increase the maximum residential density within the coastal high-hazard area, unless one of the following criteria is met, in accordance with Section 163.3178(9), F.S.:

1. The proposed amendment would not exceed a 16-hour out-of-county hurricane evacuation time for a category 5 storm event, as measured on the Saffir-Simpson scale; or
2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as measured on the Saffir-Simpson scale and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or
3. Appropriate mitigation is provided that will satisfy the provisions of either of the previous two paragraphs. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. For future land use map amendments initiated by a developer, the City and the developer shall enter into a binding agreement to memorialize the mitigation plan prior to adoption of the amendment.

Policy 4.3.4: The City shall maintain requirements for structural wind resistance at least as restrictive as those stated in the latest approved edition of the Florida Building Code.

Policy 4.3.5: In its evaluation of a zoning amendment for a property located within the coastal high-hazard area the City shall consider the objective of hazard mitigation, in addition to other planning considerations, such as, but not limited to, suitability or compatibility.

~~Policy 4.3.6: Within the coastal high-hazard area, the City shall prohibit new mobile home planned development projects (MHPDPs), private package treatment plants, and industrial development.~~

Objective 4.4: POST DISASTER REDEVELOPMENT. The purpose of the City's post-disaster redevelopment programs shall be to speed post disaster recovery and reduce or eliminate the future risk to human life and property from natural hazards through recovery and redevelopment strategies, which ensure improved hurricane/disaster preparedness and recovery in the future. The implementation of such post-disaster redevelopment programs shall be the responsibility of the Community Development Department.

Policy 4.4.1: By December 31, ~~2014~~2021, the City will prepare a post-disaster redevelopment plan, and will recommend any appropriate amendments to the comprehensive plan, Local Comprehensive Emergency Management Plan, and other policies and procedures.

Policy 4.4.2: In responding to natural disasters, the City will prioritize activities consistent with guidelines contained in the Lee County and Cape Coral Comprehensive Emergency Management Plans.

Policy 4.4.3: As part of the post-disaster redevelopment plan, the City will establish guidelines to address the removal, relocation, or structural modification of damaged infrastructure, and the

City's role in addressing privately owned unsafe structures. The City will also establish policies limiting redevelopment in areas of repeated damage.

Policy 4.4.4: The City shall continue to participate in the National Flood Insurance Program and shall conduct all activities necessary to meet the requirements of the program.

Policy 4.4.5: The post-disaster redevelopment plan will establish guidelines and procedures for evaluating the effectiveness of current hazard mitigation measures at preventing damage.

Policy 4.4.6: The post-disaster redevelopment plan shall include the establishment of guidelines and procedures for utilizing information obtained from damage assessment teams to expedite post-disaster recovery.

Policy 4.4.7: The post-disaster redevelopment plan shall include provisions for enactment of a temporary restriction on issuing permits for reconstruction and repair not immediately needed to protect the public health, safety and welfare.

Policy 4.4.8: The City shall prohibit rebuilding or redevelopment on any property within the coastal high-hazard area containing damaged structures if such rebuilding or redevelopment would increase the maximum residential density above that allowed for the subject property on the Future Land Use Map. Further, the maximum density allowed on any property shall be determined based upon the future land use classification of the subject property, as shown on the future land use map.

Policy 4.4.9: The post-disaster redevelopment plan shall establish criteria for evaluating the options for repairing, replacing, modifying or relocating public and private facilities and infrastructure within the coastal high-hazard area. Any actions chosen by the City of Cape Coral to repair, replace, modify, or relocate public facilities and infrastructure within the coastal high-hazard area shall be consistent with federal and state funding standards.

Policy 4.4.10: The post-disaster redevelopment Plan shall include guidelines and criteria for determining priorities for the acquisition of storm-damaged property in the coastal high-hazard area. These guidelines shall:

- 1) Give priority to eliminating unsafe conditions and inappropriate uses;
- 2) Be used to prioritize potential coastal acquisitions through the State's land acquisition program; and,
- 3) Be used to recognize pristine coastal properties or properties of significant or important environmental sensitivity.

Policy 4.4.11: The City of Cape Coral shall continue to implement its existing hazard mitigation programs that include building code and floodplain regulations, ~~land use and development regulations~~ Land Development Code, zoning requirements, and the goals, objectives and policies of the City of Cape Coral Comprehensive Plan, as well as other applicable hazard mitigation

measures. Recommendations of damage assessment teams, interagency hazard mitigation reports, or City, County, State or Federal emergency management agencies may be incorporated into one or more of these hazard mitigation programs at the discretion of the City. These mitigation programs shall be periodically amended to remain consistent with State and Federal requirements.

GOAL 5: Infrastructure. Public facilities will be adequate and available to serve the residents and visitors to Cape Coral.

Objective 5.1: Levels of Service. Maintain levels of service, service areas, and phasing of improvements for Cape Coral consistent with the other elements of this plan.

Policy 5.1.1: The levels of service, service areas, and phasing improvements for roadways will be those contained within the Transportation Element.

Policy 5.1.2: The levels of service, service areas, and phasing of improvements for sanitary sewer, solid waste, surface water management, potable water, and natural groundwater aquifer recharge will be those contained within the Infrastructure Element of this plan.

GOAL 6: Intergovernmental Coordination. The City will use intergovernmental coordination to protect environmental and coastal resources.

Objective 6.1: Natural Resource Management. Environmental and coastal resource management will address natural ecosystems on a system wide basis regardless of political boundaries by using existing formal and informal coordination mechanisms, or by establishing new formal mechanisms to ensure coordination.

Policy 6.1.1: The City will continue to cooperate with other government agencies concerning conservation issues via jointly funded research and management projects, coordinated review of development projects, and regularly scheduled or special meetings. Examples of coordination shall include, but not be limited to, jointly funded coastal research and management studies, ~~coordinated review of Developments of Regional Impact (DRIs)~~, and regularly scheduled or special meetings.

Policy 6.1.2: The City will continue to adhere to the Charlotte Harbor Management Plan and carry out its responsibilities under this plan. This shall include, but not be limited to a program evaluating and improving the effectiveness and function of the spreader waterway system with regard to the environmental impacts of surface water discharge from Cape Coral into Matlacha Pass State Aquatic Preserve, and a determination if improvements are needed in the spreader system to reduce any negative impacts on the Matlacha Pass and Charlotte Harbor ecosystem.

Policy 6.1.3: The management of bays, estuaries, harbors, and unique vegetative communities that cross Cape Coral's borders will be coordinated with adjacent local governments including, but not limited to, Lee County, Charlotte County, and the City of Fort Myers. Coordination may include, but not necessarily be limited to, interlocal agreements, public meetings, staff interaction, written notifications, participation in the Charlotte Harbor National Estuary Program, and joint committees.

Exhibit B

HOUSING ELEMENT GOALS, OBJECTIVES AND POLICIES

GOAL: To provide good quality housing in safe, clean neighborhoods, offering a broad choice of options in both type (single family and multi-family) and tenure (owner and renter occupied) to meet the needs of present and future residents of the City, regardless of age or income status.

Objective 1: Housing Availability. In conjunction with private sector, the City will provide the infrastructure needed to increase Cape Coral's housing stock ~~by 10,290 units by 2010, and an additional 35,549 units by 2025~~ to accommodate the expected 2025 and 2040 permanent populations ~~of 137,593 by 2010, and 192,795 by 2025~~, in accordance with the levels of service standards established in other elements of this Comprehensive Plan.

Policy 1.1: Provide information, technical assistance, and incentives to the private sector to maintain a housing production capacity sufficient to meet citizen demand.

Policy 1.2: Maintain criteria for implementation of the City's ~~Land Use and Development Regulations~~ Land Development Code, pursuant to S.163.3202, F.S., for activities such as, zero lot line development, townhouse development, and transfer of development rights to encourage residential developments to include a wide mix of housing types and designs at a variety of allowable housing densities and intensities.

Policy 1.3: In accordance with S 163.3177 (b) (f) F.S., the city will utilize the State Land Planning Agency's Affordable Housing Needs Assessment as one basis for determining the current and anticipated affordable housing needs of the City's population.

Policy 1.4: In order to eliminate excessive or duplicative regulatory requirements continue to review, revise and amend (as necessary), the following in accordance with changing household preferences, community needs, and housing industry technology and economics, while maintaining the health, welfare and safety of the residents.

- Policies
- Ordinances
- Codes
- Regulations
- Permitting Process

Policy 1.5: The City will implement the activities specified in the Capital Improvements Element (CIE) within the time frames specified in the CIE, to ensure that adequate infrastructure is available to support the projected population.

Policy 1.6: The City will, through its development review and permitting processes, require that development outside of the specified infrastructure service areas pay for and provide the infrastructure to serve the development.

Objective 2: Housing Affordability. In accordance with S.163.3202 (1), F.S., the City will review and re-evaluate the City Codes to identify and revise those sections which restrict the development of affordable housing in the City by the year ~~2009~~2020.

Policy 2.1: Pursuant to S. 163.3202 (1), F.S., the City will continue to incorporate provisions into its ~~Land Use and Development Regulations~~Land Development Code that assist in lowering the costs for residential development, while maintaining housing quality in accordance with the City's minimum building standards.

Policy 2.2: Pursuant to S. 163.3177 (6) (f) 1. g. F.S. the City will address a portion of its affordable housing concerns through job training, job creation and economic solutions. ~~The City will within three years of the adoption of Comprehensive Plan EAR based amendments (2010) evaluate current economic development programs for effectiveness, examine additional programs, and create new programs if necessary.~~

Policy 2.3: The City will enter into an interlocal agreement with a neighboring jurisdiction to provide affordable housing in that jurisdiction if it is no longer economically feasible to provide such housing in the City. Note: The Plan does not anticipate this situation occurring in the near future. This is due to pre-platted nature of the City. The City is ~~120~~18.5 square miles and approximately ~~42-54~~ percent developed. Therefore, the supply of adequate sites for affordable housing is anticipated to meet the demand.

Objective 3: Equal Opportunity. Through the Fair Housing Ordinance, the City shall assure that the Cape Coral housing market is open to all persons, regardless of age, race, sex, disability, or other legally prohibited designations by mitigating impediments to affordable housing and tracking/resolving complaints concerning housing discrimination reported to the City.

Policy 3.1: The City shall not knowingly approve any development which discriminates against housing availability.

Policy 3.2: The City shall cooperate, on request, with federal, state, and local agencies in the enforcement of anti-discrimination and fair housing laws.

~~Policy 3.3: The City will continue coordination with the Lee County Office of Equal Opportunity to track/resolve complaints regarding fair housing violations.~~

Objective 4: Special Housing Needs. In accordance with S.163.3202 (1), F.S., the City will maintain the Land Use and Development Code to enable the siting of group homes and foster care facilities in residential areas.

Policy 4.1: During the review of all housing plans the City shall address the housing needs of the elderly and handicapped to ensure that provisions for accessibility, transportation, affordability and locational needs are addressed to the fullest extent possible.

Policy 4.2: The City shall cooperate with the State and local agencies that review and permit group and foster care facilities in order to provide convenient, adequate and non-isolated sites, to meet the requirements of persons with special needs, disabilities and handicaps.

Policy 4.3: The City will continue to monitor the development and distribution of group homes and residential care facilities to ensure that adequate sites and infrastructure are provided and that over-concentration in any residential area is avoided.

Policy 4.4: The City shall incorporate in the provisions for the location of affordable housing, mobile homes, and foster care facilities requirements that such facilities are encouraged to have access to transit routes, arterial roads, shopping areas, schools, parks and community service facilities, medical centers. ~~Note: the Plan does not foresee the need to provide rural and farm worker housing as Cape Coral is an urban area with no agricultural areas within the City limits.~~

Objective 5: Housing Quality. The City will continue to maintain a high standard of quality for new and existing housing.

Policy 5.1: The City will continue to investigate the feasibility of using financial and tax incentives to facilitate public and private efforts for housing rehabilitation and preservation. If such programs prove feasible, the City will participate and/or provide technical assistance to implement said programs.

Policy 5.2: Seek federal and state funding, or otherwise provide local public funds for the rehabilitation of substandard housing and investigate the feasibility of conducting a study identifying substandard housing in the City.

Policy 5.3: Enforce the building and housing codes, through regular inspection, to assure that housing shall remain habitable and that quality standards are preserved.

Objective 6: Displacement. The City shall maintain the adopted Residential Anti-displacement and Relocation Plan that is compatible with federal regulation and state statutes and shall amend said plan as necessary to reflect changes in federal and state requirements.

Policy 6.1: Assure that standard housing at affordable costs is available to persons displaced through public action by implementing the adopted Residential Anti-Displacement and Relocation Plan.

Objective 7: Historic Preservation. The City will continue to inventory historically significant and potentially historically significant structures in the City. When structures are identified, the City will explore alternatives to preserve them.

Policy 7.1: Promote the rehabilitation and reuse of historically significant structures through technical assistance programs.

Policy 7.2: By providing technical assistance through the Department of Community Development, assist property owners of historically significant structures in utilizing state and federal assistance programs.

Policy 7.3: Provide public information and education relating to historic preservation programs.

Objective 8: Housing Implementation. Pursuant to S.163.3202, F.S., the City will implement City Codes and regulations through enforcement activities to promote housing opportunities for City residents without sacrificing housing quality and affordability.

Policy 8.1: The City shall continue to support the ~~complaint-driven~~ code enforcement program implemented through the adopted housing code.

Policy 8.2: Assure that existing and new housing meet minimum standards of livability and design through programs for regulation, review and code enforcement.

Policy 8.3: Participate in State and Federal housing assistance programs to aid elderly and lower-income households to secure affordable housing.

Policy 8.4: The City shall enforce procedures for the conservation, rehabilitation and the demolition of dilapidated housing in its Housing Code.

Objective 9: Pursuant to S. 163.3202 (1), F.S., the City will review annually the ~~Land Use and Development Regulations~~Land Development Code to evaluate provisions for the enforcement of land use regulations to protect the value of individual homes and properties and amend said regulations as necessary.

Policy 9.1: Enforce the City's ~~Land Use and Development Regulations~~Land Development Code, International Property Management Code, and Florida Building Code to prevent the degradation of neighboring property values.

Objective 10: The City shall provide adequate sites for the housing needs of low and ~~moderate income~~moderate-income persons.

Policy 10.1: The City of Cape Coral will update the inventory of city owned real property holdings to identify parcels appropriate for affordable housing. This list will be updated as necessary and land on this list may be donated to a housing nonprofit or sold with a restriction requiring the development of permanently affordable housing.

Policy 10.2: Support public and private entities in their efforts to identify and develop affordable housing by providing technical assistance to identify sites and to guide development through the review process.

Policy 10.3: Pursuant to S.163.3202, the City will maintain the ~~Land Use and Development Regulations~~Land Development Code to provide for scattered sites for the location of assisted housing to avoid concentration of housing for low and ~~moderate income~~moderate-income persons.

Policy 10.4: Cooperate with the agencies responsible for the administration of the Section 8 Rental Assistance Program in locating suitable housing sites in the City for the Section 8 Rental Assistance Program.

Policy 10.5: Coordinate efforts with the housing assistance providers both public and private to assist in the provision of affordable housing for low and ~~moderate income~~moderate-income

persons, including the homeless, to find adequate housing. In an effort to facilitate this, the City will undertake a housing study within three years of the adoption of Comprehensive Plan EAR based amendments. This study will include an evaluation of existing housing stock, significant housing needs and issues including, but not limited to affordable housing.

~~Policy 10.6: The City will continue to promote mobile home park development through the Mobile Home Planned Development Project (MHPDP) process. The MHPDP process will ensure compatibility with neighboring land uses and provide for mobile\manufactured housing development. The MHPDP guidelines are in the Land Use and Development Regulations (Section 4.3). The guidelines include but are not necessarily limited to:~~

~~A. Dimensional Regulations: Minimum parcel size, 20 acres; Minimum lot size, 7,500 sq. ft.; Minimum lot width, 75 feet; Minimum lot depth, 100 feet; Minimum number, 25 mobile homes; Setbacks: Front, 25 feet; Side, 10 feet; Rear, 10 feet; Minimum individual living area, 720 sq. ft.~~

~~B. Buffer: A fence, masonry wall or hedge at least five (5) feet in height shall be located in a twenty-five foot wide landscaped buffer which encompasses the project's entire perimeter.~~

~~C. Landscaping: A properly maintained landscaped separation strip at least five (5) feet in width shall be provided along all access roads on which off-street parking is located. All requirements of Article V, Sec. 5.2, Landscaping, shall apply.~~

~~D. Uses permitted in MHPDP: Mobile homes, laundry facilities, convenience stores, recreational facilities and those uses normally incidental accessory uses to mobile homes.~~

~~E. Utilities: No mobile home shall be connected to electric, gas, telephone, water, sewer or any other utility or service in, through or at another mobile home. All such utility and service connections shall be made directly to the mobile home from utility service lines provided on mobile home lots and designed to serve the specific mobile home located on a lot. All utilities shall be underground. All Mobile Home Park Planned Development Projects shall conform with all appropriate state regulations which prescribe standards for water supply, sewerage disposal and other facilities.~~

~~F. Foundations and Crawl Space: All mobile homes and permitted structures shall be permanently attached to a foundation. The crawl space under such structure shall be a minimum of eighteen (18) inches from ground to underside of floor members, shall be cleared of vegetation and have a layer of five eighths inch diameter of stone at least six (6) inches in depth. This area shall be skirted in a manner approved by the Director.~~

~~G. Parking:~~

~~a. Two (2) off-street parking spaces per mobile home shall be located on each lot. In addition, one (1) space shall be provided in visitor common parking areas for every two (2) mobile home lots provided in the project. In addition, off-street parking for other buildings and uses specifically permitted shall be provided as required in Article V, Sec. 5.1, Off-street Parking Requirements;~~

- b. ~~Areas shall be provided for the parking, loading and unloading of delivery trucks and other vehicles and for the servicing of buildings for refuse collection, fueling and other service vehicles in addition to the required automobile parking spaces. Such areas shall be adequate in size and so arranged that they may be used without blockage or interference with the use of accessways or automobile parking facilities;~~
- e. ~~All off-street parking facilities proposed to be located either below or above ground level shall be designed and constructed so that entrance and exit ramps do not result in direct or indirect traffic congestion on the site or on adjacent streets;~~
- d. ~~All off-street parking, loading and unloading areas and access roads shall be surfaced in a stable manner and in accordance with City standards;~~
- e. ~~Off-street parking space access points on access roads should be located at least two hundred (200) feet apart, and no access point should exceed thirty six (36) feet in width.~~

~~H. Access:~~

- a. ~~An access road at least twenty eight (28) feet in width shall provide direct access to each mobile home lot. No mobile home shall be located any closer than ten (10) feet to the edge of this access road. The area occupied by the access road shall not fulfill any part of the area requirements for any lot. All dead-end roads within the project shall be designed to enable mobile homes to reverse direction without having to back more than one mobile home length;~~
- b. ~~Access points on all collector or arterial streets serving a Planned Development Project shall be properly located and spaced.~~
- c. ~~The Governing Body may approve the use of temporary access points provided that such temporary access shall be eliminated by the developer when access roads or other streets are extended to the permanent access points;~~
- d. ~~No Planned Development Project shall be permitted vehicular access to a minor residential street unless specifically approved by the Governing Body.~~

~~I. Expansion of Existing Parks: Existing nonconforming mobile home parks, as well as conforming parks, shall be permitted to expand beyond the present size, but the minimum increment is five (5) acres, and such increment shall meet all ordinances in effect at the time of approval. Such request for expansion shall be submitted as a MHPDP and must be approved by the Governing Body in accordance with this Section.~~

Policy 10.7: ~~MHPDP are a permitted use within the Mixed Use, Land Use Classification.~~

Policy 10.8: ~~Within four (4) years from the adoption of the Comprehensive Plan EAR-based amendments, the City will amend the Land Use and Development Regulations to permit Mobile Home Planned Development Projects in Zoning Districts appropriate for the MHPDP use.~~

FUTURE LAND USE ELEMENT

GOAL: TO PROTECT THE PUBLIC INVESTMENT BY ENCOURAGING THE EFFICIENT USE OF COMMUNITY INFRASTRUCTURE AND NATURAL RESOURCES; ASSURE THE ORDERLY, EFFICIENT GROWTH OF THE CITY BY ENCOURAGING DEVELOPMENT IN THOSE AREAS WHICH ARE BEST SERVED BY INFRASTRUCTURE AND COMMUNITY SERVICES; PROMOTE NEW LAND USES WHICH CREATE THE LEAST POSSIBLE DISRUPTION TO EXISTING USES; CREATE A STRATEGY WHICH ANTICIPATES FUTURE COMMUNITY NEEDS BY ACQUIRING AND ASSEMBLING PLATTED LANDS; AND PROTECT THE RIGHTS OF INDIVIDUAL PROPERTY OWNERSHIP, CONSISTENT WITH PUBLIC NEEDS.

OBJECTIVE 1: Managing Future Growth and Development: The City of Cape Coral will manage future growth and land development by adopting, implementing, and enforcing new regulatory vehicles. All land development regulations called for in this Plan shall be adopted and implemented in accordance with the provisions of S. 163.3202, Florida Statutes. The short-term planning timeframe shall be established as up to the year ~~2020~~2025, while the long-term planning horizon shall be the year 2035.

Policy 1.1: ~~Reserved.~~ The City will consider the impacts of climate change and sea level rise when determining the appropriate future land use map classification for property within the City of Cape Coral.

Policy 1.2: The City will regulate the use of land and water to protect State-owned preservation lands, the City's system of fresh and salt-water canals, and the outlying waters of the Caloosahatchee River and Charlotte Harbor.

Policy 1.3: The City will adopt measures to regulate areas subject to seasonal and periodic flooding and will provide for drainage and stormwater management.

Policy 1.4: The City will continue to protect potable water wellfields through the placement of the wellheads in a manner which uses street rights-of-way as buffers. The wellheads will continue to be protected from physical damage by using construction techniques appropriate for their location, such as locating future wellheads adjacent to street rights-of-way. However, due to population densities, it may be necessary to place wellheads in the median in isolated circumstances. Buffering for such locations will be evaluated on an individual site basis to prevent contamination via the wellhead itself.

Policy 1.5: The City will continue to regulate signage to prevent visual blight.

Policy 1.6: ~~Reserved.~~ The City will continue to promote healthy communities and a diverse housing stock so that all persons may have an opportunity to reside in this community. To accomplish this goal, the City supports efforts to balance single-family and multi-family residential stock.

Policy 1.7: ~~Reserved.~~ The City has identified a shortfall of multi-family residential housing stock in the community. To provide better guidance in identifying properties which are appropriate for multi-family residential development, to reduce this shortfall, locational

guidelines have been developed. The following locational guidelines are as follows:

1.) Proximity to major roadways.

To prevent the establishment of multi-family residential development far in the middle of predominantly single-family neighborhoods, an appropriate location for multi-family residential development is adjacent to or within ¼ mile of major roadways such as arterial and collector roadways, as identified by *Figure 7 City Roadway Classifications*.

2.) Proximity to non-residential land uses.

An important consideration for siting multi-family residential development is the need for multi-family residential uses to be in proximity to major employment centers. Providing housing near commercial uses can result in shorter trips, lessened traffic generation by workers, and providing multiple transportation mode options (walking, bicycling, automobile, bus) for employees.

An appropriate location for multi-family residential development is adjacent to or within ¼ mile of non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

3.) Transitioning from commercial uses to less intense uses.

Multi-family residential uses have traditionally provided a role in buffering single-family uses or neighborhoods from nearby commercial development. Multi-family residential development is often self-contained with parking lots which provide a physical barrier visually separating commercial uses, particularly the lighting and loading areas, from single-family residential uses, which is a benefit to the community.

Therefore, an appropriate location for Multi-family residential development is physically between single-family development and non-residential land uses such as the Commercial/Professional, Light Industrial, Mixed Use, Downtown Mixed, Pine Island Road District, or Commercial Activity Center future land use classifications.

4.) Assemblage opportunities and adjacency to existing multi-family residential.

Single, isolated pre-platted parcels provide little opportunity for larger-scale multi-family residential development, and contribute to the same ills that strip center commercial developments offer; a proliferation of driveways onto major roadways.

Therefore, an appropriate location for multi-family residential development is a collection of properties of 3-acres or greater which provide multi-family assemblage opportunities, or

for properties which alone are 3-acres or greater in size. Furthermore, consideration will be given to logical extensions from existing multi-family residential designated properties.

Policy 1.8: The City will maintain regulations ensuring safe and convenient on-site traffic flow and vehicle parking needs for all developed lands.

Policy 1.9: The City will issue no development orders or construction permits, which result in a reduction in the level of service for any affected public facility below the level of service standard adopted in this comprehensive plan.

~~Policy 1.10: The City will maintain and modify regulations as necessary, which create a Transfer of Development Rights (TDR) mechanism that may be used to acquire lands for public use, and to create commercial and industrial tracts for private use. In utilizing the Transfer of Development Rights (TDR) Program, the City of Cape Coral shall ensure that no net increase in density or increase in hurricane evacuation clearance time will occur within the coastal high-hazard area. The City will periodically develop a buildout analysis to assist long-range planning activities. This analysis shall be conducted no less than once per five years and will be available to the public on the City website.~~

Policy 1.11: The City will continue to conduct studies to ascertain the feasibility of implementing alternative mechanisms to aid and encourage the de-platting of platted lands, and to encourage the acquisition and assembly of land for public uses.

Policy 1.12: The City will continue to conduct commercial land needs studies to identify potential areas of the City, which could accommodate commercially designated land, and then amend the Future Land Use Map, consistent with the studies, findings, and recommendations, and other provisions of the Comprehensive Plan.

Policy 1.13: In establishing commercial siting guidelines, it is the intent of the City of Cape Coral to discourage new “strip commercial” development. Strip commercial development, for the purpose of this policy, is often, but not always, linear in orientation, typically generates high volumes of traffic that is (often associated with separate vehicular entrances and exits for each property on the primary street), may have poor or undefined pedestrian path systems that create conflicts between pedestrian and vehicular movements, and generally lacks sufficient onsite space to accommodate normal parking and loading activities. In discouraging new strip commercial development, the City shall also seek to limit or reduce traffic conflict points along arterial and collector roadways, to promote pedestrian-friendly development, and to create synergistic, compact patterns of commercial development.

To achieve this intent, the City will utilize commercial siting guidelines as a basis for considering the appropriateness of placing the Commercial/Professional (~~CP~~), Mixed Use (~~MX~~), Commercial Activity Center (~~CAC~~), and Highway Commercial (~~HC~~) future land use classifications at various locations. “Commercial siting guidelines,” in the sense used herein, refers to guidelines for evaluating potential locations for non-residential (except industrial) development within the above-referenced future land use classifications. The City will also complement its consideration of potential commercial lands; by utilizing the policies contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Finally, the City of Cape Coral’s commercial siting guidelines shall

be based on the ideal concept of a “commercial node.”

Commercial nodes may be defined as a compact concentration of commercial land within a relatively small area. Ideally, such nodes are located around or in the vicinity of intersections of major city roadways (typically, 4 or more lane divided parkways and boulevards). The City recognizes that commercial areas may periodically develop distant from a major intersection, as some intersections (~~particularly of arterials and collectors~~) may have insufficient undeveloped property (~~in the vicinity of the intersection~~) to allow for development of larger commercial centers. Such outlying commercial development can be useful in providing neighborhood commercial centers, professional buildings or office parks to serve a variety of local needs.

Preferably, however, commercial nodes should begin as a concentration of commercial properties adjacent to a major intersection. Once the node is established, it is difficult to define how far from the intersection subsequent commercial expansion should reach. It is also difficult to define the types of future land uses that should exist between nodes. The application of hard and fast rules is not appropriate as each area of the City is unique and has specific conditions and limitations that must be addressed.

The ideal commercial node development pattern thus would consist of commercial land located at the intersection of arterial and/or collector streets in a relatively compact manner. ~~The use of the word, “compact,” should not be construed to imply that development is small or limited in size. Instead,~~ For purposes of this policy, “compact,” relates to the form and interrelatedness of the commercial land uses within the commercial node. The commercial node should not only extend along the roadway but should also incorporate property to the rear of the road frontage. Such a pattern is referred to as “depth.” The ideal pattern can be characterized by a 1:1 ratio of width to depth of the parcels (e.g., 100 feet of width per 100 feet of depth). Thus, the shape of the node (~~e.g., whether square or ribbon~~) can increase or decrease the potential for interrelatedness of uses. Increased depth also enables the development to accommodate adequate parking, buffering, retention, and open area for commercial development. Ideal commercial nodes provide limited access to the arterial roadway while providing interconnections between the various commercial uses within the node.

Policy 1.14: The City of Cape Coral’s commercial siting guidelines are based upon comparison of the locational characteristics of a property proposed for conversion to a commercial future land use classification with the ideal commercial node concept, as described in Policy 1.13, above. The guidelines are also based upon the need to maintain compatibility between commercial development and adjacent or nearby residential future land use classifications. Additional guidance for consideration of such properties is contained in Future Land Use Objectives 2 and 3 and Policy 1.12 of this comprehensive plan. Within this broad, general context, consideration of properties proposed for conversion to a commercial future land use shall be based upon the following commercial siting guidelines:

Commercial Siting Guidelines

Major Intersection

Preferred locations for commercial properties are in the vicinity of major intersections (i.e., intersections of two or more arterial and/or collector roadways). Development of a commercial node at such an intersection may involve multiple parcels and, sometimes, multiple quadrants of the intersection. The benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance, but the distance at which a property ceases to derive benefit from proximity to the intersection varies, based upon whether the subject property would represent a “new, separate” commercial property (a commercial property not abutting any existing commercial properties) or an expansion of an existing commercial area. New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly represent an expansion of an existing commercial area can be any distance from the intersection, provided that such properties are integrated with existing properties (see below: Integration).

Adequate Depth

Ideally, a commercial property should extend not only along the adjacent collector or arterial roadway, but also should extend inward with adequate depth to accommodate the necessary parking, buffering, retention, and open area for the future commercial development. In Cape Coral, most City blocks are rows of back-to-back lots approximately 250 feet deep. ~~Ideally Therefore, then, adequate depth is achieved if any number of contiguous properties, owned by the same landowner (see Ownership Pattern, below) occupy the entire 250 feet of depth. Adequate depth would not be achieved if the subject properties have different owners or if the contiguous properties are not reasonably compact (see below).~~

Compactness

Compactness measures the ability of a property proposed for a commercial future land use to take advantage of economies of scale. The shape of an ideal compact commercial property approaches that of a square or rectangle. This quality allows for an orderly arrangement of development on the subject property and acts to reduce adverse visual, noise or aesthetic impacts to neighboring properties.

Integration

Integration, for the purposes of these guidelines, refers to the interrelatedness of development within a commercial node or area. The presence of features, such as internal access roads, shared parking, courtyards, walkways, or other features, binds the various commercial properties within the node together. This pattern of development reduces the traffic impacts associated with commercial development and often promotes a pedestrian-friendly environment. Integration of neighboring commercial properties should always be encouraged. Therefore, properties proposed for conversion to a commercial future land use should be evaluated for the likelihood that such properties would or could be integrated with adjacent existing commercial properties.

Assembly

For commercial areas to provide the most benefit to the surrounding community, they must be of relatively large size. The majority of buildable lots within the City of Cape Coral are

approximately 10,000 square feet (0.23 acre) in size. These lots were designed primarily for single family residential development and do not typically have adequate width or depth for larger commercial developments that might serve the City as shopping and/or employment centers. Therefore, it is important for the City to encourage commercial applicants to assemble relatively large parcels (properties comprising 3 acres or more). Assembly of pre-platted parcels into tracts of 3 acres or more will promote the development of commercial properties that do not express the indicators of strip commercial development. Assembly of larger parcels also allows the developer to provide a greater variety of commercial land uses, and to provide architectural and landscape features that result in a more attractive end-product.

Properties proposed for conversion to a commercial future land use, where such properties would represent an expansion of an existing commercial area may be considered “assembled,” for the purposes of these guidelines if the proposed expansion properties are either owned by the landowner of one or more adjacent commercial properties, or if the expansion property is likely to be integrated with (see above) adjacent commercial properties.

Intrusion

“Intrusion,” as defined for the purpose of these guidelines, is a measure of the objectionable qualities of the proposed commercial development. This guideline applies primarily to new commercial property (a property proposed for conversion to a commercial future land use in an area where it would not abut existing commercial properties). Intrusion evaluates the potential adverse impacts on surrounding properties that could be caused by converting a property from its existing future land use to a commercial use. There are no hard and fast guidelines for determining when a proposed commercial use would be intrusive to surrounding development. However, expansions of existing commercial areas are generally considered less intrusive than the establishment of new commercial areas. Commercial areas may be considered less intrusive to adjacent multi-family development than to adjacent single-family development. Commercial development that is separated from a residential area by a street, canal, a vegetative buffer, or other geographic features, may be considered less intrusive than commercial development that directly abuts a residential area. The degree of compactness (see above) of a commercial property can also reduce or increase its intrusion upon adjacent or nearby properties.

Typically, new commercial properties (properties proposed for conversion to a commercial future land use classification, which do not abut existing commercial properties) are less likely to be considered intrusive if the surrounding or adjacent residential areas are sparsely developed. While intrusion is subjective and depends on many factors, a rule of thumb is that the proposed commercial property would not likely be intrusive if adjacent residential areas are 25% or less developed. The area analyzed to determine the percentage of adjacent residential development may vary from 300 feet to 1,000 feet from the subject property, depending upon the degree to which streets, canals, landscaping or other geographic features separate the subject property from nearby residential areas.

Access

In the City of Cape Coral there are two ideal access provisions for a commercial property. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged. These provisions are as follows:

- a) Access via a platted City parking area. The City of Cape Coral contains a number of dedicated commercial parking areas; some created by plat, and some deeded to the City by landowners. The Comprehensive Plan and City ~~Land Use and Development Regulations~~ Land Development Code refer to these as “dedicated City parking areas.” These parking areas are often surrounded by smaller platted lots originally intended for commercial development with access to these lots only, or primarily, from the dedicated City parking area. In implementing this provision, it may sometimes be in the City’s interest to promote conversion of a dedicated City parking area to a fully functional commercial development (i.e., a portion of the dedicated parking area would become a commercial building site) in return for the applicant’s agreement to own and manage the site.
- b) Direct access onto an arterial or collector roadway having an adopted City access management plan. The City has adopted access management plans for certain arterial and collector roadways. Access management plans serve to facilitate mobility of the traveling public; therefore, such roadways more readily accommodate the impacts of commercial development than roadways without such access management plans.

Ownership Pattern

An ideal commercial node is a cohesive, compact, interrelated network of commercial properties. Properties proposed for conversion to a commercial future land use, which properties consist of multiple parcels, or groups of parcels, under multiple ownership are unlikely to develop as a true “commercial node.” Instead, these properties are more likely to develop as separate, small commercial developments with multiple access points, leading to adverse, unsafe traffic conditions. Each small development may also have its own stormwater management pond, dumpster, and an appearance and/or landscaping design that is inconsistent with surrounding development. This pattern is a characteristic of strip commercial development ~~(see Policy 1.13, above)~~. Therefore, the City of Cape Coral encourages land owners and developers to assemble the properties involved in a commercial future land use request under common ownership. Multiple, small properties under separate ownership, even if such properties are included in a single future land use amendment request, may not be appropriate for the full array of commercial uses.

APPLICATION OF GUIDELINES:

Dual purpose

The dual purpose of the above guidelines is to direct commercial development to appropriate locations (commercial nodes) and to prevent the propagation of new strip commercial centers. The development of new strip commercial centers and the expansion of existing strip commercial centers should be discouraged.

Comparison to Ideal “Commercial Node”

In utilizing the above guidelines to evaluate a proposed commercial property, the City is, in effect, comparing each proposed commercial future land use location to the concept of an ideal “commercial node.” While one of the above guidelines may sometimes be the primary factor in evaluating a potential commercial location, it is in most instances the combination of various factors that is important. It is the evaluation of this combination of factors, in order to develop an overall assessment of the subject property, which will enable Staff, the Planning and Zoning Commission and the City Council to determine whether or not the siting of a proposed commercial future land use on the subject property is consistent with the intent of the City’s Comprehensive Plan.

In context with the remainder of the Comprehensive Plan

It is also important to note that consideration of the commercial siting guidelines is in addition to all other analyses required by Florida Statutes and the Florida Administrative Code for future land use map amendments. In addition to evaluating a property’s consistency with the above guidelines, the City will continue to provide, or request applicants to provide, environmental and protected species analysis, transportation impact analysis and public facility capacity (concurrency) review for all future land use map amendments.

The commercial siting guidelines should be considered in light of all other factors typically evaluated within a future land use amendment request. Thus, a request, which results in an unfavorable evaluation of the commercial siting guidelines, may receive a favorable recommendation from staff, based upon other factors not considered by the guidelines. Likewise, staff may recommend denial of a project that receives a favorable evaluation of the guidelines, if other factors (again, not considered by the guidelines) appear not to be favorable.

~~RELATION TO DEVELOPMENT REVIEW PROCESS~~

~~In reviewing a subject property as a proposed location for a commercial future land use, the application of some of the above guidelines may depend upon the reviewer making reasonable assumptions, based upon his or her experiences, concerning the ultimate nature of the proposed land use. A decision as to whether to approve a proposed commercial future land use at a subject location cannot legally be conditioned under Florida Statutes. Therefore, it shall be the function of the City’s development review processes to ensure that the plan of development ultimately approved for the subject parcel is consistent with the intent of the City’s commercial siting guidelines. In assessing such consistency, the development review process shall consider the following factors:~~

- ~~A. Integration of vehicular and non-vehicular access into the site and access management features of the site in terms of driveway cuts and cross access between adjacent sites, including use of frontage roads and/or shared access, where feasible;~~
- ~~B. Buffering from adjacent existing/potential residential future land uses, including, but not limited to site/building design features and impacts of street/right of way~~

vacations;

- ~~C. The degree of compactness of the subject property, and the impact of the property boundaries on adjacent properties.~~
- ~~D. Open space provisions and balance of proportion between gross floor area and site size;~~
- ~~E. Adequacy of pervious surface area in terms of drainage requirements;~~
- ~~F. Placement of signage;~~
- ~~G. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;~~
- ~~H. Safety of on site circulation patterns (patron, employee and delivery vehicles), including parking layout and drive aisles, and points of conflict;~~
- ~~I. Landscaping, as it relates to the requirements of the Comprehensive Plan and Land Use and Development Regulations;~~
- ~~J. Unique features and resources which may constrain site development, such as soils, existing vegetation and historic significance; and~~
- ~~K. With regard to issues of public facility capacity, there are a number of issues associated with City utility systems (potable water, wastewater and irrigation). These systems do not yet exist within most of the City's Urban Reserve Services Area, while in other areas, the utility systems were designed to serve residential development and may be incapable of handling the demands presented by a large commercial project. Since future land use map decisions, by State Statute, cannot be conditioned upon an applicant's agreement to construct or repair public facilities (or, for that matter, any other factor), it is important for the City's development review processes to evaluate the impacts of a proposed commercial development in relation to the adequacy of the utilities infrastructure that would serve the project. Development approvals should be conditioned upon the applicant constructing, or otherwise contributing to the construction of, the necessary public utilities.~~
- ~~L. Impacts of existing or projected transportation infrastructure on the proposed location.~~
- ~~M. Whether the project has been submitted as a Planned Development Project (PDP), Site Plan, Planned Unit Development, or enhanced buffering project and how such submittal affects the above factors (A—L).~~
- ~~N. Other factors as may be required by the Land Use and Development Regulations.~~

Policy 1.15: Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the following future land use classifications. Table 1

shows the zoning districts which are consistent with and implement the respective future land use map classifications.- In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area.

Table 1:

<u>Future Land Use</u>	<u>Consistent Zoning Districts</u>
<u>Single-Family (SF)</u>	<u>R-1, RE</u>
<u>Single-Family and Multi-Family (SM)</u>	<u>R-1, RML, RMM, RE, A</u>
<u>Multi-Family (MF)</u>	<u>RML, RMM</u>
<u>Low Density Residential (LDR)</u>	<u>RE, A</u>
<u>Commercial/Professional (CP)</u>	<u>C, P</u>
<u>Mixed Use (MX)</u>	<u>ALL except MXB</u>
<u>Downtown Mixed (DM)</u>	<u>SC, MXB</u>
<u>Pine Island Road District (PIRD)</u>	<u>CC</u>
<u>Commercial Activity Center (CAC)</u>	<u>NC</u>
<u>Light Industrial (I)</u>	<u>I</u>
<u>Natural Resources/Preservation (PRES)</u>	<u>PV</u>
<u>Public Facilities (PF)</u>	<u>ALL</u>
<u>Parks and Recreation (PK)</u>	<u>ALL except MX7 and MXB</u>
<u>Open Space (OS)</u>	<u>PV</u>

Planned Unit Developments are considered to be consistent in all future land use map classifications except Natural Resources/Preservation and Open Space.

- a. Single--Family Residential: Sites of 10,000 square feet and greater, with Ddensities not to exceed 4.4 units per acre, except for micro-cottage communities. Densities in micro-cottage communities are restricted to 8.8 units per acre, for sites with a minimum of 3 acres.

The Single Family (R-1) District is proposed to permit a variety of single-family residential products including traditional single-family residences and micro-cottages.

- b. Multiple- --Family Residential: Not more thanDensities up to 16-25 units per acre are permitted in this future land use map classification. For properties less than one acre in size, densities shall be calculated as a product of the size of the property divided by 43,560, multiplied by 25, rounded down. (Exception: the City may permit as many as 20 units per acre as an incentive for the assembly of large parcels).--The development of multiple-family projects in the Urban Services Reserve Area is also subject to the terms of Policies 7.7 and 7.8, below.

The Residential Multi-Family Low (RML) District is designed to permit multi-family residential development. Single-family attached projects; (three or more units only), single--family residences, and duplexes are also permitted in this zoning district.

The Residential Multi-Family Medium (RMM) District is designed to permit higher-density multi-family residential development. Lower-density, multi-family residential projects such as duplexes or single-family residences are not permitted in this zoning district.

Multi-family residential developments in this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

- c. Commercial/Professional-(CP): Intensities of use in the Commercial/Professional (CP) land use classification shall not exceed a floor to lot area ratio (FAR) of 1.0. ~~Density, as permitted within the Flexible Development Overlay District (see below), shall not exceed 16 units per acre. (Note: Zoning districts compatible with this classification may also be used in conjunction with the Mixed Use (MX) future land use classification. When used in conjunction with the MX Classification, densities, intensities and other parameters, as described for these districts may differ from those described for the CP Classification.) Permitted uses will ultimately depend upon the zoning district of the subject parcel. Generally, three-two zoning districts are found inconsistent with the Commercial/Professional future land use classification, identified below.~~ However, the City may develop additional zoning districts, compatible with the CP future land use classification, in the future.

~~The Professional Office-(P-1) District is designed to provide professional office and other compatible development in areas that are suitable for such activities. The P-1-District is appropriate for development of both small-scale and large-scale office or professional development projects, or projects containing uses compatible with such development. The intensity of development within this district is based upon the size (including width, depth, and compactness) and location of the subject property, as well as on compatibility with adjacent future land use classifications and zoning districts.~~

~~The Professional Business (P-2) District is designed to promote the development of major professional and related office complexes that complement nearby commercial and professional development, and to allow a limited array of commercial uses generally compatible with professional uses. The P-2 District is particularly suitable in neighborhoods adjacent to Pedestrian Commercial (C-1) Districts where there is good potential for walkability between office uses, food services, and certain other businesses that provide services to the owners, employees, and patrons of the office and professional uses developed in an urban form. Preferred locations for the P-2 District are neighborhoods consisting of multiple blocks; however, the District may also be suitable for the establishment of smaller areas, where intense professional or compatible development is warranted.~~

~~The Pedestrian-Commercial (C-1) District is designed to facilitate a broad variety of large or small commercial uses. Uses allowed in the C-1-District range from a variety of small or neighborhood-based commercial uses to larger retail or service uses, which may serve a relatively large trade area and, which may be developed as major~~

shopping facilities. As many commercial uses have the potential to generate relatively high levels of vehicular trips from customers and sometimes delivery vehicles, preferred locations for the C-4 District have direct access onto arterial or collector roads and adequate depth (a minimum of 250 feet) for larger-scale development.

In certain locations, fragmented ownership of relatively small properties, or other factors, may preclude the creation of larger properties with access onto a collector or arterial roadway. Under such circumstances, it may be appropriate for the C-4 Zoning District to place additional limits on the intensities of commercial development on these properties. It may also be appropriate, under certain circumstances to place restrictions on some commercial uses, such as those with high trip generation rates, adverse aesthetic attributes, and generation of disturbing noises or odors. Factors to consider when establishing such limits on intensities or uses include the following: the depth of the property, whether the property is adjacent to a waterway, whether the property is adjacent to or proximate to future land use classifications or zoning districts that allow residential uses, and/or the functional classification of street(s) available for street access. The placement of limitations upon the types and intensities of uses allowed within the C-4 Zoning District, in accordance with the factors described above, is intended to reduce conflicts between the C-4 District and adjacent or nearby residential zoning districts.

~~The Flexible Development Overlay District has been established for properties with a Commercial/Professional future land use classification to allow multi-family uses and zoning districts in addition to commercial and professional uses and zoning districts (such as P-1, P-2, and C-1), in order to promote compatibility and continuity of development between residential and non-residential development within the Flexible Development Overlay District and with surrounding uses. The Flexible Development Overlay District is designed for areas with a Commercial/Professional future land use classification and with one or more of the following characteristics: 1) the area has frontage on one or more local streets (functional classification) regardless of whether properties within the area are assembled with properties that have frontage on arterial or collector roadways; 2) the area is developed, sometimes sporadically, with multi-family uses, or 3) properties in the area are precluded from attaining at least 250 feet in depth due to the presence of a platted waterway or other constraints. The Flexible Development Overlay District will be illustrated on the Future Land Use Map.~~

~~Development within the Flexible Development Overlay District (FDOD) shall not exceed a floor to lot area ratio (FAR) of 1.0. The density of multi-family residential uses for any property within the Flexible Development Overlay District shall not exceed 16 units per acre. At a minimum, twenty-five percent (25%) of the land area of each independent geographic area having the FDOD classification must include, 25% nonresidential development, with multi-family residential development making up the remainder. Any geographic area within the FDOD that is separated from another area within the FDOD by a street (other than an alley), or a platted waterway, shall be considered an independent geographic area. If there is more than one property within an independent geographic area within the FDOD, an individual~~

~~property can be developed with multi family uses as long as the geographic area within which it is located can achieve the minimum nonresidential component. Development in the Flexible Development Overlay District may be held to certain design standards to ensure compatibility and continuity. Use of the Flexible Development Overlay District shall not be allowed within the Coastal High Hazard Area (CHHA).~~

- d. ~~Highway Commercial:~~ Shall not exceed a floor to lot area ratio of 1.0.
- de. ~~Light Industrial:~~ Shall not exceed a floor to lot area ratio of 1.0.
- ef. ~~Mixed--Use:~~ The mixed--use designation is intended to encourage the development of planned projects that include more than one type of use. The ~~baseline~~-maximum permitted densities/intensities of various uses within the mixed--use designation will be ~~4.4~~²⁵ dwelling units per acre for a residential component and ~~0.5~~^{1.0} FAR (Floor Area Ratio) for nonresidential uses. For example, a project combining multi-family and commercial uses would be subject to Policies 1.15.b. and/or 7.7 for the multi-family portion, and Policy 1.15.c. ~~or 1.15.d~~ for the commercial portion. ~~Additional residential density, up to sixteen dwelling units per acre and additional non-residential development, to the total maximum FAR permitted would be available through participation in development incentive programs and/or participation in the City's Transfer of Development Rights (TDR) program.~~

~~Development incentives and bonuses are discretionary, not entitlements, and are dependent upon meeting the criteria for each bonus provision as described in policy 1.20 of the Future Land Use Element and the City of Cape Coral's Land Use and Development Regulations, as may be amended from time to time. However, in the Urban Services Reserve Area, where central water and sewer are not available, residential uses are restricted to 4.4 dwelling units per acre and nonresidential uses are limited to uses that do not generate an estimated flow of more than 1320 gallons of sewage per acre per day. Estimated flows shall be based on 64E-6.008 Florida Administrative Code, as may be amended from time to time.~~

~~All development of property greater than one (1) acre in size with the MixedUse Future Land Use Classification will be required to be reviewed through the Planned Development Project (PDP) process or a successor review process.~~

The following will control the mix of uses allowed in the Mixed--Use Land Use category.

Properties less than one (1) acre: The designation of smaller properties as Mixed--Use is desired to encourage the accumulation of land into large properties. However, in some cases assemblage is difficult due to existing development. In these situations, a property with a Mixed--Use future land use classification may be developed with one use, which is also consistent with its underlying zoning district.

Properties one (1) acre and greater: Larger properties are prime candidates for mixed use developments. These properties shall include more than one type of

use. The mix of uses may include residential, retail, office, services, light industrial ~~or, preservation/open space, public facilities, parkland, or historical resources~~. Such uses may be mixed horizontally on a site or may be within a compound use building, (i.e. differing uses within one building or structure); consisting of residential and retail office, ~~and/or services~~. For Mixed-Use developments adopted after October 23, 2010, retail, office, services, light industrial, ~~preservation/open space, or public facilities, parkland, or historical resources~~ uses may be developed up to 100% of building floor area within a Mixed-Use property; this will have the intended effect of not requiring a mix of non-residential uses for properties one (1) acre or greater in size. Stand-alone residential uses may comprise up to 20% of ~~building floor site~~ area of a Mixed-Use property one (1) acre or greater in size. Compound use residences are permitted, ~~as discussed further in this policy and also per Policy 1.23 of the Future Land Use Element~~.

Notwithstanding any provisions that may be interpreted to the contrary, Mixed-Use developments approved prior to October 23, 2010 may continue to abide by the development requests granted within their respective adopted development orders or approved site plans. Furthermore, Mixed-Use properties located in the Urban Services Reserve Area require three (3) acres in order to develop a mixed-use project. Mixed Use designated property in the Urban Reserve Services Area less than three acres is limited to a single use that does not generate an estimated flow of more than ~~4,320,880~~ gallons of sewage per acre per day. Estimated flows shall be based on 64E-6.008 Florida Administrative Code, as may be amended.

~~Compound uses may be developed provided both of the following standards are met:~~

- ~~(1) The property must be zoned as Pedestrian Commercial (C-1), Professional Office (P-1), or as one of the mixed use zoning districts as appropriate to allow for compound uses.~~
- ~~(2) They must be developed only as part of a Planned Development Project (PDP), or through specific development standards in mixed use zoning districts~~

Multi-family residential developments within this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

- g.f. Single Family and Multi-Family by PDP: The densities and intensities of use for this category, which is exclusively within the Urban Services Reserve Area, are ~~those established in Future Land Use Element Policies 1.15.a, 1.15.b, 7.4 and 7.7.~~ 4.4 dwelling units per acre for single-family residential uses, 6 units per acre for multi-family residential uses on sites less than 3 acres. Multi-family residential uses for properties between 3 and 19.99 acres have a maximum density of 16 units per acre. Multi-family residential uses for properties greater or equal to 20 acres have a density of 25 dwelling units per acre.

Multi-family residential developments within this future land use map classification

that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

- hg. Natural Resources/Preservation: The areas designated on the Comprehensive Plan's Future Land Use Map for Natural Resources/Preservation primarily consist of State-owned and/or regulated land. Development in these areas is limited to activities to make them accessible to the public for research and/or recreational purposes. Such activities would include accessways, nature trails, informational signs or displays, restroom facilities, picnic tables/shelters, beaches and boat ramps.

Privately-owned properties with this future land use map classification may develop at a density of one dwelling per 20 acres.

- ih. Public Facilities: The majority of the public facilities category consists of schools, public safety buildings, and religious establishments. ~~Each school site designated includes an indication of the type of school: High School (H), Middle School (M), Elementary School (E) and Community College (CC). These designations provide the density/intensity of use anticipated on each site. Similarly, every House of Worship (W) designation establishes a density/intensity of use for the site. Each site designated for House of Worship (W) must contain a minimum of one acre (unless the site is located in the Urban Services Reserve Area, then, consistent with Policy 7.4, a three (3) acre minimum is required).~~ Government offices must conform to the Commercial/Professional densities/intensities of use.

- ji. Parks & Recreation: The densities/intensities of use for various parks and recreational facilities are those established in the Recreation and Open Space Element of this Comprehensive Plan, under the Section entitled "The Plan for Recreation and Open Space in Cape Coral", and the Parks Master Plan."

- kj. Historical Resources: As noted in the Comprehensive Plan, most identified historic resources are located within the Natural Resources/ Preservation land use designation, and are therefore subject to the densities/intensities of use specified in Future Land Use Element Policy 1.13gh.

- hk. Downtown Mixed: Intended primarily for the Downtown Community Redevelopment Area, to provide, a vibrant, walkable, mixed-use district in the historical heart of Cape Coral, mixed-use projects containing commercial and professional uses in conjunction with multi-family housing opportunities where practical and feasible are encouraged. To this end, commercial/professional uses may develop at a maximum Floor Area ratio of four (4) with an average area-wide FAR of two and twenty-three one hundredths (2.23) with commercial/professional uses developed at a ratio of sixty-five (65) percent commercial and thirty-five (35) percent professional, on an area-wide basis. Residential development may develop at a density of ~~forty-seventy-five (4075)~~ dwelling units per acre, not to exceed an aggregate of eleven thousand one hundred forty-six (11,146) dwelling units. In order to maintain these development limits, the City shall track residential and non-residential development within this future land use map classification. No further residential development will be permitted in this future land use classification should dwelling unit limits be reached. If the average area-wide FAR of two and twenty-

three hundredths (2.23) is reached, the City will permit only that nonresidential development with a FAR of 2.23 or below. Development at these intensities and densities are contingent on the availability of centralized city utility services and transportation network at sufficient capacities to accommodate the development at the appropriate level of service, the availability of sufficient and convenient parking to service the project, the availability of multimodal transportation opportunities, and compatibility with adjacent existing and future land use. Special zoning designations may be established to implement this future land use classification, designed to result in a compact urban form.

Zoning districts consistent with the Downtown Mixed future land use map classification are the South Cape Downtown District and the Mixed-Use Bimini Basin zoning district.

- ml. ~~Pine Island Road District: Under this land use designation, at least two distinctive zoning categories will be allowed: Village and Corridor zoning. The Village zone is intended to promote maximum pedestrian friendliness and minimal automobile traffic between residential areas, shopping destinations, a variety of entertainment establishments, and employment opportunities. The Corridor zone designation will be placed on the land located between the Villages and will include larger scale, less pedestrian-oriented uses. This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road. The Pine Island Road District will be defined as the union of two major mixed-use areas defined as follows:~~

~~**Village:** Provides for compact urban centers promoting maximum pedestrian friendliness and minimal automobile traffic between residential areas, shopping destinations, a variety of entertainment establishments, and employment opportunities. It is designed to encourage “park once” decisions for destinations with a mix of commercial, office, multi-family residential and civic uses. The mix of uses may be within the same building, where for example, housing is located above commercial uses such as shops or offices, offices are located over retail, or in a wider perspective where multi-family development abuts commercial or office buildings. Residential uses are encouraged with densities not to exceed 24 dwelling units per acre and commercial uses shall not exceed a floor area ratio (FAR) of 1.25 in accordance with City design standards.~~

~~**Corridor:** The land located between the Villages and iIncludes such uses as; retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), single-family residential, multi-family residential—golf courses, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities. Multi-family residential uses may be developed at a density of twenty-five units per acre, for sites of four acres or more. Multi-family residential uses may consist of no less than fifty units or have a density no less than ten or more units per acre. No duplexes are permitted. Commercial and light manufacturing uses shall not exceed a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities shall be subject to Policy 1.15.hi., of the Future Land Use Element and parks and recreation shall be subject~~

to Policy 1.15.ij. of the Future Land Use Element.

Multi-family residential developments within this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

At build-out, the mix of uses along the Pine Island Road District shall be under the following ranges:

Pine Island Road District. Build-Out Mixed-Use Ranges

RANGE			
Use	Units	From	To
Retail	SF	3,583,500	4,379,700
Office/warehouse/ light manufacturing	SF	1,144,800	1,582,500
Hotels	Rooms	700	790
Residential	Units	3,720	5,030

The criteria to be used for evaluating proposed ~~Village and Corridor~~ zonings in relation to the intent of the City's Comprehensive Plan, the Pine Island Road Master Plan and other planning principles are contained in the following tables:

Village Criteria

CRITERIA	PERFORMANCE
1. Does the property abut an existing zoned and developed village?	If yes, good candidate for Village zoning.
2. Is the property located at one of the following intersections: <ul style="list-style-type: none"> • Del Prado Boulevard • Santa Barbara Boulevard • Surfside Extension • Cultural Park Boulevard • Nicholas Parkway • Burnt Store Road 	If yes, good candidate for Village zoning.
3. Is the access to the property from a signalized intersection on Pine Island Road or at an intersection between the North-South collector and the parallel access road as reflected on the Master Concept Plan?	If yes, good candidate for Village zoning.
4. If the property is not abutting a currently zoned village, is the subject property at least 3 acres in size?	If yes, good candidate for Village zoning.
5. If the property is not abutting a currently zoned village, is the subject parcel at least 400 feet in depth?	If yes, good candidate for Village zoning.
6. If the property is not abutting a currently zoned village, is the subject parcel at least 350 feet wide?	If yes, good candidate for Village zoning.
7. Is the parcel a large scale lot assembly?	If yes, good candidate for Village zoning.

Corridor Criteria

CRITERIA	PERFORMANCE
1. Does the property abut an existing and developed corridor zoned area?	If yes, good candidate for Corridor zoning.
2. Does the property abut corridor-zoned area on two sides or more?	If yes, good candidate for Corridor zoning.
3. Is the property part of a larger tract, a portion of which is already zoned Corridor?	If yes, good candidate for Corridor zoning.
4. Is the proposed corridor development located within any of the areas not designated as village in the Pine Island Road Master Plan? Is the parcel a large-lot assemblage of three or more acres?	If yes, good candidate for Corridor zoning.
5. Can this property be rezoned to Corridor without creating an enclave within the Village zoning?	If yes, good candidate for Corridor zoning.
6. Can this property be rezoned to Corridor without compromising the integrity of the village in which it is located?	If yes, good candidate for Corridor zoning.
75. Does the property front Pine Island Road on at least 180 feet?	If yes, good candidate for Corridor zoning.

mm. **Commercial Activity Center (CAC):** The purpose of this future land use classification is to promote non-residential and mixed-use development at key locations, within close proximity to major corridors throughout the City of Cape Coral in areas where a mix of uses may be developed. The Commercial Activity Center classification is a mixed-use classification designed to minimize the need for vehicle trips through the development of both residential and non-residential uses in a single project. Furthermore, the purpose of the Commercial Activity Center is to integrate all uses through landscape, site, and architectural design standards. In addition, the Commercial Activity Center land use classification is intended to provide locations that offer employment opportunities and daily goods and services to the local community and, in some instances, attract patrons from the region. Commercial Activity Centers are intended to be pedestrian friendly and interconnected with adjacent projects – whether residential or non-residential.

Pre-Existing Single-Family Residences Allowed

It is the desire of the City of Cape Coral to protect the rights of owners of single family homes located within a Commercial Activity Center (CAC), which homes had either:

- a) Been lawfully constructed, or had applied for or received a building permit at their current locations prior to the designation of the subject as part of a CAC future land use classification; or,

- b) Been lawfully constructed, or had applied for or received a building permit at their current locations under a former CAC future land use classification.

In this classification single family residences that meet the criteria stated above may continue to be maintained, remodeled, expanded, or rebuilt, and that the owners of such properties may continue to enjoy all of the rights, privileges and responsibilities of home ownership, including the ability to sell or rent their homes to other parties. In and of themselves, pre-existing single-family residences do not necessarily constitute **Free-Standing Residential** development, unless they otherwise meet the criteria for such development, as discussed under **Use Area Allocations**, below. If pre-existing single-family residences, as defined in this section, are included as part of a larger approved development project, the pre-existing status of the residences is lost, and such residences become subject to the City ~~Land Use and Development Regulations~~Land Development Code regarding non-conforming structures.

Detached Properties

~~Development of duplex and multi-family residential uses in the Commercial Activity Center is permitted for properties that are deemed to be detached, in order to promote compatibility and continuity of existing development. Detached properties are those that share specific features that constitute obstacles to non-residential development, such as physical or topographical constraints, significant residential development patterns in the vicinity, relatively small property area, and lack of viable access to collector or arterial roads. Criteria used to determine whether a property is a detached property shall be defined in the Land Use and Development Regulations.~~

~~If deemed a detached property, the property shall be identified as such in the City's records. Owners of such properties may continue to enjoy all of the rights, privileges, and responsibilities of home ownership, including the ability to sell or rent their homes to other parties. Development of duplex or multi-family uses within detached properties shall be permitted with a maximum density of 16 units per acre.~~

Density, Intensity, and Use Area Allocations

~~As an incentive for land assembly, the allowable densities, intensities, and use area allocations within a Commercial Activity Center vary with the land area within the development project. The land area within a development project is determined by the land area encompassed by a single application for development project approval. A development project approval can consist of one or more properties that are the subject of a single application for development including, but not limited to, a Planned Development Project or Site Plan. Amendment of an approved development project to expand or contract the land area does not alter its status as a single application for development project approval. If an application for development consists of properties that are not contiguous, the application must~~

~~demonstrate that the properties function as a unified development. If the application for development approval is a Planned Development Project that includes a request for vacation of right of way, then that portion of the vacated area of right of way, which would be owned or controlled by the project developer, can be included in the development project size calculation.~~

~~**Density:** In development projects that qualify for residential uses (see below), the baseline residential density shall be 4.4 dwelling units per acre. The baseline density is the maximum density available to projects that are not eligible to receive density exceeding the baseline density, or to projects that are eligible but that do not participate in the Development Incentive Program (DIP) or Transfer of Development Rights (TDR) Program.~~

~~In order to be eligible to receive density exceeding the baseline density through the Transfer of Development Rights (TDR) Program and/or the Development Incentive Program (DIP), a development project within a Commercial Activity Center (CAC) must consist of at least 5 acres of contiguous platted lots, or platted or unplatted tract(s), or any combination thereof.~~

~~If the above criterion has been met, the project becomes eligible to seek density exceeding the baseline density through the TDR Program, the DIP, or a combination of the two programs. To derive density exceeding the baseline density through the TDR Program or DIP, an applicant must complete the processes identified within the City of Cape Coral Land Use and Development Regulations.~~

~~If the applicant for density exceeding the baseline density opts to participate in the City of Cape Coral's Development Incentive Program (DIP), the applicant would be required to contribute to the City of Cape Coral's Public Improvement Fund (PIF) in an amount sufficient to qualify for 25% (or between 25% and 50% for projects that meet the criteria to provide up to 50% of the differential between the baseline and maximum permitted density and/or intensity in any DIP category) of the credit points necessary to attain the density exceeding the baseline density. Such contribution to the PIF category shall be counted as a creditable activity required to support the application for increased density. Administration, collection, and disbursement of monies within the fund are set forth in the Land Use and Development Regulations.~~

~~**Intensity:** The baseline intensity of non-residential uses shall be a Floor Area Ratio (FAR) of 0.5, regardless of the size of the development. The baseline intensity is the maximum intensity available without participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program. Increases above the baseline intensity may be permitted, up to the maximum Floor Area Ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program.~~

Note that, if the CAC project developer is only seeking an intensity increase (and not a density increase), said developer is not subject to the eligibility requirement, as referenced above under **Density**, and is neither required to participate nor prohibited from participation in the Public Improvement Fund (PIF).

Limitations on Density and Intensity within CACs

In the Urban Services Reserve Area, where central water and sewer are not available, residential uses are restricted to 4.4 dwelling units per acre and non-residential uses are limited to uses that do not generate an estimated flow of more than 1,320 gallons of sewage per acre per day. Estimated flows shall be based on 64E-6.008 Florida Administrative Code, as may be amended from time to time.

Use Area Allocations: All land areas within a CAC shall be categorized as one of the three following use areas:

- 1) — Free-standing Non-Residential;
Free-standing non-residential areas include the footprint and land areas associated with buildings that contain no residential units.
- 2) — Free-standing Residential;
Free-standing residential areas include the footprint and land areas associated with buildings that contain residential units and buildings that contain non-residential floor area usage that is less than thirty (30) percent of the building's floor area. In calculating the floor area of the building, the total floor area of the building is the floor area of the building remaining after the area of any structured parking is excluded. Also, any pre-existing single-family residences do not necessarily constitute Free-Standing Residential development, unless such residences otherwise meet the criteria for such development.
- 3) — Compound Use.
Compound use areas include the footprint and land areas associated with compound use buildings that, for the purposes of this section, are defined as buildings with at least thirty percent (30%) of their floor areas allocated to non-residential uses. In calculating the floor area of the building, the total floor area of the building is the floor area of the building remaining after the area of any structured parking is excluded.

The land area that may be allocated to any of the 3 use area allocations varies with the size of the development project, with generally increasing flexibility as a function of the total land area of the development. Densities and intensities associated with any of the three use area categories apply only to the land area of the project that is allocated to that specific use. In determining the land area within any of the three use area allocations, the area of any common areas, including, but not limited to, areas for surface water management, parking, landscaping, and circulation, shall be apportioned among the three use area allocations in the same proportion as the non-common areas relate to the area of the development project, excluding common areas.

Development Projects Less Than 5 Acres in Area

Free-standing Non-Residential:

~~Free-standing non-residential areas are not required but may constitute up to 100 percent of the development project area. Increases above the baseline intensity of 0.5 may be permitted, up to the maximum Floor Area Ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) or Transfer of Development Rights (TDR) Program.~~

Compound Use:

~~Compound Use areas are not required but may constitute up to 100 percent of the development project area. No increases above the baseline density of 4.4 units per acre may be permitted.~~

Freestanding Residential:

~~Free-standing residential areas are not allowed, except on sites identified as a “detached property”.~~

Development Projects 5 acres or larger, but less than 10 acres

Free-standing Non-Residential:

~~Free-standing non-residential areas are not required but may constitute up to 100 percent of a development project area. Increases above the baseline intensity of 0.5 may be permitted, up to the maximum Floor Area Ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) or Transfer of Development Rights (TDR) Program.~~

Compound Use:

~~Compound Use areas are not required but may constitute up to 100 percent of a development project area. Increases above the baseline density of 4.4 units per acre may be permitted, up to the maximum density allowed (10 units per acre), through participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program. To be eligible for densities above the baseline density, the development project must meet the requirements contained under **Density**, above.~~

Freestanding Residential:

~~Free-standing residential areas are not required but may constitute up to 100 percent of a development project area. Only multi-family residential development shall be permitted as freestanding residential.~~

Development Projects 10 acres or larger, but less than 20 acres

Free-standing Non-Residential:

~~Free-standing non-residential areas are not required but may constitute up to 100 percent of a development project area. Increases above the baseline intensity of 0.5 may be permitted, up to the maximum Floor Area Ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) or~~

Transfer of Development Rights (TDR) Program.

~~Compound Use:~~

~~Compound Use areas are not required but may constitute up to 100 percent of a development project area. Increases above the baseline density of 4.4 units per acre may be permitted, up to the maximum density of 16 units per acre. To be eligible for densities above the baseline density, the development project must meet the requirements contained under **Density**, above.~~

~~Freestanding Residential:~~

~~Free-standing residential areas are not required but may constitute up to 100 percent of a development project area. Only multi-family residential development shall be permitted as freestanding residential.~~

Development Projects 20 Acres or Larger

~~Free-standing Non-Residential:~~

~~Free-standing non-residential areas are not required but may constitute up to 100 percent of a development project area. Increases above the baseline intensity of 0.5 may be permitted, up to the maximum Floor Area Ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) or Transfer of Development Rights (TDR) Program.~~

~~Compound Use:~~

~~Compound Use areas are not required but may constitute up to 100 percent of a development project area. Increases above the baseline density of 4.4 units per acre may be permitted, up to the maximum density of 20 units per acre. To be eligible for densities above the baseline density, the development project must meet the requirements contained under **Density**, above.~~

~~Freestanding Residential:~~

~~Free-standing residential areas are not required but may constitute up to 50 percent of a development project area. Only multi-family residential development shall be permitted as freestanding residential.~~

Table of CAC Development Parameters				
	<u>Land Area of Development Project</u>			
	Less than 5 acres in area	5 acres or larger, but less than 10 acres	10 acres or larger, but less than 20 acres	20 or more acres
Free-Standing Non-Residential Area (not including Compound Use)				
Minimum	0%	0%	0%	0%
Maximum	100%	100%	100%	100%
Minimum Intensity	0.5 ²	0.5 ²	0.5 ²	0.5 ²
Maximum Intensity	2.0 ²	2.0 ²	2.0 ²	2.0 ²
Compound Use				
Minimum Area	0%	0%	0%	0%
Maximum Area	100%	100%	100%	100%
Baseline Density (dwelling units(DU)/acre)	4.4	4.4 ^{1,3}	4.4 ^{1,3}	4.4 ^{1,3}
Maximum Density DU/acre)	Not allowed	10.0 ^{1,3}	16 ^{1,3}	20.0 ^{1,3}
Free-Standing Residential				
Minimum Area	0%	0%	0%	0%
Maximum Area	100% ^a	100%	100%	50%
Maximum Density (DU/acre)	16 ^a	16 ³	16 ³	16 ³

1— Increases in density above the baseline density are permitted only through participation in the Development Incentive Program (DIP) and/or the City's Transfer of Development Rights (TDR) program, as described under **Density**, above.

2— Increases above the baseline intensity of 0.5 may be permitted, up to the maximum Floor Area Ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) /or Transfer of Development Rights (TDR) Program.

3— In the Urban Services Reserve Area, where central water and sewer are not available, residential uses are restricted to 4.4 dwelling units per acre and non-residential uses are limited to uses that do not generate an estimated flow of more than 1,320 gallons of sewage per acre per day. Estimated flows shall be based on 64E-6.008 Florida Administrative Code, as may be amended from time to time.

^a— Detached Properties only.

The City has adopted the ~~Marketplace Residential~~ Neighborhood Commercial (MRNC) zoning district as consistent with the Commercial Activity Center Future Land Use Classification. Additional zoning districts may be developed in the future to implement this land use initiative.

Multi-family residential developments within this future land use map classification that consist of 25-50% workforce or affordable housing, as determined by staff, may have their allowable densities doubled.

~~Although, the Pedestrian Commercial (C-1) and Professional Office (P-1) zoning districts were formerly considered to be consistent with, but generally discouraged within, the Commercial Activity Center future land use classification, these zoning districts are currently considered to be inconsistent with the CAC Future Land Use Classification.~~

- ~~o. Low Density Residential I: This land use classification allows for a maximum density of one (1) dwelling unit per 20,000 square feet, excluding right-of-way.~~
- ~~np. Low Density Residential II: This land use classification allows for a maximum density of one (1) dwelling unit per 40,000 square feet, excluding right-of-way.~~
- ~~q. Mixed Use Preserve District (MUP): The purpose of this future land use classification is to promote non-residential and mixed-use development intended to create additional employment opportunities while requiring preservation and open space standards that would protect significant environmental resources on or near the property. Because of differing characteristics of properties within the MUP, five different classes are established that provide the allowable uses within each class. Four of these five classes are Urban classifications, and the fifth class is a Conservation classification. Within each Urban class, sub-designations, referred to as types, are established that provide the proportions of the allowable non-residential and residential uses. The differing characteristics of properties include environmentally sensitive areas on or near the property, land use, development and environmental objectives for a given area, the potential for connectivity to the surrounding major road network, the relative size of the property, the nature of surrounding uses, and the capacity of infrastructure to serve the properties. Every property with a Mixed Use Preserve designation will also have a class and a type designation, with the exception of the Conservation class. Conservation areas are designated within the MUP as a separate classification, and permit low density residential uses, although such uses must be transferred to uplands unless there is a judicial determination that not allowing such development would constitute a "taking."~~

~~Properties located within any of the MUP classification types can only be developed as a Planned Development Project (PDP), as detailed in the Cape Coral Land Development Regulations. Clustering of development areas is required in order to preserve, to the greatest extent practicable, the natural features of the property being developed. Single-family detached subdivision-style residential development is not permitted in the Mixed Use Preserve north of Pine Island Road, although a single~~

family residence may be permitted in those limited circumstances necessary to avoid a taking.

1. URBAN MUP CLASSES: ~~The mix of uses permitted in the four urban MUP classes is as follows:~~

- ~~a. Class I includes residential with an average density of 1 dwelling unit per acre. To promote clustered residential development in the Mixed Use Preserve, densities up to 8.8 dwelling units per acre may be obtained so long as the average density of the residential portion of this Mixed Use Preserve Class and Type is not infringed; commercial, professional, recreational, and public facilities may be developed in accordance with the table below and the Design Standards Within The MUP provided in Section 3.~~
 - ~~b. Class II includes residential with an average density of 4.4 dwelling units per acre. To promote clustered residential development in the Mixed Use Preserve, densities up to 16 dwelling units per acre may be obtained so long as the average density of the residential portion of this Mixed Use Preserve Class and Type is not infringed; commercial, professional, recreational, and public facilities may be developed in accordance with the table below and the Design Standards Within The MUP provided in Section 3.~~
 - ~~c. Class III includes residential with an average density of 4.4 dwelling units per acre. To promote clustered residential development in the Mixed Use Preserve, densities up to 16 dwelling units per acre may be obtained, so long as the average density of the residential portion of this Mixed Use Preserve Class and Type is not infringed; commercial, professional, recreational, public facilities, and light industrial (excluding manufacturing) may be developed in accordance with the table below and the Design Standards Within The MUP provided in Section 3.~~
 - ~~d. Class IV includes residential with an average density of 4.4 dwelling units per acre. To promote clustered residential development in the Mixed Use Preserve, densities up to 16 dwelling units per acre may be obtained so long as the average density of the residential portion of this Mixed Use Preserve Class and Type is not infringed; commercial, professional, recreational, public facilities, and industrial (including manufacturing) may be developed in accordance with the table below and the Design Standards Within the MUP provided in Section 3.~~
-

Class	TYPE	Percentage of Non-Residential:	Percentage of Residential:
I	Type A	10-40	60-90
I	Type B	20-60	40-80
II	Type A	10-40	60-90
II	Type B	20-60	40-80
II	Type C	70-100	0-30
II	Type D	80-100	0-20
III	Type C	70-100	0-30
III	Type D	80-100	0-20
IV	Type C	70-100	0-30
IV	Type D	80-100	0-20

The type designations within the table above specify the percentage of non-residential and residential uses. Percentages will be determined by a calculation of the acreage within a single development. Compound use developments will be considered non-residential for the purposes of Mixed Use Preserve Type percentage calculation. Dwelling units located within a compound use development within the Mixed Use Preserve, however, will still count towards the residential dwelling unit density cap produced by the development's Mixed Use Preserve Type. In order to facilitate design flexibility, lands included within a unified plan of development as part of a PDP that are located within a combination of Mixed Use Preserve Classes II, III, or IV but are within the same Mixed Use Preserve Type may aggregate their allowable residential density and utilize it within the project boundary, provided the overall average density of 4.4 dwelling units per acre for the residential portion of the PDP development plan is not exceeded. Class I properties, regardless of type, are not subject to this permitted density aggregation, as are any properties of differing Types, regardless of Mixed Use Preserve Class. The non-residential uses permitted under the Mixed Use Preserve Classes will be strictly applied to the Mixed Use Preserve Class boundaries. Single family detached subdivision style development is not permitted within the Mixed Use Preserve north of Pine Island Road, although a single family residence may be permitted in those limited circumstances necessary to avoid a taking; residential uses will be clustered into mixed use areas or buildings, multi-family or attached units, residential components of a compound use building or new urbanist development intended to serve as an adjunct to the development of employment and emphasizing mobility options for residents.

Average non-residential intensities for all MUP Classes, (except Conservation) located north of Pine Island Road (SR 78) are 0.25 FAR. Maximum intensities up to 2.0 FAR may be permitted for any given portion of a contiguous non-residential Mixed Use Preserve area so long as the overall average intensities of the non-residential area of 0.25 FAR are not abridged. South of Pine Island Road, the maximum FAR for Mixed Use Preserve properties of all classes, except Conservation, is 2.0.

A development project within the Mixed Use Preserve will be permitted to exceed the

average and maximum densities and intensities specified above under the following limited circumstances:

1. ~~Residential units are transferred from wetlands within the Mixed Use Preserve Conservation classification pursuant to Policy 1.15.q.2.b.ii below; or~~
2. ~~Residential units or non-residential intensity is transferred from isolated uplands within the Mixed Use Preserve Conservation classification pursuant to Policy 1.15.q.2.b.iii below; or~~
3. ~~Residential units or non-residential intensity is transferred from uplands adjacent to the Mixed Use Preserve Conservation classification pursuant to Policy 1.15.q.2.b.vi below.~~

2. MUP CONSERVATION: ~~The following language pertains to the fifth Mixed Use Preserve classification, one that permits limited development opportunities, the Conservation (CONS) class:~~

a. Description of MUP Conservation: ~~Lands within the MUP that are classified as Conservation (CONS) designate property that has been determined by the City to have significant environmental and natural resources that will be protected from the impacts of development. Utilizing an environmental/land use planning approach based upon significant field work and review of existing environmental data, these lands have been identified as having significant natural features on-site, including wetlands, isolated uplands, and flow ways. The classification of lands as MUP Conservation is based upon the goal of preserving large intact areas of functional wetlands, suitable protected species habitat, and intact flowways through the Mixed Use Preserve areas. Those areas that are currently identifiable as functional wetlands of higher quality, suitable protected species habitat, and intact flowways have been identified and mapped as part of the data and analysis accompanying the designation of Mixed Use Preserve properties and have been shown as Conservation on the Future Land Use Map. High quality wetland determination at the future land use map amendment application stage will be based on:~~

- 1.) Wetland type;
- 2.) Wetland function;
- 3.) Wetland quality;
- 4.) Size;
- 5.) Uniqueness;
- 6.) Demonstrated habitat values;
- 7.) Connection to larger wetland systems; and
- 8.) Potential for isolation by being surrounded by development and site plan needs.

The emphasis on the preservation, enhancement, and maintenance of habitat values for these areas will be the guiding principles for evaluation of development options on adjoining and proximate MUP lands as part of the required PDP process. The preservation of these areas will facilitate the maintenance and enhancement of wetland and isolated upland functions and habitat values on the property. The MUP Conservation areas shown on the Future Land Use Map may not be altered, changed, or amended except through the plan amendment process. However, additional lands that are later determined to meet the criteria established herein during the PDP process will be added to the MUP Conservation classification as provided below.

b. Uses within the MUP Conservation Class: Uses with the MUP Conservation will be subject to the following policies:

- i. Non-residential development; with the exception of the limited passive recreational uses and utility or roadway crossings described herein; is not permitted.
- ii. Residential development is permitted at a density of one dwelling unit per 20 acres for wetlands, and must be located on uplands in other Mixed Use Preserve classes or other future land use classifications that can receive transferred dwelling units. The only exception to this requirement is in those limited circumstances where construction within the Conservation class is necessary to avoid a taking of private property. Examples of these limited circumstances include, but are not limited to, situations in which permitted dwelling units may not be transferred due to a lack of uplands, where Conservation properties are not adjacent to a land use classification that permits the transfer of dwelling units, or where Conservation properties are adjacent to land use classifications that can receive transferred dwelling units, but are at maximum density. If density from conservation lands is to be located on uplands, the entire property must be developed as a PDP, and the conservation lands must be dedicated, in perpetuity, for conservation purposes.

iii. ~~In addition to wetlands, uplands including isolated uplands are also included within the Conservation classification and are shown on the Future Land Use Map. Isolated uplands are uplands areas that are surrounded by wetlands and would necessitate significant wetland impacts in order to obtain access for development. These isolated upland areas cannot be developed, except when and to the minimum extent necessary to avoid a "taking." Development in these limited circumstances is limited to one dwelling unit per 20 acres. However, densities and intensities from upland areas will be transferred to other upland areas, at the density and intensity of the receiving area's Mixed Use Preserve class and type, within the Mixed Use Preserve as part of the PDP process. If density or intensity from these Mixed Use Preserve Conservation upland areas is transferred to other upland areas pursuant to this policy, the entire property must be developed as a PDP, and the isolated uplands from which the density or intensity is transferred must be dedicated, in perpetuity, for conservation purposes. Any future land use map amendment that incorporates upland Conservation lands must identify the upland (including isolated upland) acreage in the accompanying case report and support the amount of acreage with appropriate data and analysis.~~

iv. ~~Public uses, in the form of designated roadway crossings shown on the Future Land Use Map and utility connections, may be located in the MUP Conservation areas, but must be consistent with the development standards provided below and with the Conservation and Coastal Management Element.~~

v. ~~Passive conservation uses consistent with the environmental sensitivity of these lands, such as boardwalks, nature trails, or other similar passive recreation uses, are permitted.~~

vi. ~~In order to further promote protection of Mixed Use Preserve Conservation areas, the residential density and non residential intensity of lands immediately adjacent to MUP Conservation areas may be transferred to developable uplands within the MUP at the underlying density and intensity of the receiving area's MUP class and type. Such transfers must be approved by a development agreement or other binding written agreement with the affected landowners, and implemented through the PDP process.~~

e. ~~*Development Standards Within the MUP Conservation Class.* Conservation land within the Mixed Use Preserve must incorporate the following standards during the PDP process:~~

i. ~~Public utilities including poles, lines, and/or pipes shall be subject to all applicable federal and state regulations relating to environmentally sensitive lands and permitted based on the South Florida Water Management District's standards for practical avoidance.~~

ii. ~~Roadway crossings of MUP Conservation lands will be limited to those crossings shown on the Future Land Use Map. Any such crossing must preserve the overall water quantity, water quality, water speed, and other related characteristics of the slough or flow way to be crossed, and be designed as a bridge.~~

~~iii. All flow way and floodway corridors within the Mixed Use Preserve shall be identified as conservation or preservation lands on the PDP plans, and will be protected from development. These corridors are identified as the channels of a stream, marsh, or wetland system, plus any other floodplain area which serves as a corridor for watershed sheet flow.~~

~~d. *Additional Conservation Lands.* As noted above, the MUP Conservation lands shown on the Future Land Use Map do not necessarily include all jurisdictional wetlands within the Mixed Use Preserve, and other lands may be added to the MUP Conservation class as part of the PDP process. Furthermore, lands identified as MUP Conservation as part of the PDP process will be identified and protected within the PDP development order. Evaluation of other wetlands and proposed wetland impacts within the MUP will be conducted in accordance with the following policies:~~

~~i. Determination of the wetland boundaries will be consistent with the applicable adopted State methodology and jurisdictional determinations made by the South Florida Water Management District (SFWMD) or Florida Department of Environmental Protection (DEP), as applicable, utilizing the unified state delineation methodology described in F.A.C. Chapter 17 340, as ratified and amended by Section 373.4211, Fla. Stat.. The City does not anticipate the necessity of an independent review of these boundaries.~~

~~ii. Wetlands not previously classified and mapped as Conservation lands in the Mixed Use Preserve will be evaluated during the PDP process. Practicable design modifications will not be mandated when the overall ecological value and quality of the wetland is low, based on:~~

- ~~1.) Wetland type;~~
- ~~2.) Wetland function;~~
- ~~3.) Wetland quality;~~
- ~~4.) Size;~~
- ~~5.) Uniqueness;~~
- ~~6.) Demonstrated habitat values;~~
- ~~7.) Connection to larger wetland systems; and~~
- ~~8.) Potential for isolation by being surrounded by development and site plan needs.~~

~~iii. Additionally, when isolated wetlands are less than 5 acres in size and would be surrounded by developable land, designation of the isolated wetland as Mixed Use Preserve Conservation and practicable design modifications may not be required.~~

~~iv. For wetlands that are determined to be of medium to high quality pursuant to subpolicy d.ii. above, development design will be required to avoid and minimize wetland impacts. Design modifications will be required to achieve such avoidance and minimization to the greatest extent practicable. The following factors will be utilized by the City during the PDP process to evaluate the extent to which design~~

modifications will be required to avoid and minimize such wetland impacts:

- 1.) ~~Uniform Mitigation Assessment Method (UMAM) analysis;~~
- 2.) ~~Condition of wetlands;~~
- 3.) ~~Uniqueness of wetlands;~~
- 4.) ~~Location of wetlands and habitat interconnectedness potential;~~
- 5.) ~~Hydrologic connections and potential connections;~~
- 6.) ~~Observed fish and wildlife utilization and habitat value; and~~
- 7.) ~~Whether the proposed mitigation will provide greater long term ecological value than the wetland to be impacted.~~

v. ~~Medium to high quality wetland areas identified for preservation or conservation as part of the PDP process will be identified as MUP Conservation on the PDP plan. The City will incorporate these additional MUP Conservation lands into the Future Land Use Map during the next available plan amendment cycle.~~

e. ~~*Implementing Land Use and Development Regulations.* The City's wetlands protection regulations in the areas designated as MUP will be consistent with the following, regardless of whether such areas are classified or suitable to be classified as Mixed Use Preserve Conservation:~~

- i. ~~In accordance with F.S. 163.3184(6)(c), the City will not undertake an independent review of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption.~~
- ii. ~~No development in wetlands regulated by the State of Florida will be permitted by the City without the appropriate state agency or South Florida Water Management District permit or authorization.~~
- iii. ~~The City will incorporate the terms and conditions of state permits into city permits and will prosecute violations of state regulations and permit conditions through its code enforcement procedures.~~
- iv. ~~Every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques. On or off site mitigation will be permitted in accordance with applicable state standards.~~
- v. ~~Mitigation banks and their issuance and use of mitigation bank credits will be permitted to the extent authorized by applicable state statutes.~~

3. DESIGN STANDARDS WITHIN THE MUP: ~~The following design elements will be required for all development taking place within the Mixed Use Preserve:~~

~~*a. Surface Water Management.* For development within the Mixed Use Preserve, the City will support surface water management design strategies that rely on natural features such as flow ways, sloughs, strands, and other natural systems to receive and otherwise manage storm and surface water consistent with applicable regulations, adopted environmental criteria, and accepted engineering practices. Mixed Use Preserve developments must have and maintain an adequate surface water management system, make provision for acceptable programs for operation and maintenance, and demonstrate post-development runoff conditions which reflect the natural surface water flow in terms of rate, direction, quality, hydroperiod, and drainage basin. Pre-development run-off water quantity must not be exceeded in the post-development situation; post-development water quality must not degrade water quality below pre-development standards. If monitoring is required to establish pre- and post-development quantity and quality standards, the City will require submittal of such data as part of the application process for development permits. The following specific standards will be implemented during the PDP and subsequent permitting processes:~~

- ~~i. Best management practices for stormwater systems including, but not limited to, filtration marshes, grassed swales planted with native vegetation, retention/detention lakes with enlarged littoral zones, preserved or restored wetlands, and meandering flow ways;~~
- ~~ii. Design of surface water management systems will incorporate existing wetland systems to the greatest extent practicable;~~
- ~~iii. Preservation of existing natural flow ways and the restoration of historic natural flow ways where practicable;~~
- ~~iv. Preservation of natural functions of significant natural systems;~~
- ~~v. Coordination in the review of flow ways with regulatory agencies charged with implementation of regional surface water management systems that address flood protection, water quality, environmental enhancement and water conservation;~~
- ~~vi. Natural water system features which are essential for retention, detention, purification, runoff, recharge, and maintenance of stream flows and groundwater levels shall be identified, protected, and managed;~~
- ~~vii. Artificial drainage systems must not channel runoff directly into natural waterbodies.~~
- ~~viii. Mixed Use Preserve development must not degrade surface and ground water quality.~~
- ~~ix. No garbage or untreated sewage will be discharged into coastal and interior surface waters.~~
- ~~x. For those areas that drain to the Gator Slough, or other important surface water bodies as determined through a PDP process, a surface water management plan~~

is required that is consistent with the functional capacity of the Gator Slough or other water system and consistent with the Charlotte Harbor Management Plan.

b. Landscaping, Exotic Removal, and Irrigation:

- i. ~~Xeriscape landscaping techniques, low impact development (LID) practices and native vegetation will be used to the greatest extent practicable;~~
- ii. ~~Provision will be made for the elimination of exotic and invasive species of vegetation.~~
- iii. ~~Unpermitted or improperly constructed wells will either be permitted and re-constructed to applicable standards or plugged.~~
- iv. ~~Irrigation will be provided by reclaimed water, to the extent it is available.~~

e. Design Considerations for Protection of Adjacent State Owned Lands. ~~In some instances, lands owned by the State as wildlife management areas are adjacent or proximate to Mixed Use Preserve lands north of Pine Island Road. These lands are known generally as the Yucca Pens Preserve. While these state owned lands are outside of the City's boundaries and, therefore, cannot be directly addressed by its comprehensive plan, prudent land use planning requires that the City should coordinate development efforts with preservation activities undertaken by the State or other public, quasi-public, and private agencies. Accordingly, for MUP areas north of Pine Island Road, in order to ensure compatibility and protection of state owned lands adjacent or proximate to MUP lands, the following specific design standards will be implemented during the PDP process and in subsequent permitting:~~

- i. ~~In order to protect the Yucca Pens from the effects of nearby development, all impervious surface areas shall maintain a minimum 25 foot setback within the Mixed Use Preserve for those areas adjacent to a city residential or county non-urban future land use classification at the time of development. This buffer is supplemental to all other buffers described elsewhere within this policy. Specifically, the three tiered buffer described in Policy 1.15.q.3.h. below is applicable wherever development of the MUP abuts state owned preservation land.~~
- ii. ~~Design standards intended to address the need for wildland fuel management and controlled burning will be implemented, as follows.~~

~~The National Fire Protection Association (NFPA) has established NFPA 299, *Standard for Protection of Life and Property from Wildfire*. Section 3-3.2 of this standard requires tree and brush clearance for a distance that will prevent ignition of either the structure or vegetation, should the other burn. Development design will be consistent with all applicable NFPA standards in general, and with this standard in particular.~~

- ~~Vegetation constituting a fire hazard within 30 feet of the structure must be mowed to four inches or less and ground litter removed~~

annually. This is not intended to prohibit ornamental landscaping efforts insofar as fire suppression and structure protection can be accomplished through other demonstrated means.

- ~~All development permitted in this area will require notification to owners that controlled burns are to be expected and that smoke is to be anticipated from such burns.~~
- ~~All development permits for property adjacent to areas in which wildland fuel reduction and/or controlled burns are to be expected must prepare a plan for additional firebreaks, setbacks, or other design elements that demonstrate compliance with the need to protect life and property while also recognizing the need for controlling fuel in wildland habitat.~~

iii. ~~All residential development will be required to provide to future residents notice in the form of deed restrictions regarding the dangers to preservation lands represented by free-roaming domestic animals, exotic species of flora and fauna, and the need for controlling such threats to wildlands.~~

iv. ~~Consistent with the Yucca Pens Preserve management plan, development design will: 1.) design stormwater management systems to mimic the conditions of historic, pre-development surface water flows; 2.) encourage ditch plugging or backfilling to stop the altered conveyance of water, allowing water to stay on site longer through sheet flow; 3.) remove and control exotic plant infestations on site; 4.) repair damage to lands from historical recreational uses and secure development tracts from unauthorized access; and 5.) recognize the necessity for prescribed burn events in proximate preserve lands.~~

d. ~~*Mix of Non Residential Uses.* Overall development intensity will be calculated on a Class and Type basis by land use to ensure that the goal of creating employment opportunities is met. Based upon a forecast build-out employment profile, industrial uses in the MUP area north of Pine Island Road will account for 15% to 32% of the non-residential uses, retail and service uses will account for 15% to 38% of the non-residential uses, and office uses will account for 30% to 70% of the non-residential uses. Development requests will be required to demonstrate compliance with these intensity ranges.~~

e. ~~*Roadways and Utilities.* The following policies relative to roadway and utilities will be applicable to MUP lands north of Pine Island Road:~~

i. ~~Development approvals will be limited through 2015 to a maximum of 145,000 square feet of industrial, 205,000 square feet of office, 150,000 square feet of retail and service uses, and 85 dwelling units (or its functional equivalent in trip generation), unless a definitive funding commitment and CIE amendment is approved that provides for the construction of at least two lanes of a collector or arterial roadway connecting US 41 with Durden Parkway~~

ii. ~~Development proposals within the MUP will analyze the impact of such development on US 41. After 2015, the City will not allow development in excess of the amount specified in subparagraph i. above if such development is projected to cause any segment of US 41 between the Charlotte County line and Del Prado Boulevard to fail, unless at least two lanes of a collector or arterial roadway have been constructed connecting US 41 with Durden Parkway.~~

iii. ~~In accordance with Objective 2 of the City's Intergovernmental Coordination Element, all development applications will be forwarded to the Lee County Department of Transportation (LDOT) and Florida Department of Transportation (FDOT) requesting review and comment regarding impacts to non-City roads as part of the PDP process. Notice of any hearing pertaining to such development applications will be provided to LDOT and FDOT.~~

iv. ~~The City will submit a copy of any application meeting the requirements of Section 380.06(29)(f), F.S., and any proposed development order issued pursuant to such application, to the State land planning agency and Lee County, requesting review and comment. Notice of any hearing pertaining to such development application will be provided to these agencies.~~

v. ~~Consistent with the requirements of Policies 2.1.4, 2.1.5, 2.1.8, and 2.1.9 of the Transportation Element, the City will review and mandate efficient bicycle and pedestrian movement as part of the PDP and subsequent development review processes.~~

vi. ~~During the PDP and subsequent development review processes, the City will review and promote coordination with the extension of LeeTran local or express transit service within the MUP, and consistent with Policy 2.2.10 of the Transportation Element will specifically evaluate and, when necessary, mandate efforts to establish park-and-ride facilities.~~

vii. ~~Development designs for MUP properties will be required to promote alternative modes of transportation in an effort to provide a safe and efficient multi-modal system, providing for the potential reduction of individual passenger vehicle travel. Development design will include provision for transit, bicycle, and pedestrian features, intra-development and interdevelopment connectivity intra-city and intercity connectivity, encouragement of ride-sharing, consideration of off-peak working hours, and other strategies for trip reductions as may be appropriate.~~

viii. ~~It is recognized that the provision of sufficient public facilities to meet projected public demand and development impacts, as they are needed and as determined by the adopted level of service standards within this Plan, are an integral part of providing the basis for new employment centers within the City of Cape Coral. For that reason, new developments requiring central utility services shall not commence until there is adequate urban service capacity in accordance with the adopted level of service standards found within this Plan. In addition, in reference to development within the MUP, the City will analyze and adopt, not later than December 1, 2011,~~

~~an amendment to the Capital Improvement Plan that would provide an analysis and extension schedule for transportation and utility capital improvements and related infrastructure to service the growth of employment development in the area. Infrastructure extension may involve the establishment of interlocal agreements for service, service agreements with other utilities, privately financed service extensions, or other guaranteed mechanisms intended to provide the necessary infrastructure coincidental with demand.~~

~~*f. Protection of Existing Adjacent Residential.* Specific protections will be provided to existing residential uses within the unincorporated portion of the County. These protections will be provided through the PDP, or successive development permitting process, in order to ensure compatibility between residential uses outside the Mixed Use Preserve and non-residential uses within the MUP. These protections will be applied to any MUP lands that abut existing residential development within the County, and are expressly applicable to the eastern boundary of Section 7, Township 43 South, Range 24 East. To promote compatibility between these uses, a minimum 100-foot edge protection area will be established during the development order process within which:~~

- ~~i. Height will be limited to a maximum of 35 feet;~~
- ~~ii. The 25 foot setback for impervious surfaces described above will be provided;~~
- ~~iii. An opaque vegetated or structural screen will be provided;~~
- ~~iv. Industrial uses and open storage areas are prohibited;~~
- ~~v. Through roads are prohibited; and~~
- ~~vi. Appropriate lighting standards designed for protecting abutting residential uses will be implemented.~~

~~*g. Open Space:* Within the MUP, every development must provide open space. The amount of open space required is determined by a function of the uses within the development.~~

- ~~i. At least 50% of lands approved for development of residential uses (excluding compound uses) shall be maintained and/or developed as open space.~~
- ~~ii. At least 30% of lands approved for development of retail, office, compound use, or industrial uses within the MUP shall be maintained and/or developed as open space.~~
- ~~iii. If a development includes a golf course, fairways can account for no more than fifty percent (50%) of the open space of any development area within the MUP.~~
- ~~iv. Open Space includes preserved natural areas, buffers, lakes, parks, golf courses (to the extent provided above), nature trails, retention areas, conservation areas, scenic resources, green belts, wetlands, and associated areas.~~

~~v. The design of the functional open space area must incorporate the following design features:~~

~~Uses including, but not limited to, picnic areas, trails, benches, boardwalks, golf courses, water management systems, biking/jogging/equestrian trails/vita courses, bird viewing blinds/towers and interpretative facilities may be allowed within functional open areas;~~

~~The open spaces within a development site within the MUP must be cleared of exotic, non native vegetation, so long as any necessary State or Federal permits can be obtained, and replanted with native vegetation as part of the PDP plan, consistent with the requirements of the land development regulations;~~

~~Plant material used for revegetation must conform to the standards for Florida Number 1, or better as given in Grades and Standards for Nursery Plants 1973, and Grades and Standards for Nursery Plants, Part II, Florida Department of Agriculture and Consumer Services Tallahassee;~~

~~Australian Pine, cajuput, Brazilian pepper, downy rose myrtle, Cuban laurel, melaleuca, bishopwood, castor bean, common papaya, common snakeplant, day Jessamine, hunters robe, Queensland umbrella tree and trailing wedelia may not be used as part of the revegetation of the property after development; and~~

~~The vegetation that surrounds, or is within the open space areas should have the capacity to provide habitat for a diversity of wildlife.~~

~~h. *Mandatory Buffers for Protection of Natural Areas.* Development within the MUP must provide a buffer to protect adjacent natural areas from the impacts of development. This buffer is expressly applicable to Mixed Use Preserve lands that abut conservation lands owned by any governmental agency or by any private entity. The purpose of the buffer, as described below, is to protect adjacent natural resources from the activities and impacts of development on the property. Buffers may be included in the open space calculations for a development and must be located outside of the Conservation class of the Mixed Use Preserve. All development must incorporate buffers, as follows, in three zones:~~

~~i. Zone 1 must be a minimum of 50 feet wide and must extend completely along all boundaries of areas deemed to be ecologically sensitive on a given tract or development site. The buffer will consist of selected native upland forest plant species such as south Florida slash pine, live oak, laurel oak, and saw palmetto. Selected species must be tolerant of drought conditions, and must not require fertilizers and pesticides to promote growth and survival. Exotic plant species must be controlled by the periodic application of herbicides and mechanical removal. Wetland forest species must be used in situations where wetland functions remain on the property and where soil and moisture conditions are suitable. Zone 1 may incorporate the existing water management reservoirs as necessary, and may not~~

~~require additional buffering beyond the reservoirs themselves and shoreline/littoral plantings as necessary to maintain the ecologically viable health of the wetland/retention system. No structures may be erected in Zone 1 other than those associated with passive recreation such as hiking, bird watching, and nature study, such as boardwalks, railings, etc. for access to the Zone 1 areas. Construction of lakes in Zone 1 may be allowed. Existing berms and ditches are allowed to remain in Zone 1.~~

~~ii. Zone 2 is adjacent to Zone 1 and must encompass an area that is at least 35 feet wide. The area must be free of lights and other structures such as fences, pools, and sheds. The permanent placement of generators, pumps, and other fixed motors is prohibited. Lot areas may extend into Zone 2, but no portion of a structure may extend into this zone. If individual lots are incorporated into this zone, those portions of yard acreage must be planted and maintained in a fashion similar to that proposed for Buffer Zone 1. Passive recreation such as hiking, jogging, biking, and walking will be allowed along designated trails and boardwalk systems. Golf courses and lakes may extend into this zone, but may not incorporate lights or structures other than drainage structures and cart paths. All golf course acreage in Zone 2 must be free of lights and structures, and the use of golf carts will be permitted. If water, sewer, or electrical lines are placed in Zone 2, they must be buried.~~

~~iii. Zone 3 is adjacent to Zone 2 and may consist of utilities, lots, accessory, structures, and other infrastructure development in a 25-foot wide band. Exterior lighting in this zone may not project toward adjacent preserve land. Measures such as directional lighting, reduced height light supports and other light abatement technology must be used. The buffer zones will not preclude governmental entities from constructing public roadways.~~

OF. OPEN SPACE (OS): The Open Space Future Land Use Classification is designed to designate, with the consent of the property owner, areas for purposes or activities having no dwelling units, non-residential floor area or demand for public facilities. Areas suitable for designation under this classification include, but are not limited to, the following: lakes or other waterways not platted as rights-of-way, which may be used for recreational purposes; stormwater treatment facilities; buffer areas; preserves or conservation areas; or recreation areas having no access except by owners, guests or employees of the surrounding development project. Areas included within this future land use classification used for recreation may have amenities, including, but not limited to, boat ramps, piers, docks, open-sided picnic shelters, gazebos or pavilions. Floor areas of any such structures shall not be considered as non-residential floor area, and may not be used to support the sale or rental of any items; nor may such structures be used for office or administrative purposes. No commercial use shall be made for any recreational facilities located within the Open Space Future Land Use Classification.

Paving of areas within this future land use classification shall be limited to the construction of foot paths and floors for open-sided shelters or pavilions, basketball, tennis or other recreational courts (however, no such courts shall have associated spectator seating or administrative/maintenance structures), as well as paving

associated with minimal parking areas, boat ramps, piers, docks, open-sided picnic shelters, gazebos or pavilions. Lands or areas within this future land use classification shall not be used as parking for residential, commercial or industrial areas, although minimal onsite parking, including an access drive, may be allowed to facilitate recreational use of lands under this future land use classification, or to serve as parking for nearby properties that are within the Natural Resources/Preservation Future Land Use Classification.

All zoning districts are considered compatible with this future land use classification. However, this future land use classification allows only those activities that are consistent with this classification, as delineated above, and, which have no associated density, intensity, or demand for public facilities.

- p. Sub-Districts: In addition to the regulations listed above, the City of Cape Coral also has sub-districts, as a means to efficiently regulate development in particular areas of interest. These sub-districts include:

Tyson Shores Sub-District

Within the Tyson Shores Sub-District, development shall be limited to a maximum of 115 dwelling units. All property within the Tyson Shores Sub-District shall be entitled to a proportional share of the 115 dwelling units; however, the development rights may be transferred among any properties within the Tyson Shores Sub-District through mutual agreement of the affected property owners, as long as the density is consistent with all ~~Land Use and Development Regulations~~Land Development Code and other provisions of this Plan. This limitation may be amended when central water and sewer service is available to serve the site.

Judd Creek Sub-District

Within the Judd Creek Sub-District, development shall not exceed ~~40-16~~ dwelling units per acre on lands with a future land use map designation of Multi-Family. The number of multi-family residential dwelling units cannot exceed 1,160 units. Non-residential intensity on lands with a future land use map designation of Pine Island Road District shall not exceed 250,000 square feet of gross leasable floor area. All lands within the Judd Creek Sub-District with a future land use map designation of Pine Island Road District shall be entitled to a proportional share of the 250,000 square feet of gross leasable floor area; however, the development rights may be transferred among any properties within the Judd Creek Sub-District with a future land use map designation of Pine Island Road District through mutual agreement of the affected property owners, as long as the intensity is consistent with all ~~Land Use and Development Regulations~~Land Development Code and other provisions of this Plan. These limitations may be amended in the event that roadway network improvements are made that would allow development beyond these limitations without degradation of roadway level of service below the adopted level of service.

Paradise Preserve Sub-District

Within the Paradise Preserve Sub-District, development shall be limited to a maximum of 420 dwelling units. All property within the Paradise Preserve Sub-District shall be entitled to a proportional share of the 420 dwelling units; however, the development rights may be transferred among any properties within the Paradise Preserve Sub-District through mutual agreement of the affected property owners, as long as the density is consistent with all ~~Land Use and Development Regulations~~ Land Development Code and other provisions of this Plan.

Seven Islands Sub-District

Within the Seven Islands Sub-District, development shall be limited to a maximum of 995 dwelling units and 110,000 square feet of non-residential development. A hotel of no more than 240 rooms is also permitted in addition to the aforementioned non-residential square footage. Development rights within the Sub-District may be transferred among any properties within the Seven Islands Sub-District through mutual agreement of the property owners.

This Sub-District shall be placed within the Mixed-Use future land use map classification but is not subject to Mixed-Use future land use map classification baseline densities and intensities found within Policy 1.15.e and Policy 1.23. Mixed use development is required within the Seven Islands Sub-District. Development within the Seven Islands Sub-District shall not require a PDP.

The location of the Sub-District is legally described as:

Parcels of land lying in Sections 12 and 13, Section 44 South, Range 22 East, Lee County, Florida; and being more particularly described as follows:

All of Lots 12 through 17, Block 6400;
All of Tract "G" and all of Lots 1 through 5, Block 6401;
All of Tract "F" and all of Lots 1 through 7, Block 6402;
All of Tract "E" and all of Lots 1 through 4, Block 6403;
All of Tract "D" and all of Lots 1 through 3, Block 6404;
All of Tract "C" and all of Lots 1 and 2, Block 6405;
All of Tract "B" and all of Lots 1 through 7, Block 6406;
All of Tract "A" and all of Lots 1 through 8, Block 6407;
All of Tract "I" and all of Lots 1 through 4, Block 6408;

All as shown on the Plat of Cape Coral, Unit 76, The Islands, recorded in Plat Book 35 at Pages 121 through 129 of the Public Records of Lee County, Florida. Subject to Easements, Reservations, and Restrictions of record.

q. Council-adopted Vision Plans

Exemptions to the development requirements are permitted for master plan or vision planning efforts that meet the following criteria:

1. The master or vision planning effort must be adopted by resolution or ordinance by the City Council.

2. Property in question is city-owned at the time of the master or vision planning effort. Transfers of property or public-private partnerships occurring after the planning effort must contain a clause requiring the future property owner(s) or developer(s) to abide by the adopted master or vision planning effort.

3. The master or vision planning effort must have had no fewer than two (2) public hearings discussing the provisions of the plan. Residents living within 500 feet of a property considered for a master or vision planning effort shall receive notice of these public hearings in the same manner as a rezoning for future land use map amendment.

4. The minimum size of the area subject to the master or vision planning effort is twenty (20) acres.

5. At a minimum, the master or vision planning effort must address the following impacts of the planning effort on the property and surrounding area.

- a.) Transportation Impacts
- b.) Environmental Impacts
- c.) Utility Capacity Availability
- d.) Public Safety Availability

6. Development options approved by Council through a master or vision planning effort may result in densities and intensities greater than those permitted elsewhere in Policy 1.15. In such instances, staff will establish a Sub-District on the Future Land Use Map and depict specific development limits for the site in the Future Land Use Element.

7. Changes to the adopted master or vision planning effort shall occur through a public hearing process identical to s.166.041(3)(c)2, F.S.

Policy 1.16: Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address the location and extent of both residential and non-residential land uses in accordance with the Future Land Use Map and the policies and description of types, sizes, densities, and intensities of land use contained in the "Future Land Use Map" section of this Element.

Policy 1.17: Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address buffering and open space requirements, and will protect existing residential land uses from incompatible land uses.

Policy 1.18: Vested Rights. In circumstances in which constitutionally protected property rights or valid development expectations conflict with the City of Cape Coral Comprehensive Plan and judicially defined principles of equitable estoppel may override otherwise valid limitations imposed by the Plan, such property rights or expectations may

be recognized by the Cape Coral City Council, acting by resolution after review and recommendation by the Cape Coral Planning & Zoning Commission/Local Planning Agency, on a case-by-case basis.

Such development expectations are exclusive to the following:

1. A development order issued prior to adoption of the Cape Coral Comprehensive Plan including Planned Unit Development, Planned Development Project, special exception, and site plan approvals which have been expressly approved by the City Council in writing and where construction has been or is being diligently pursued pursuant to such approval.
2. A development or project that has been issued a valid building permit prior to adoption of the Cape Coral Comprehensive Plan (February 13, 1989) which has commenced construction and is continuing in good faith.

Nothing in the Cape Coral Comprehensive Plan shall limit or modify the rights of any person to complete any development that has been authorized as a Development of Regional Impact pursuant to Chapter 380, Florida Statutes.

Policy 1.19: The City will adopt urban corridor design guidelines and special land use regulations along the City's roadways, which serve as entry points to the City. These guidelines and regulations will identify specific signage and setback requirements, and other regulations, which will serve to prevent visual and physical blight along specified roadways. The City has adopted guidelines within the Community Redevelopment Area, which may serve as an example for future corridor design guidelines.

Policy 1.20: The City will promote the development of identifiable residential neighborhoods and commercial districts through the encouragement of more compact development patterns, the use of shared design and landscaping characteristics, and the development of landmarks and gateways.

Policy 1.21: The need for additional educational facilities and programs in the City of Cape Coral will be met through cooperation between the City and the Lee County School Board. Prospective sites shall first be evaluated on projections of residential growth in the area, the ability to serve the current school age population, and transportation needs for use of the site. The City of Cape Coral will then coordinate with the Lee County School Board to evaluate the list of prospective sites to avoid impacts on unique or regionally significant natural systems, to avoid the placement of new public facilities within the Coastal High-Hazard Area, and to ensure compatibility with adjacent land uses and concurrency with other necessary urban services.

Policy 1.22: The City of Cape Coral shall continue to coordinate land use policies with hazard mitigation reports generated in the aftermath of a natural or manmade disaster. Furthermore, the City will continue to coordinate with other local agencies in the placement of public buildings, such as schools, in order to ensure that such buildings are not placed within the Coastal High-Hazard Area. Finally, the City may also consider measures designed to reduce potential hazards to life and property within the Coastal High-Hazard Area. Such measures may include reduction of densities in the Coastal High-Hazard

Area, public acquisition of land, increased building requirements, or any other appropriate policies recommended in future hazard mitigation reports, or otherwise determined by the City Council to be warranted.

~~Policy 1.23: The Development Incentive Program (DIP) referred to in Policies 1.14 and 1.15 of the Future Land Use Element shall be established in the Land Development Regulations in accordance with the following concepts. The purpose of the Development Incentive Program is to encourage new and expanded development in excess of baseline densities and/or intensities that will exceed minimum standards of quality for site design, preservation of natural resources, provision of public improvements, and achievement of related citywide land use and development objectives. Development incentives are opportunities offered to property owners and developers as a means to meet specific development goals while increasing the quality of development and providing benefits to the community at large. Such incentives shall not be considered an inherent right but a potential opportunity if certain conditions are met. Site and/or area wide constraints, public facility capacity limitations, and/or regulatory controls may limit the achievement of densities and intensities offered under this program. Further, density or intensity incentives awarded under this program shall not be interpreted as increasing the density or intensity of development within the Coastal High Hazard Area above the maximum density (expressed as units per acre) and intensity (expressed as Floor Area Ratio) allowed on a subject property as of the date of adoption of the City of Cape Coral 2030 Comprehensive Plan.~~

~~Increases in residential densities and non-residential intensities on a development site in excess of the baseline densities and intensities awarded, up to the maximum permitted, would require providing one or more objectives in one or more of the categories within the program. The categories of the DIP may include but are not limited to:~~

- ~~1. Superior site design and quality development;~~
- ~~2. Preservation of natural resources;~~
- ~~3. Open space and recreational areas;~~
- ~~4. Community facilities;~~
- ~~5. Affordable Housing;~~
- ~~6. Transportation improvements;~~
- ~~7. Enhanced waterfront access and use;~~
- ~~8. Public Improvement Fund; and~~
- ~~9. Land Assemblage.~~

~~The DIP will include a point system and weight formula for each category that clearly defines the level of participation and the corresponding additional density and intensity reward that may be granted with respect to the points achieved. Factors that will affect the point system and weight formula may include but are not limited to the Category and creditable activity provided; the physical area and/or improvement provided; the land cost and construction cost of the improvement; the importance of the resource preserved, enhanced or expanded; and the community, neighborhood and/or city wide value of the creditable activity.~~

~~For each dwelling unit per acre in a project that would exceed the baseline density, the project would need to qualify for 100 credit points. For each increase of 0.1 FAR per acre~~

~~exceeding the baseline FAR, the project would need to qualify for 100 credit points. The credit points used to qualify for additional density cannot also be used for additional intensity. Similarly, the credit points used to qualify for additional intensity cannot also be used for additional density.~~

~~The total points that would need to be achieved to realize the maximum residential density and/or the maximum non-residential intensity permitted above the baseline densities and intensities per acre in the Commercial Activity Center and Mixed Use land use classifications are as follows: 1) Residential Density in Non Compound Buildings for the Commercial Activity Center, Mixed Use, or Mixed Use Preserve, Class II through IV land use classifications is 1,160 points; 2) Residential Density in Compound Buildings for either the Commercial Activity Center or Mixed Use land use classifications is 1,000 points; 3) the Non Residential Floor Area Ratio in the Commercial Activity Center classification is 1,500 points; 4) the Non Residential Floor Area Ratio in the Mixed Use land use classification is 500 points, and 5) the Non Residential Floor Area Ratio in the Mixed Use Preserve land use classification is 1,750 points. Except as noted below, a maximum of 25% of the differential between the permitted baseline densities and/or intensities and the maximum permitted in the Commercial Activity Center (CAC), and Mixed Use Preserve and/or Mixed Use land use classifications may be achieved in any of the nine categories, as indicated in the following table. The achievable points associated with the 25% differential per category are also provided in the table below.~~

Percentage of maximum density/intensity achievable in each Category	Total Points Achievable per acre						
	Density in non-compound buildings in CAC and Mixed Use	Density in compound in CAC and Mixed Use	Density in Mixed Use Preserve, Class I	Density in Mixed Use Preserve, Class II-IV	FAR in CAC	FAR in Mixed Use	FAR in Mixed Use Preserve
25%	290	250	195	290	375	125	437

Up to 50% of the differential between the baseline density and/or intensity and the maximum permitted may be achieved in any of the nine categories for mixed use development requiring incentive credit for increases above the baseline density and intensity, if either of the following criteria are met:

- 1) By providing an extraordinary, significant improvement, that meet important objectives of the City of Cape Coral, which will be further identified in the Land Development Regulations; or
- 2) By demonstrating that it is not feasible to meet four categories due to the size of the site, location characteristics

While the above describes the points achievable for the Commercial Activity Center, Mixed Use Preserve and Mixed Use land use classifications, the same or other development incentive program(s) may be applied to other land use classifications and zoning districts.

Category 1: Superior Site Design & Quality Development

The physical layout, orientation and design of a proposed development can greatly affect the activities on site, the connectivity to uses and activities off site, and the overall neighborhood character and aesthetic appreciation of the development. While less quantitative than other categories, there are a number of planning and design elements recognized by the planning professions that greatly contribute the quality of development. Some of the objectives under this category may include, but are not limited to:

- Connectivity: the placement of uses, development, and pathways on site realizes and complements connections amongst uses internally and externally;
- Clustering: concentrating development on a tract of land to increase areas of open space and/or preservation on site;
- Exterior design and Materials: Treatment of facades, fenestrations and provision of ornamental features can greatly enhance the quality of development. Use of

colonnades, awnings, arcades and balconies can provide shade to pedestrians and further accent the building façade. Building recesses and setbacks can promote greater light and air, mitigating effects of increased building bulk and height;

Orientation: Street and building placement can be designed to orient activities and vistas. Undulating streets can break up monotonous grid systems and slow traffic. The location of public parks, open space, community facilities and public squares relative to other development can create a sense of cohesiveness and community; and

Underground Utilities: provision of underground utilities enhances the aesthetic value of a community while affording additional protection from hurricanes.

Category 2: Preservation of Natural Resources

Preservation of natural resources, particularly wetlands and upland habitats that support threatened and endangered species and/or mature tree stands are important objectives under this program. These resources are beneficial to the ultimate users of the development site, the surrounding community, the city as a whole and the region. Existing natural resource areas preserved, enhanced and/or expanded in excess of that required by local, state and federal regulations will receive points under this program towards increased density and intensity. Examples of this may include but are not limited to: increase wetland buffers from 25 feet to 300 feet beyond any buffer required by other agencies, preservation of mature trees in excess of that required under the City's landscape code and enhanced storm water management controls.

Category 3: Public Open Space & Recreational Areas

Open space, landscaping and buffering provided in addition to that required under the City's land use and development regulations, ordinances and resolutions are important objectives under this category. Provision of passive and active recreational areas and facilities are highly valued objectives in this category. Objectives achieved under this category shall be awarded points based on the physical size, location, public accessibility, and quality of improvement made. Connection to existing public recreational areas and achievement of target areas and facilities under the City's Master Park Plan shall be considered in the award of points under this category.

Category 4: Community Facilities

The provision of community facilities throughout the City is beneficial to the development site, surrounding neighborhood and the City as a whole. Community facilities may be public and/or private. The geographic distribution as well as the amount of facilities within the City is a benefit to local communities. The demographic and/or service need in a given area, stated public needs and objectives, and contextual suitability for the proposed facilities would be factors considered as a first tier in evaluating elements in this category. Facilities proposed at suitable locations would be eligible to receive points in this program. The types of facilities eligible under this program may include but are not limited to:

Government and Public Facilities;

Educational Facilities;

Day Care & Special Needs Facilities; and

Hurricane Shelters; dedicated land in non flood prone areas, compliant structures.

Category 5: Affordable Housing

As housing costs continue to escalate, the provision of affordable housing to support the workforce associated with commercial services and industries will continue to be an important objective to sustain the City's socio-economic long-term objectives. Points would be awarded based on the provision of the quantity and quality of affordable housing opportunities provided on and/or off site. The suitability of areas to support population needs will be considered in evaluating proposed affordable housing contributions under this category.

Category 6: Transportation Improvements

The provision of transportation improvements in excess of those required under other regulations and review procedures shall be objectives under this program, based on achieving suitability and eligibility criteria. The improvements that may receive points under this category may include but are not limited to:

Provision of land to support existing and proposed right of ways on and off site needed by the City;

Physical construction of and/or payments for right of way improvements on and off site in excess of those required by the City or other agency;

Provision of streetscape improvements (plantings, street furniture, etc);

Provision of traffic control measures (e.g. signalization);

Traffic calming control measures;

Mass transit services/facilities; e.g. bus shelters; and

Bicycle racks/storage lockers.

Category 7: Enhanced Waterfront Access & Use

Provision of new and/or enhanced opportunities for public access and use of waterfront resources would be awarded points under this program, based on the type, location and quality of the objective achieved. Objectives rewarded under this category may include but are not limited to:

Provision of land and/or facilities that expand existing public parks and facilities;

- ~~Provision of waterfront boardwalks, esplanades, and/or pathways;~~
- ~~Provision of sitting areas and other passive-related improvements;~~
- ~~Provision of piers, docks, and boat launches;~~
- ~~—Provision of parking lots or parking structures at or adjacent to waterfront locations, serving the general public; and~~
- ~~—Creation and/or expansion of man-made lakes that enhance use areas available to the public.~~

Category 8: Public Improvement Fund

~~Contributions to the City's Public Improvement Fund (PIF) can be made in accordance with a schedule approved by the City to achieve greater density and/or intensity for a development site. Contributions collected under PIF will be used by the City to make public improvements along corridors, where developments achieve additional development through awards under this category. Monies under this fund could be used, but are not limited to the following types of public improvements: public parks, bike and or pedestrian paths, greenbelt and nature trails, plantings, government facilities and infrastructure improvements. The City will prepare an annual report describing the amount of money collected under this program, current and proposed expenditures, and projects under this program, inclusive of an anticipated time schedule.~~

Category 9: Land Assemblage

~~The pre-platted nature of the City poses challenges to the aggregation of land needed to support a quality commercial and/or mixed use development. Points will be awarded under this category based on the amount of land assembled, (3 acres or more of lots and consisting of at least 250 feet in depth along the 50% of the site's frontage), the number of platted lots assembled, the amount of commercial development proposed, and the location of the assemblage.~~

Policy 1.234: Based upon increased awareness of the difficulties associated with pesticides, herbicides, water quality, and habitat loss, the City has determined that all new golf courses should be developed in a manner that is sensitive to environmental and ecological quality. New golf courses throughout the City will be developed as Planned Development Projects-Unit Developments in accordance with the City of Cape Coral Land Use and Development RegulationsLand Development Code. Additionally, new golf courses will be developed following the Florida Department of Environmental Protection's Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007, and be designed, constructed, certified, and then managed in accordance with the Audubon International Signature Program. Exempted from these regulations are former and existing golf course facilities in Cape Coral, otherwise known as the Coral Oaks Golf Course, Executive Golf Course, and the Palmetto Pine Golf Course,~~and the Cape Coral Golf and Tennis Resort (also known as the Golf Club).~~ The term "golf course facilities" refers to all properties used in the operation and maintenance of golf courses, including, but not limited to, fairways, greens, bunkers, driving ranges, pathways,

parking lots, clubhouses, and pro shops. The foregoing exemption from Policy 1.24 shall apply in perpetuity and run with the land.

To further ensure a high standard of golf course development in Cape Coral, natural waterways shall be left in a natural, unaltered condition and shall not be channelized, provided:

- i. If a crossing for a natural waterway, water body, or flow way is proposed, it must be designed, to the greatest extent practicable, to minimize the removal of trees and other shading vegetation;
- ii. Golf cart crossings must be designed to be permeable, be no wider than eight feet, and placed on pilings from edge of floodplain to edge of floodplain;
- iii. Created or restored flow ways and water bodies may be crossed by bridges or culverts, or a combination thereof, if approved by the South Florida Water Management District;
- iv. An existing natural waterway may not be excavated for new lakes or ponds;
- v. Upland ponds must not expose stream channels to an increase in either the rate or duration of floodwater, unless otherwise required by the South Florida Water Management District in order to further regional water management objectives.

All fairways, greens, and tees are elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from these underdrains must be pre-treated prior to discharge into the balance of the development's water management system.

Further, to ensure water conservation, golf course irrigation systems must utilize computerized irrigation programs based on weather station information and moisture sensing systems to determine existing soil moisture and evapotranspiration rates so as to provide water efficient zone control. Where re-use water is available, new golf courses will, to the greatest extent practicable, utilize such re-use water for irrigation purposes.

Design of new golf courses will protect wildlife by: 1.) maintaining natural wildlife habitat in at least 50% of all minimally used portions of the property; 2.) connect natural areas as much as possible to improve wildlife movement throughout the golf course and from the course to neighboring natural areas; 3.) maintain a water source for wildlife with aquatic plants and shrubbery or native landscaping along the shoreline; 4.) naturalize at least 50% of out-of-play shorelines with emergent aquatic and shoreline plants; and 5.) maintain nesting boxes or other structures, when appropriate, to enhance nesting sites for birds or bats.

A Construction Management Plan will be required prior to new golf course development in accordance with the Florida Department of Environmental Protection's Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses.

New golf courses shall be monitored annually in the following areas:

- a. Surface and groundwater monitoring requirements

- b. Construction monitoring: Annual reports detailing construction activities, permitting, compliance with Audubon International Signature Standards and percent of project completed.
- c. Land management activities: Including those used on the golf course, as well as natural and preserve areas.
- d. Wildlife monitoring: An inventory of wildlife, wildlife activity, and wildlife management activities.
- e. Irrigation monitoring: A summary of the monthly irrigation withdrawal and irrigation sources.
- f. Mitigation/vegetation monitoring: Status reports on the viability of any mitigation or landscaping conducted on-site and an inventory of all fertilizers used for golf course and non-golf course areas maintained during the year.
- g. Integrated pest management monitoring: Provide a discussion on the pest management techniques, and any pest problems that have occurred on the project.
- h. If surface and/or groundwater monitoring shows degradation of water quality the City will notify the property owner that a plan, to correct the identified problem(s), must be submitted. The property owner must submit a plan of action within 30 days after receipt of written notice from the City. The plan must identify actions that will correct the problem(s) within the shortest possible time frame. This plan will be reviewed and must be found to be acceptable by the City. If the plan is not submitted as required, or is found to be unacceptable by the City, the City will require that all activities on the property cease until a plan is submitted and approved. The approved plan must be implemented by the property owner. If the City determines that the approved plan is not being implemented properly, the City can require that all activities on the property cease until the property owner comes back into compliance.

OBJECTIVE 2: Location of New Commercial Development: New commercial development shall be so located to provide minimal vehicle trip lengths, at or near transportation nodes, and compatible with neighboring residential uses.

Policy 2.1: The City shall encourage ~~the location of Commercial Activity Centers~~ commercial development where ~~they~~ it can efficiently use infrastructure, where their adverse impacts on adjacent uses are minimized and where they will effectively provide the community with desired products, services and employment opportunities.

OBJECTIVE 3: Development of Quality Commercial Centers: The City encourages development of quality commercial (retail, office, and/or services) centers on property that meets the recommended land configuration for such commercial centers and that is located proximate to an adequate trade area, relative to the size and character of the center, and necessary to ensure economic viability.

Policy 3.1: The City of Cape Coral will encourage the development of future commercial (retail, office and/or services) areas at or near transportation nodes by assigning appropriate future land use designations.

Policy 3.2: The size, location and function of commercial areas shall be related and central to the population, market area and the transportation network system. The distribution and size of commercial areas shall be spatially located to meet neighborhood, community and regional needs and to reduce vehicle trip lengths.

Policy 3.3: Application of the commercial areas along and proximate to commercial corridors at key locations is intended to address the projected demand for commercial development as summarized in the Table below, or other subsequent analysis.

Commercial Centers by Corridor					
<u>Corridor Name</u>	Total Projected Demand For Commercial Acres of Land	Neighborhood Shopping Center	Community Shopping Center	Power Center	Regional Shopping Center
Burnt Store Road	295	2	2*		
Del Prado Boulevard North	307	1	2*		
Del Prado Boulevard South	243	2	2*		
Chiquita Boulevard South	129	0			
Chiquita Boulevard North	129	2			
Cape Coral Parkway (east of Palm Tree)	144	1			
Cape Coral Parkway (west of Palm Tree)	94	1	1*		
Santa Barbara North	120	2	2*		
Santa Barbara South	56	0			
Santa Barbara (Formerly Juanita Boulevard)	79	1	1*		
Veterans Parkway	189	2	1*	1	
Kismet Parkway	151	1			
Skyline Boulevard	148	2			
Diplomat Parkway	136	2			
Tropicana Parkway	117	1			
Cultural Park Boulevard	109	0			
Hancock Bridge Parkway	85	0			
Andalusia Boulevard	75	0			
Embers Parkway	73	0			
Nicholas Parkway	50	0			
Viscaya Parkway	27	0			
Pine Island Road	399(1) 299	3			2
Source: Based on information from the Commercial Corridor Study, dated April 30, 2003, City of Cape Coral, Planning Division (2003)					
(*) Asterisk indicates that the center has a dual function as a community commercial center and neighborhood commercial center.					
There may be more than one Super Community/Power Center in the City of Cape Coral.					
(1) Adjusted on pro rata basis for incorporation of a regional commercial center on Pine Island Road					

Policy 3.4: The City shall initiate and/or consider privately initiated future land use map amendments necessary to provide an adequate supply of lands designated for retail, office, and services uses in quantities and locations appropriate for such uses, generally consistent with the findings of the Commercial Corridor Study (City of Cape Coral, 2003), or other subsequent analysis.

Policy 3.5: Commercial development shall include bicycle parking areas, and when appropriate, bus bays and bus shelters in order to encourage alternative transportation modes.

Policy 3.6: ~~The City of Cape Coral adopted the Pine Island Road Corridor Master Plan in January 2002.~~ The City will adhere to ~~this~~ the Pine Island Road Corridor Master Plan to provide guidance, standards, and to direct growth and development along the Pine Island Road Corridor.

Policy 3.7: The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project.

Policy 5.43.8: The City of Cape Coral may develop other zoning districts that are compatible with the Commercial/Professional future land use classification.

OBJECTIVE 4: Location of Future Development: Future private development requiring public water and wastewater will be directed into the Urban Services Infill Area and the Urban Services Transition Area illustrated on the Future Land Use Map, unless specifically accepted by the provisions of this plan.

Policy 4.1: Future development requiring access or connection to public water and sewer facilities will be located within either the Urban Services Infill or Transition areas.

Policy 4.2: Exemption from the provisions of Policy 4.1 will be made only in extraordinary cases where the physical size, potentially disruptive nature, or geographic needs of the project would make strict adherence unreasonable. These projects include developments of regional impact, utilities plants, airports, public schools, technical schools, community colleges, parks and other government facilities.

Policy 4.3: ~~By 2010, the~~ The City will ~~complete~~ continue to periodically review its an Economic Development Master Plan to identify emerging trends and encourage large-scale commercial, professional, and industrial types of development within the City.

Policy 4.4: Completed and city-accepted private initiatives to utility service, such as on-site sewage treatment plants and developer-extended utilities, shall be considered as extensions to the Urban Services Transition Area.

OBJECTIVE 5: Extension of Infrastructure and Services in the Urban Services Infill Area: Infrastructure and community services will be extended to serve 100 percent of the anticipated functional population of the Urban Services Infill Area.

Policy 5.1: Land use regulations, whether adopted or revised pursuant to this plan, shall provide incentives to encourage infill of residential, commercial, and other appropriate uses

within the Urban Services Infill Area and Transition Area.

Policy 5.2: The City will amend the Future Land Use Map using the plan amendment process, to annex Urban Services Transition Area lands into the Urban Services Infill Area as soon as those lands are found to be served with the adopted level of infrastructure and community services.

Policy 5.3: New commercial development shall meet all of the requirements for adequate facilities based on the level of service standards adopted for roads, potable water and sanitary sewer, solid waste, storm water facilities and other services in this plan.

~~Policy 5.4: The City of Cape Coral may develop other zoning districts that are compatible with the Commercial/Professional future land use classification.~~

~~Policy 5.5: The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project.~~

Policy 5.64: In addition to the facilities for which level of service standards are adopted as part of the concurrency management system of this plan; other services that should be considered to serve new commercial and mixed-use development include fire, police and emergency medical protection.

OBJECTIVE 6: Extension of Infrastructure and Services in the Urban Services Transition Area: Infrastructure and community services will be extended to serve 100 percent of the anticipated functional population of the Urban Services Transition Area at the same level of service standards available within the Urban Services Infill Area.

Policy 6.1: Future extension of utilities will be located and timed to attain a reasonable balance between the following factors:

Protection of public health, safety, and welfare.

Protection of the environment from contamination.

Protection of potable water aquifers from excessive withdrawal and/or saline-water intrusion.

Projected population increases.

Enhancement of economic development resulting from the provision of services.

Continuity with the future plans for utilities within the extension area and adjacent areas.

Collection and distribution facilities will only be extended with consideration given to the capacities of the aquifers, water wells, treatment plants, or disposal facilities capacities to provide the adopted levels of service.

Property value and financial impacts on property owners.

Financial feasibility of the utility expansion.

Policy 6.2: The City will continue to ~~set aside~~identify a portion of the Urban Services Transition Area ~~as a receiving area for Transfers of Development Rights (TDRs) for future land banking opportunities.~~

OBJECTIVE 7: Development in the Urban Services Reserve Area: The City will discourage premature "leap-frog" development within the Urban Services Reserve Area.

Policy 7.1: The City will amend the Future Land Use Map through the plan amendment process to annex Urban Services Reserve Area lands into the Urban Services Transition Area as a prerequisite to the extension of infrastructure and community services. Amendments of this type may take place only after the Urban Services Infill and Transition Areas are reevaluated as a whole and the City determines that the additional land is appropriate in size and location to meet the needs of the projected population. Per Policy 2.3.3 of the Infrastructure Element, extension of centralized potable water and wastewater infrastructure services beyond the Urban Services Infill and Transition Areas may be undertaken if such services are provided by a developer, independent utility franchise, or through the developer-financed extension of City utilities.

Policy 7.2: The City will concentrate its long-range land acquisition and assembly efforts within the Urban Services Reserve Area.

Policy 7.3: The City will provide incentives to individual property owners, builders, and developers to assemble parcels of land for future private uses, and will encourage the use of zero lot line (ZLL) and cluster type of development to improve lot layout, drainage, and stormwater retention.

Policy 7.4: Developers of lands within the Urban Services Reserve Area, shall bear the costs of extending water and wastewater infrastructure if onsite systems are impracticable.

Policy 7.5: Reserved.

Policy 7.6: Notwithstanding any provisions in this element which may be interpreted to the contrary, the right to a development order to build one (1) single family dwelling unit in the Urban Services Reserve Area on a property of 10,000 square feet or more, or to build no more than 4.4 single family dwelling units per developable acre, shall ~~not be abridged~~be permitted for privately-owned lands if classified as Park and Recreation Facilities or Public Facilities on the Future Land Use Map.

Policy 7.7: As an incentive to the assembly, holding, and ~~planned~~ development of sizable tracts of land in the Urban Services Reserve Area, tracts of the following sizes may be developed at the following residential densities, subject to (i) adopted performance standards capable of allowing residential development at such densities; (ii) any applicable concurrency requirements; (iii) applicable standards of other governmental agencies; and (iv) any other applicable goals, objectives and policies in the Cape Coral Comprehensive Plan:

ACREAGE	DU/ACRE
3-4.99	8
5-9.99	10
10-14.99	12
15-19.99	14
20	16

Policy 7.8: Platted lots in the Urban Services Reserve Area zoned for Commercial or Professional use prior to the February 13, 1989 Cape Coral Comprehensive Plan that are now designated for Residential use, if they (i) are below the minimum size for Residential use, and (ii) adjoin City-owned property, may be conveyed to the City for an impact fee credit that may be lawfully granted by the City equal to their fair market value at the time of conveyance, based on their Commercial or Professional zoning prior to the adoption of the February 13, 1989 Cape Coral Comprehensive Plan.

Policy 7.9: Development of properties or projects that have access to city utilities and are divided by or adjacent to the Urban Services boundary may be developed, at the density or intensity of land use as designated on the Future Land Use Map. Such development must proceed as one compact and unified development and shall be governed by the rules for development in the Urban Services Infill and Transition Areas and be subject to the intensities and densities of policy 1.16.

Policy 7.10: The City shall discourage illogical and inefficient leapfrog development, by encouraging and directing development to areas adjacent to section of the City served by existing centralized utilities, and that the extension of centralized utilities will abide by Policy 1.1.6 of the Infrastructure Element.

OBJECTIVE 8: Restrictions upon Incompatible Land Uses: The City will prohibit land uses which are incompatible or inconsistent with the Future Land Use Map.

Policy 8.1: The City will prohibit the expansion or replacement of land uses which are inconsistent with the Future Land Use Element.

Policy 8.2: Land development regulations, adopted pursuant to s.163.3202, F.S., will require the buffering of incompatible land uses.

Policy 8.3: Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial developments (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive use of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored.

Policy 8.4: The City shall encourage transitions from commercial uses to less intensive land uses and site design that considers the following preferred characteristics to attain compatibility with adjacent residential uses:

- a. Site Orientation
 - i. Vehicular access should be from a collector, arterial, access street, or an alley if the subject uses are located within the Downtown Community Redevelopment Area.
 - ii. Pedestrian access should be designed to provide internal and external circulation from adjacent neighborhoods.
 - iii. Streets should be designed with elements to provide visual or physical buffering may serve as boundaries between different intensities of land uses.
 - iv. Site improvements within commercial areas such as lighting, signage and landscaping should be designed and coordinated in order to create a positive identity and visual image throughout the development area.
- b. Site design should promote the preservation and integration of mature trees, natural vegetation, natural and environmentally sensitive areas whenever feasible.
- c. Screening and landscaping
 - i. Creative and extensive use of landscaping and berming techniques for natural transitions between differing intensities of land uses is encouraged.
 - ii. Fences should not be used as a sole method of providing screening and buffering between differing intensities of land uses.
 - iii. The City shall review and revise landscaping and signage standards for commercial development to enhance the visual and physical environment to foster its integration of other land uses.
- d. Lighting used to illuminate parking areas, signs or structures should be placed and designed to deflect light away from adjoining property or public streets through fixture type, height, orientation and location.

Policy 8.5: The City encourages the use of multi-family residential, compound buildings, professional offices, and parks as transitional uses between commercial development and low-density residential neighborhood. Such development should include:

- a. Design elements such as: height and scale compatible with the surrounding residential uses;
- b. Site design that is compatible with surrounding residential neighborhoods with consideration given to extensive screening, architectural features, building and parking orientation, and preservation of natural features; and

- c. Primary site access provided from arterials, collectors or access streets in order to discourage traffic from directly entering residential areas.

Policy 8.6: Commercial developments and compound buildings shall be encouraged to preserve substantial areas of natural vegetation.

OBJECTIVE 9: Coastal Development: The City will coordinate coastal area population densities with the Southwest Florida Comprehensive Hurricane Evacuation Plan.

Policy 9.1: The City will encourage the development of infrastructure in the northeastern portion of the community to take advantage of high elevations and opportunities for rapid evacuation.

Policy 9.2: The City will utilize the 2017 Climate Change Resiliency Strategy, and other strategies as updated, for the placement of public infrastructure in order to better prepare for sea level rise.

OBJECTIVE 10: Charlotte Harbor Management Plan: The City will coordinate its planning efforts with the provisions of the Charlotte Harbor Management Plan.

Policy 10.1: Requests for development orders and building permits will be coordinated with governmental agencies including, but not necessarily limited to, Lee County, Charlotte County, the Regional Planning Council, the South Florida Water Management District, and other State and Federal agencies.

OBJECTIVE 11: Protection of Marine, Estuarine, and Upland Environments: Cape Coral will continue to protect marine and estuarine communities and will continue its protection to include the ownership and maintenance of a significant example of an upland ecological community.

Policy 11.1: The City will own and maintain a minimum of 200-acre tract of upland for use as a major park emphasizing passive recreation and nature study.

Policy 11.2: The City will continue to use inland sites for dredge spoil to protect marine and estuarine communities. The identification of subsequent spoil sites will begin within two years of the existing site reaching capacity.

OBJECTIVE 12: Protection of Historic and ~~Pre-historic~~ Resources: The City will continue to identify all historic and ~~pre-historic~~ resources within the City's jurisdiction, and will adopt regulations to preserve and protect those resources for future enjoyment.

Policy 12.1: The Department of Community Development will be the designated body responsible for preserving the City's historic resources and the identification of historic homes and structures within the City's jurisdictional boundaries.

Policy 12.2: Cape Coral will continue to cooperate with State and Federal agencies to protect identified historical and archaeological resources from vandalism and desecration, and will preserve these resources in a manner which promotes an understanding of historic and ~~pre-historic~~ peoples and their times.

OBJECTIVE 13: Renewal of Blighted Areas: The City will pursue the redevelopment and renewal of blighted areas in the downtown area consistent with the provisions of the Community Redevelopment Area (CRA) plan.

Policy 13.1: The City will continue the redevelopment of the Community Redevelopment Area (CRA) in downtown Cape Coral according to the schedule of the CRA plan as adopted by Council.

Policy 13.2: The City will, as part of its CRA planning process, investigate innovative market opportunities to property owners in blighted areas to remodel, rebuild and replat their buildings and properties.

Policy 13.3: In order to encourage and facilitate development and redevelopment and the provision of housing, employment, service and shopping opportunities in a compact area currently served by public facilities, mixed-use development shall be allowed in the Downtown Community Redevelopment Area. Such mixed-use development shall conform to the Community Redevelopment Area Plan, as same may be amended, and shall be reviewed in accordance with the City's ~~Land Use and Development Regulations~~Land Development Code.

Objective 14: In order to promote the economic viability of Downtown Cape Coral, the City of Cape Coral shall establish the Downtown Transportation Concurrency Exception Area (Downtown TCEA). Establishment of the TCEA will enhance the ability of the City to undertake the following activities:

Urban redevelopment;

Urban infill development;

Increasing retail and commercial services, as well as employment opportunities within the downtown area, thereby reducing the City's reliance on travel across bridges to reach such land uses;

Providing residents of, and visitors to, the downtown area with a variety of transportation choices and opportunities including automotive, pedestrian, bicycle and transit;

The creation and implementation of desirable urban design and form in the downtown area;

The creation of a broader mix of residential and non-residential uses in the downtown area;

Implementing streetscaping and landscaping improvements in the downtown area; and

Increasing comfort, safety and convenience for pedestrian, bicycle and transit users in the downtown area.

Policy 14.1: The City of Cape Coral hereby establishes the Downtown CRA Transportation Concurrency Exception Area (Downtown TCEA) to aid in the revitalization and redevelopment of the properties within the Community Redevelopment Agency (CRA) area. The purpose of the TCEA shall be to provide incentives for revitalization, infill development and redevelopment by eliminating or minimizing transportation concurrency requirements, in exchange for the implementation of sound land use and transportation planning techniques, which enhance mobility within the downtown area.

Policy 14.2: The City of Cape Coral Downtown CRA TCEA shall have boundaries as depicted on the Future Land Use Map. The general boundaries of the area are as follows: SE 44th Street and SE 46th Lane on the North, SE 17th Place, Waikiki Avenue, and the Caloosahatchee River on the East, Miramar Street, Bimini Basin Canal, and Norfolk Canal on the South, and Tudor Canal, Palm Tree Boulevard, Coronado Parkway and the alley in Block 396 on the West.

Policy 14.3: New development, redevelopment and infill development projects located within the City of Cape Coral Downtown Transportation Concurrency Exception Area (Downtown TCEA) may elect to be exempt from transportation concurrency requirements through implementation of the mitigation strategies described in Policy 14.5 of this Element. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project elects to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5, or elects to be subject to standard transportation concurrency requirements, all projects shall be subject to concurrency review for the purpose of assessing the transportation impacts of the proposed development.

Policy 14.4: The City of Cape Coral and the Cape Coral Community Redevelopment Agency (CRA) will work with Lee County Transit (LeeTran), or other local transit provider, and the Lee County Metropolitan Planning Organization (MPO) to expand and/or otherwise improve the public transportation system within the Downtown TCEA in an effort to reduce the demand on the existing transportation network by reducing the number of trips on the roadways within the Downtown TCEA.

Policy 14.5: In order to be exempt from link specific concurrency and to support mobility enhancement within the Downtown TCEA, all new development, redevelopment, or infill development projects may opt to incorporate any five of the following provisions:

Preferential parking for carpools, vanpools, and/or multiple occupancy vehicles with the object of increasing the average vehicle occupancy for trips generated by the development.

Parking price structures favoring carpools, vanpools, and/or multiple occupancy vehicles, with the object of increasing either the average vehicle occupancy for trips generated by the development, or increasing transit ridership.

Flexible work schedules for employees of the development, with the object of

decreasing peak hour automobile trips generated by the development.

Payment of a subsidy to LeeTran to support an increased level of transit service within the TCEA.

Payment into one or more funds, to be established by the City or the CRA. Monies collected by such fund(s) shall be used to support programs and/or capital projects designed to provide additional parking and/or to enhance bicycle, pedestrian, and transit mobility within the TCEA.

The provision of transit shelters, built to City of Cape Coral specifications, within the development.

The provision of a safe and convenient internal pedestrian and bicycle circulation system within the development, including the placement of bicycle racks or bike lockers.

The provision of transit turn out lanes on heavily traveled roadways.

The provision of structured parking for use by residents, patrons and employees of the development.

Clustering buildings within the development, or otherwise designing the development to achieve maximum residential density or non-residential intensity at the development site in a manner, which preserves open space, enhances multi-modal opportunities and provides transit oriented densities or intensities.

Where feasible, the construction of new roadway or alleyway facilities to reduce congestion on major roadways and to provide alternate access to the development.

Any other innovative transportation related modifications or standards submitted by the developer and acceptable to and approved by the City of Cape Coral.

Objective 15: Downtown TCEA Administration: The City shall develop and implement strategies and programs designed to achieve the purposes of the City of Cape Coral Downtown CRA Transportation Concurrency Exception Area (TCEA).

Policy 15.1: The Community Redevelopment Plan for the Community Redevelopment Area (CRA) provides information regarding funding of redevelopment within the CRA. As provided for by Florida's Community Redevelopment Act, the principal source of funding for the Community Redevelopment Agency will be through the Tax Increment Trust Fund. Other sources of funding may include the sale or lease of acquired property, Enterprise Fund Revenue Bonds, one or more funds for mobility enhancement, as described in Policy 14.5, above, and Federal, State and Regional Grants.

Policy 15.2: In order to promote new development, redevelopment and infill development within the Downtown TCEA, funding for multimodal transportation modifications and identified improvements (not otherwise provided by the developer, as per Policy 14.5,

above) will be provided to the maximum extent feasible by the City, the CRA, Lee County, state and/or federal governments, developers and other outside sources such as grant funds.

Policy 15.3: Within the Downtown TCEA, the City of Cape Coral and the Community Redevelopment Agency will continuously work to improve other forms of mobility such as pedestrian, bicycle and transit service and to implement connectivity between all modes so as to promote lower vehicular traffic.

Policy 15.4: The City of Cape Coral and the Community Redevelopment Agency will implement sidewalk, or other pedestrian, and bicycle improvements to increase the Level of Service of these facilities within the downtown area. Pedestrian projects designed to increase the pedestrian level of service may include but shall not be limited to:

Construction of new or expanded sidewalk facilities to service streets or portions of streets not currently served by sidewalks;

A reduction in the number of physical obstructions within the sidewalk network;

Improvements to pedestrian crosswalk signalization;

The designation of one or more local streets as pedestrian only areas; and/or

The provision of shading, sitting areas and other streetscape amenities.

Policy 15.5: The City and the CRA will cooperate with Lee County Transit (LeeTran) to maintain/improve the transit facilities and transit level of service within the Downtown TCEA. In addition to developer-implemented strategies, as described in Policy 14.5 of this Element, strategies that may be implemented include, but may not necessarily be limited to, improving the density, intensity and mix of development in the downtown area, improving route headways, improving service time spans, and reducing the interval distance between stops.

Objective 16: The Cape Coral Downtown CRA Transportation Concurrency Exception Area (Downtown TCEA) will be administered in a manner that supports the Community Redevelopment Agency's goals concerning urban design, the preservation of open spaces, streetscaping and the removal of blighting factors.

Policy 16.1: With regard to open space and street layout within the Community Redevelopment Area, the intent of the City, in implementing the Downtown TCEA, is to create a high-intensity, yet pedestrian friendly, urban area that is served by multi-modal circulation systems, which are designed to ensure that visitors, employees, and residents can easily find their way, park, and enjoy their walk to their destinations.

Policy 16.2: Within the Downtown TCEA, the City shall utilize regulatory controls and incentives to provide appropriate limitations on the type, size, height and use of buildings in order to stimulate and attract private investment in real property and property improvements in the redevelopment area. Such investment and improvements will be directed toward the elimination of blighting factors, the improvement of the economic health of the City and the County, increasing employment opportunities within the downtown area, providing better

services to residents, businesses, and tourists, and improving the tax base.

Policy 16.3: In regulating residential development (including, but not necessarily limited to, affordable housing) within the Downtown TCEA, the City will continuously seek to increase the number of people that both live and work downtown in order to promote the creation of pedestrian-friendly shopping areas, provide employment opportunities for downtown residents, and decrease automobile use in the downtown area.

Policy 16.4: In order to enhance the visual characteristics of roadways within the Downtown TCEA, and to create an appealing environment that supports multi-modal transit opportunities, the City and the CRA will develop streetscaping guidelines and/or plans for roadways within the downtown area.

Policy 16.5: The City will include right of way and median landscaping as part of any major roadway modification program carried out within the Downtown TCEA.

Policy 16.6: The City of Cape Coral shall coordinate with the CRA, Lee County, and the Lee County Metropolitan Planning Organization to balance the need for and design of roadway improvements within the Downtown TCEA with the CRA's need for quality urban design concepts for all revitalization, redevelopment and infill development.

Policy 16.7: Land use intensities and densities within the Downtown TCEA shall be consistent with the goals objectives and policies of the City's Comprehensive Plan. In particular, Policy 1.15 (k) of this Element, describing the Downtown Mixed Future Land Use Classification, defines the allowable intensities and densities within the Downtown TCEA.

Objective 17: Downtown TCEA Network Connectivity: In implementing various mobility strategies and infrastructure projects within the Downtown TCEA, the City of Cape Coral and the Community Redevelopment Agency will seek to establish network connectivity within and between all modes of transportation within the downtown area.

Policy 17.1: In reviewing requests for vacation of streets within the downtown area, the City of Cape Coral shall consider the following:

Whether the loss of the street will adversely impact current or future bicycle/pedestrian mobility;

Whether the loss of the street will prevent access to adjacent land uses or transit stops; and,

Whether the loss of the street is necessary for the construction of high density, mixed use projects containing both residential and non-residential uses or projects that permit residential and non-residential uses to be constructed in close proximity to each other.

Policy 17.2: Within the Downtown TCEA, development plans for the placement of new parking structures and/or surface parking lots as a principal or accessory use shall:

Minimize conflicts between pedestrian, motor vehicle, and bicycle travel routes;
and,

Utilize locations and designs, which discourage commercial vehicle access through residential streets.

Exhibit D

INFRASTRUCTURE ELEMENT

GOALS, OBJECTIVES, AND POLICIES

GOAL 1: Consistency with the 5-Year Capital Improvements Program and the adopted levels of service - required public facilities will be provided in a manner that promotes orderly, compact, and efficient urban growth.

Objective 1.1: The City will ensure that the public facilities needed through 2020 are in place in accordance with the adopted 5-Year Capital Improvements schedule, and ensure that when building permits are issued, adequate facility capacity is available, or will be available to serve the development at the time required. The long-term planning window shall be the period from the 2015 update of this document to 2035. Long-term infrastructure planning needs to build-out are and will be implemented as identified in the Montgomery Watson Harza Facilities Planning Report (2005 ed.).

Policy 1.1.1. The following levels of service are hereby adopted by the City as a means of determining the availability of facility capacity and the demand created by new development:

Sanitary Sewer Facilities

200 gallons per day/dwelling unit for dwelling units located in the Urban Services Infill and Transition Areas that are serviced by the City's sanitary sewer utility.

The Level of service standard will be equivalent to the Department of Environmental Protection requirements for package treatment plants as identified in Rule 62-555.348 FAC located in Planned Development Projects and Developments of Regional Impact within the Urban Services Reserve Area.

The City Level of service standard for onsite septic systems will be equivalent to the County Department of Health requirements for septic systems in Planned Development Projects and Developments of Regional Impact within the Urban Services Reserve Area.

No level of service standard exists for individual private homes within the Urban Services Reserve Area.

Solid Waste Facilities

Average Solid Waste Generation Rate
Citywide 4.74 lbs per capita per day

Drainage Facilities

Citywide

Based on, *Basis of Review for Surface Water Management Permit Applications*, South Florida Water Management District (See Appendices I and II).

Drainage Facilities Quantity:

Design Storm (3 day duration, 25 year return frequency)

Drainage Facilities Quality:

The City adopts Chapter 17-25, F.A.C. as standards for water quality.

Potable Water Facilities

200 gallons per day/dwelling unit for areas serviced by municipal utilities.

No level of service standard exists for private self serve wells within the Urban Services Reserve Area.

200 gallons per day/dwelling unit for potable water in areas serviced by the Greater Pine Island Water Association.

Policy 1.1.2. All improvements for replacement, expansion, or increase in capacity of public facilities will be compatible with adopted levels of service.

Policy 1.1.3. All new facilities, as well as improvements to existing facilities will be designed to meet or be expandable to meet buildout system requirements.

Policy 1.1.4. The City will maintain procedures to ensure adequate facility capacity before building permits are issued.

Policy 1.1.5. The City will prepare annual summaries of capacity and demand information for each facility to coincide with the annual update to the Capital Improvement Program (CIP).

Policy 1.1.6. Provision by the City of centralized sanitary sewer and potable water service will be limited to the urban services infill and transition areas, as outlined in the adopted future land use map and amended annually via the plan amendment process, and to those areas where the City has a legal commitment to provide services and facilities, including, but not limited to the North Spreader Ecological Management Agreement. The City hereby designates, when feasible, a dual water system which consists of both the irrigation and domestic water supply for the extension of public water service to those portions of the Urban Services Transition Area per the future land use map as amended not currently served by both public water and sewer. In accordance with this, the extension of public water and sewer service to these areas will include the extension of dual water service, when feasible, using non-potable sources for irrigation purposes.

Policy 1.1.7: New City of Cape Coral potable water, wastewater, and public irrigation water facilities, except for water distribution or wastewater collection facilities, shall not be located within the Coastal High-Hazard Area.

Policy 1.1.8: To promote efficient growth patterns, public safety, and timely construction of infrastructure, incidental utility activities are allowed in all future land use classifications and zoning districts in Cape Coral, subject to any applicable special regulations to address specific impacts.

Objective 1.2: The City will maintain a five year schedule of capital improvements, to be updated annually to conform to the annual review process for the Capital Improvements Element of this plan.

Policy 1.2.1. Capital Improvements projects proposed for inclusion in the five year schedule of capital improvement needs will be evaluated by City Council or its designee. Council will, at least annually, update this schedule to ensure that public facilities and improvements are provided at adopted levels of service concurrent with growth.

Objective 1.3: The City will continue its cooperation with other local and state agencies for the inspection of on-site wastewater treatment systems.

Policy 1.3.1. Issuance of development permits will continue to be conditioned upon demonstration of compliance with all applicable federal, state, and local permit requirements for on-site wastewater treatment systems.

Policy 1.3.2. The City will coordinate with appropriate federal and state agencies to require that issuance of permits for replacement or expansion of on-site wastewater services is conditioned upon compliance with current regulatory requirements and water quality standards.

Objective 1.4: The City will make maximum use of its existing treatment/processing facilities (in each respective service area) but will construct additional facilities, in accordance with thresholds identified in the Florida Administrative Code.

Policy 1.4.1. Existing septic tanks and package treatment plants may remain in service until such time as centralized service is made available unless the continued operation of the facility poses a threat to public health, safety, or welfare.

GOAL 2: Provision of Sanitary Sewer, Drainage, Potable Water, and Solid Waste Services - the City of Cape Coral will provide sanitary sewer, drainage, and potable water facilities, and will coordinate with private and County sources for provision of solid waste facilities to meet the existing and projected needs identified in this plan.

Objective 2.1: Existing deficiencies will be corrected by undertaking the following projects:

- a) Sanitary Sewer and Potable Water
Implement Utility Expansion Program

b) Drainage

Implement recommendations of the Master Storm Water Management Plan

Policy 2.1.1. All projects will be undertaken in accordance with the Five Year Schedule of Capital Improvements adopted as part of the Capital Improvements Element.

Policy 2.1.2. Projects needed to correct existing deficiencies will be given priority in the formation and implementation of the Capital Improvements Plan.

Objective 2.2: Projected demands through the year 2018 will be met.

Policy 2.2.1.

The City will meet projected demands by undertaking the following projects within the short-term planning timeframe:

- a. Sewer and Water Projects
 - 1. Continue to provide planning and studies necessary for orderly expansion
 - 2. North 1 Utility Expansion Program
 - 3. North 2 Utility Expansion Program
 - 4. Construct North Cape Water Reclamation Facility
 - 5. Upgrade Lift Stations
 - 6. Rehab/Replace Raw Water Production Wells
 - 7. Southwest Bio-Solids Centrifuges
 - 8. Palm Tree Water Main Extension Phase I
 - 9. Palm Tree Water Main Extension Phase II
 - 10. Galvanized Pipe Replacement
 - 11. UCD Administration Building
 - 12. Manhole Rehabilitation
 - 13. Infiltration/Inflow
 - 14. Weir# 4 Construction
 - 15. Force main Interconnect
 - 16. Fire Sprinkler Conversion (Irr to PW)

17. Weir# 16 and # 17 Construction
18. Reuse Water Main-River Crossing
19. ASR/Irrigation Supply Improvement
20. North RO Deep Injection Well
21. Potable Water Infrastructure Replacement
22. Reuse Utilities Main Extension-FGUA
23. SWRO Deep Injection Well
24. Southwest Operations Building
25. Analyzer Building
26. Retro SWRO Well Field Control/Communication
27. SWRO Control Systems Upgrade
28. Distribution System Automation
- b. Solid Waste Projects
 - to be coordinated with Lee County
- c. Drainage Projects
 1. Continue to construct city-wide drainage improvements, including modifications to weirs, based on the recommendations in the Master Storm Water Management Plan.
 2. Continue to dredge the canals to provide required conveyance of storm water.

Policy 2.2.2. Projects generally will be undertaken in accordance with the schedule provided in the Capital Improvements Element of this plan and its amendments.

Policy 2.2.3. Projects will be scheduled in such a way as to minimize disruption of services and duplication of labor and to maintain service levels for all facilities.

Policy 2.2.4. All required Federal, State, or County permits must be obtained before the City undertakes, or authorizes contractors to undertake, construction or operation of facilities.

Policy 2.2.5. All projects will be designed and constructed to meet or exceed the needs of projected population up to and including buildout if appropriate.

Objective 2.3: For areas not currently programmed to receive utilities, the City will extend services to areas consistent with recommendations of an annually updated implementation plan.

Policy 2.3.1. The City will amend its future land use map at least annually via the plan amendment process to include in the Urban Services Transition Area those subdivided units, unplatted areas, and miscellaneous subdivisions which are 30 or more percent developed and which are contiguous to the existing Urban Services Transition Area. Exceptions to this policy are provided for those extreme circumstances where the City has entered into an interlocal agreement to provide centralized utilities, or as provided in Policy 1.1.6 of the Infrastructure Element.

Policy 2.3.2. Provision of potable water and/or sanitary sewer facilities beyond the area shown on the current five year capital improvements plan will be guided by the following methodology unless as otherwise formulated by a comprehensive utility master plan:

1. The subdivided unit to receive sewer or water must be in the Urban Services Infill or Transition area (as defined by the Future Land Use Map, or any amendments thereto.)
2. The subdivided unit to receive sewer or water must be contiguous to a subdivided unit currently receiving sewer or water.

Policy 2.3.3. The extension of water and sewer beyond the adopted Urban Services Infill and Transition Areas may be, pending adequate facility capacity, undertaken through developer contributions, or through special assessment districts, should that option become available to the City.

Policy 2.3.4. Potable water, secondary irrigation water, and sanitary sewer service will be extended concurrently to new service areas unless unusual conditions peculiar to a particular area warrant a deviation based on sound planning principals.

Policy 2.3.5. The City hereby adopts the Water Supply Facilities Work Plan, dated May 12, 2014, thereby being consistent with the South Florida Water Management District's Lower West Coast Water Supply Plan Update. The City shall continue to coordinate future updates of the Water Supply Facilities Work Plan with the South Florida Water Management District, as required by law.

Objective 2.4: The City will continue to assure that public health, environmental health, property values, and quality of life is maintained through assurance of the provision of solid waste facilities and services.

Policy 2.4.1. The City will continue to require that all developed properties receive solid waste collection and disposal services.

GOAL 3: Stormwater drainage provision - adequate stormwater drainage will be provided to afford reasonable protection from flooding and to prevent degradation of quality of receiving waters.

Objective 3.1: By 2020, the stormwater drainage regulations contained in the City's Land Use and Development regulations will be reviewed and amended to ensure that future development utilizes stormwater management systems compatible with an adopted comprehensive stormwater management plan.

Policy 3.1.1. The Public Works Department will ensure that major drainage systems are inspected on an as needed basis, and that they receive required maintenance.

Policy 3.1.2. The City will maintain a Stormwater Utility ordinance or an alternative funding system to fund improvements and maintenance of the stormwater drainage system within the City.

Policy 3.1.3. The City will install a two (2) foot sump in the last accessible catch basin of each drainage system for new systems and as drainage systems are repaired and/or replaced.

Policy 3.1.4. The City will combine stormwater retention/detention as part of development of public parks.

Policy 3.1.5. The City will update a capital improvement schedule for correction of deficiencies in the stormwater drainage system based on historic flooding or pollutant loading conditions.

GOAL 4: Groundwater recharge protection - the functions of natural groundwater aquifer recharge areas within the City of Cape Coral will be maintained.

Objective 4.1: The City will protect the functions of natural groundwater recharge areas through means identified jointly by the City and the South Florida Water Management District (SFWMD).

Policy 4.1.1. The City will maximize recharge of the surficial aquifer by maintaining the function of the weirs and maintaining adjustable structures to provide the maximum the water levels that will not cause flooding or other property damage.

Policy 4.1.2. The City will coordinate with federal, state, and local agencies to achieve regional aquifer recharge protection objectives. Such coordination shall include, but not necessarily be limited to, staff interaction, interlocal agreements, and participation on joint committees.

Policy 4.1.3. The City will investigate methods to develop long term dependable water storage capacity.

Policy 4.1.4. The City will develop a program of best management practices, including techniques such as provision of retention basins, grassed swales, infiltration areas, etc. to protect the surficial aquifer and create development standards which maintain aquifer recharge at its pre-development levels.

Policy 4.1.5. The City will maintain regulations to prohibit littering in canals and lakes and to provide recovery of costs incurred in response and recovery efforts related to hazardous materials incidents to protect the surficial aquifer.

Goal 5: Potable Water resource protection - the City will protect and conserve its potable water resources.

Objective 5.1: The City will continue programs with a goal of continuing to reduce the consumption rate of potable water used for irrigation and other outdoor purposes from (2004) levels.

Policy 5.1.1. The City will incorporate and/or maintain water conservation measures into its land development regulations (adopted pursuant to F.S. 163.3202) and development orders for Planned Development Projects and Developments of Regional Impact including, but not limited to:

- Adherence to the Standard Plumbing Code to require the use of water saving devices.
- Maintain provisions of the Landscape Ordinance that strongly encourage the use of Xeriscape principles.
- Maintain a rate schedule to discourage wasteful use of potable water.
- Establishing irrigation conserving time of use restrictions.

GOAL 6: Efficient and safe solid waste disposal - the City will continue to minimize the per household quantity of non-hazardous solid waste delivered to the Lee County solid waste disposal facilities from Cape Coral and discourage littering and illegal dumping.

Objective 6.1: The City of Cape Coral will reduce the volume of non-hazardous solid waste requiring disposal to seventy percent of the total volume.

Policy 6.1.1. The solid waste materials to be picked up in the City's recycling program shall consist of aluminum containers, steel, tin cans, newsprint/newspaper, magazines, brown grocery bags, glass (clear, brown, and green) containers, and plastic #1 (HDPE), #2 (PETE), #3, #4, #5, #6, and #7 plastic, and cardboard.

Policy 6.1.2. The City will maintain a program to educate the public and increase their awareness of the solid waste disposal problem, and the importance of recycling. This program may include, but not necessarily be limited to, public presentations, video presentations, and publications. This program may be coordinated with similar programs offered by the Lee County Division of Solid Waste, the Lee County Extension Service, and other agencies.

Policy 6.1.3. The City will continue to ensure that collection and disposal of horticultural waste is separate from other waste collection.

Policy 6.1.4. The City will continue to support programs which develop or expand recyclable material markets, especially those involving plastics, metals, paper, and glass.

Objective 6.2: The City will maintain regulations to discourage littering and illegal dumping.

Policy 6.2.1. The City will maintain a requirement that mandates subscription to a solid waste collection service for all occupied dwelling units.

Exhibit E

RECREATION AND OPEN SPACE

GOALS, OBJECTIVES, AND POLICIES

GENERAL GOAL:

Enhance the quality of life in Cape Coral by developing a system of public parks, recreational facilities, and open space which meets the varied needs of present and future populations.

SUBORDINATE GOALS:

Acquire and develop a system of park lands, recreational facilities, and open spaces, which keep pace with community growth and changing community needs.

Provide a balanced and varied system of park lands, recreational facilities, and open spaces which are conveniently located, and accessible to all members of the public regardless of age or disability.

Objective 1: The City of Cape Coral will develop and maintain a system of parks and recreational facilities meeting the needs of the City's permanent and functional residents and shall identify and plan park and recreation improvements to ~~2030~~2040.

Policy 1.1: The City hereby adopts the "Plan for Recreation and Open Space in Cape Coral" and these goals, objectives, and policies, as the Recreation and Open Space Element of the Cape Coral Comprehensive Plan.

Policy 1.2: The City hereby adopts the definitions of Regional, Community, Neighborhood, and Special Parks ("The Plan for Recreation and Open Space") and adopts the following standards for recreational facilities:

Park Classification	Acres per Service Population*	Emphasis
Regional Park	4 acres per 1,000 population	Passive Recreation (e.g. hiking, picnicking, nature study)
Community Park	2 acres per 1,000 population	Senior center, swimming pool, tennis, racquetball, picnicking,

		shelter houses, community rooms, etc.
Neighborhood Park	2 acres per 1,000 population	Playground, restrooms, picnic tables, bicycle and pedestrian access, other features as per neighborhood interest
Specialty Parks*	½ acre per 1,000 population	Gridiron or diamond sports, restrooms, refreshment area, bleachers

*Includes Athletic Fields, Environmental Parks, Aquatic Facilities, and Golf Courses.

Facility	Unit of Measure
Basketball Goal	1 goal per 2,500 persons
BMX Bicycle Course	1 course per 400,000 persons
Boat Ramp Lanes	1 lane per 10,000 persons
Bocce Courts	1 court per 30,000 persons
Diamond Sports Fields	1 field per 4,000 persons
Exercise Course	1 course per 50,000 persons
Golf Courses	1 course per 100,000 persons

Gridiron –Soccer	1 field per 10,000 persons
Gridiron - Football	1 field per 20,000 persons
Horseshoe Pits	1 court per 15,000 persons
Picnic Tables	1 table per 725 persons
Play Areas, Equipped	1 area per 10,000 persons
Racquetball Courts	1 court per 25,000 persons
Senior Center	1 center per 50,000 persons
Shuffleboard Courts	1 court per 25,000 persons
Swimming Pools	1 pool per 50,000 persons
Tennis Courts	1 court per 7,500 persons
Volleyball Courts	1 court per 25,000 persons
Nature Trails	1 mile per 50,000 persons
Bicycle/Jogging Paths	0.56 mile per 1,000 persons

Policy 1.3: Funding of capital costs for park and recreational facilities, including acquisition, development and maintenance, shall be met using the following sources:

- Proceeds of impact fee collections (provided that such monies are not used to correct a deficiency);

- Federal, State or private grants, loans and bonds; and,
- Private donations.

Ad valorem tax revenues will only be used, when necessary, to provide the balance of necessary funding.

Policy 1.4: User fees will be used as a funding source for the operation and maintenance of City-owned parks and recreation facilities.

Policy 1.5: ~~All parks and recreation facilities proposed within the Urban Services Infill area will be completed and functioning by the end of 2012.~~ Reserved.

Policy 1.6: Parks and recreation facilities within the Urban Services Reserve Area will be acquired and developed in proportion to the rate of growth within the service area of the park or facility.

Policy 1.7: Acquisition of lands within the Urban Services Reserve Area will be via ~~Transfer of Development Rights (TDR)~~ property trade or by direct purchase funded by the City's revolving Recreational Land Acquisition Fund, as provided in the "Land Banking" section of the Future Land Use Element. The City will seek additional funding from private sources. Condemnation shall not be used to obtain lands within the Urban Services Reserve Area, except as a last resort.

Policy 1.8: Excepting only such projects as described under Policy 1.9, below, a proposed residential development shall be determined concurrent for park and recreational facilities and services if any of the following conditions are met:

- At the time a development order or building permit is issued, the necessary park and recreational facilities and services are in place or under actual construction; or
- A development order or building permit is issued subject to the condition that the acreage for the necessary facilities and services has been dedicated to or acquired by the City of Cape Coral or funds in the amount of the developer's fair share have been committed by the time of issuance of the building permit; or
- At the time a development order or building permit is issued, the necessary park and recreational facilities and services are the subject of a binding executed agreement which requires the necessary park and recreational facilities and services to serve the new development to be in place or under actual construction no more than three (3) years after the issuance of a building permit; or
- At the time a development order or building permit is issued, the necessary park and recreational facilities and services are guaranteed in an enforceable development agreement, pursuant to Section 163.3220, Florida Statutes, or an agreement or development

order issued pursuant to Chapter 380, Florida Statutes, to be in place or under actual construction not more than three (3) years after issuance of a building permit.

Policy 1.9: For the purpose of issuing a development order or building permit, a proposed development may be deemed to have a de minimis impact on the affected park and recreational facilities and not subject to concurrency requirements of Policy 1.8 only if all of the following conditions are met:

- The development proposal is for an increase in density less than or equal to two (2) times the density or intensity of existing development, or for the development of a vacant parcel of land, residential development proposal is for a density of less than four (4) dwelling units per acre; and
- The park and recreational impact of the proposed residential development does not exceed 0.1 percent of the adopted level-of-service of the affected park and recreational facilities.
- If the affected park and recreation facilities do not meet adopted level-of-service standards, the cumulative park and recreational impact from the de minimis exemption does not exceed three (3) percent of the adopted level-of-service standard.

Policy 1.10: Design and development of park and recreation facilities shall consider environmental and neighborhood conditions.

Policy 1.11: The City shall meet the recreational needs of all population groups through the development of recreational facilities.

Objective 2: The City will acquire lands at least sufficient to provide the recreational facilities and improvements identified in the Comprehensive Plan as needed by ~~2012-2025~~ and shall identify lands needed to meet future recreational demands in ~~2030~~2040, in order to preserve open space, and protect from intrusion the existing open space owned by the State of Florida.

Policy 2.1: The City will explore methods for preserving corridor open space and enhancing landscaping along the City's multi-lane divided roadways.

Policy 2.2: The City will cooperate with State authorities to protect State-owned preservation lands as a source of open space, passive recreation, nature study, and personal enrichment.

Policy 2.3: The City will coordinate with other government agencies and nonprofit organizations to acquire and manage natural areas and open space.

Policy 2.4: The City will adopt, pursuant to the provisions of Chapter 163.3202 (1), Florida Statutes, land development regulations which include incentives to encourage the provision of open space within future developed areas.

Policy 2.5: In selecting lands for acquisition and future park development the City shall strive to locate and acquire environmentally sensitive lands.

Policy 2.6: By ~~2012~~2025, the City of Cape Coral will develop a master plan, including conceptual maps, for a network of recreational trails and conservation greenways. The network will be designed, to the degree feasible, around existing facilities. Land for the network, including land for destinations, trailheads and associated parking facilities, will be acquired as opportunity and resources allow.

Policy 2.7: The City shall continue to develop Parks Master Plans (last updated: 2016) every 10-15 years.

Objective 3: The City of Cape Coral will continue to provide a system of parks, recreational facilities, and open space which is accessible to all members of the public.

Policy 3.1: All park facilities will be built and maintained in accordance with the Americans with Disabilities Act (ADA) of 1990.

Policy 3.2: The City will ensure that all new Community, Specialty and Regional Parks have adequate parking, and are accessible to automobile, pedestrian, and bicycle traffic.

Policy 3.3: The City will assure the safety of all public park users.

Policy 3.4: Neighborhood Parks will be accessible to pedestrians and bicyclists, and adequate parking shall be provided in accordance with Americans with Disabilities Act (ADA) requirements. Limited vehicular parking will be provided for all other users.

Policy 3.5: ~~By 2010, the~~ The City will shall continue to look for opportunities to provide at least one (1) additional boat ramp lanes to that would provide access to the Caloosahatchee River or Charlotte Harbor.

Policy 3.6: The City will seek funding for additional boat ramp lanes by applying for its share of Lee County's Recreational Vehicle and boat tax funds and for Florida Recreation and Park Development Assistance Project (FRDAP) grants.

Policy 3.7: The City will permit no diminution in the length of fresh or salt-water shoreline which is available for public use and enjoyment and, as opportunity and resources allow the City will increase the length of such shoreline.

Policy 3.8: The City will ensure that the existing level of vehicular and non-vehicular access to fresh and salt-water shorelines is maintained and, as opportunity and resources allow, the City will increase the level of access to the City's fresh and salt-water shorelines.

Policy 3.9: The City will continue to explore opportunities for obtaining beach access to Charlotte Harbor. The selection of the beach access shall be such that the environmental integrity and ecological function of the area is maintained.

Policy 3.10: In order to prevent the loss of fresh or salt water beach access, the City will pursue grants from the Federal, State, and County governments for beach renourishment and maintenance.

Objective 4: By ~~2012~~2025, City parks and recreational facilities will be as safe as, or safer than, they were during the period from 1996 through ~~2002~~2018. The number of accidents occurring in City parks, as a function of usership, will remain constant, or decrease.

Policy 4.1: The City will promote safety at public parks and recreational facilities through regular risk assessment and safety inspections. The frequency of the inspections for each facility will be a function of use and number of accidents, on a schedule to be established by the City Risk Manager within one year of adoption of this plan.

Policy 4.2: The City will promote safety at public parks and recreation facilities through the use of information signage, lighting, rails, fences, and other appropriate measures.

Policy 4.3: The City will promote playground safety through the use of impact-absorbing ground materials, by separating playgrounds from vehicular traffic, and by selecting safe play equipment.

Objective 5: The City will continue to provide adequate levels of funding to properly and efficiently maintain park and recreation facilities within Cape Coral.

Policy 5.1: The City will maintain park maintenance standards consistent with accepted national standards as set forth in the publication "Park Maintenance Standards" published by the National Recreation and Park Association.

Policy 5.2: The City will establish a maintenance program for each park and recreational facility and will prepare a schedule of expenditures required to maintain each park and recreation facility.

Objective 6: The City will aggressively pursue an increase in private and public funds for the acquisition, development, maintenance, and operation of parks and recreational facilities.

Policy 6.1: The City will continue and enhance its agreements with Lee County government and with the School Board of Lee County for the joint development and operation of parks and recreational facilities, and shall, when possible, extend these agreements to cover new school facilities.

Policy 6.2: The City will continue to study the feasibility of the privatization of park concessions by non-governmental vendors, including community-based, not-for-profit organizations. If determined feasible, the City will amend the Comprehensive Plan to incorporate a Schedule for privatization of services.

Policy 6.3: The City will adopt, as a part of its land development regulations, in accordance with s. 163.3202 (1), F.S., incentives for private developers to create recreational facilities, which are available for public use. These incentives may include, but are not limited to, park impact fee credits or density bonuses.

Policy 6.4: The City will, within one year of the adoption of this comprehensive plan, commission a study to explore joint ventures between the City and private donors; and will create a method for soliciting, receiving, and disbursing dedicated contributions.

Policy 6.5: The City will encourage contributions from private sources by creating matching funds, and identifying and creating other inducements.

Policy 6.6: The City shall diversify and expand its revenue base for park and recreation facilities.

Policy 6.7: The City shall explore and initiate cooperative agreements with non-profit organizations, civic clubs, religious organizations, and other organizations in the development and maintenance of park and recreation facilities.

Policy 6.8: In acquiring and developing parks, especially neighborhood parks, the City shall seek to obtain the financial, physical, and political support of the residents of the surrounding neighborhoods.

Policy 6.9: The Parks and Recreation Department shall investigate the feasibility of revising the application of park impact fees to include special and neighborhood parks.

Objective 7: The City will maintain and/or expand public opportunities for participation in the creative and performing arts.

Policy 7.1: The City will promote the creative and performing arts by providing appropriate outlets for artistic expression.

Policy 7.2: The City will identify other fine arts organizations, which provide visual and performing arts. The Parks and Recreation Department will attempt to coordinate their efforts with such organizations to avoid duplication of services.

Policy 7.3: The City will evaluate, for purposes of long-term development, a broad variety of arts facilities, including: outdoor performing arts facilities, community theater activities, museums, and fine arts workshops. The City will amend the Comprehensive Plan to incorporate those facilities into its Capital Improvement Element for which adequate demand can be established and for which a cost/benefit analysis indicates financial feasibility.

Policy 7.4: The City will construct arts facilities capable of multiple uses when such construction will increase the use of the facility without creating scheduling conflicts.

Policy 7.5: The City will promote the efficient utilization of existing cultural and performing arts facilities located at Cultural Park, as well as other existing facilities throughout the City.

Exhibit F

TRANSPORTATION ELEMENT

GOALS, OBJECTIVES, AND POLICIES

GOAL 1: The City of Cape Coral shall provide its residents with an efficient, balanced and safe motorized and non-motorized transportation system, which is both economical and in accord with future land use and environmental goals.

Objective 1.1: All of the City's road network within the Urban Services Infill, Transition and Reserve Areas will meet level of service standards as adopted by the City in Policy 1.1.1.

Policy 1.1.1: The City shall review professionally accepted studies and current traffic counts to determine levels of service standards within Cape Coral. The City hereby adopts the following peak hour, peak season Level of Service Standards for the following facilities:

- a) Del Prado Boulevard (Cape Coral Parkway to SR 78) - LOS E
Del Prado Boulevard (SR 78 to US 41) - LOS D
- b) State Road 78 (Pine Island Road) West of Del Prado Boulevard - LOS C
State Road 78 (Pine Island Road) East of Del Prado Boulevard - LOS D
- c) Pondella Road - LOS E
- d) Hancock Bridge Parkway (City Limits to Del Prado Boulevard) - LOS E
- e) Cape Coral Parkway (Cape Coral Bridge to Pelican Boulevard) - LOS E
- f) Burnt Store Road/ Veterans Parkway Corridor - LOS E
- g) All other local, collector, and arterial roadways - LOS D
- h) All other limited access facilities - LOS D
- i) All other roads within City jurisdictions - LOS D

Policy 1.1.2: Existing and future traffic circulation demands will be met within the next five years by undertaking the projects shown in Figure 21 of this Transportation Element.

Policy 1.1.3: The City will amend the comprehensive plan in the event that changing development patterns or community needs make the improvements referenced in Policy 1.1.2 unnecessary.

Policy 1.1.4: The City will amend its land use and development regulations in accordance with s.163.3202, Florida Statutes to preserve through traffic capacity,

minimize energy consuming delays and interruptions to the flow of arterial and collector traffic on the street system by:

- a) Controlling driveway access.
- b) Providing sufficient distance between land access and expressway interchanges.
- c) Spacing intersections on arterials and collectors for efficient traffic signal operation.
- d) Encouraging the concentration of commercial and industrial development to control and minimize the number of points of access to arterial road systems.
- e) Restricting private driveway access to the expressway system.
- f) Installing, or continuing in operation, traffic control devices only when a demonstrated need is established through appropriate engineering studies and when warranted, as defined and specified in the Florida Manual of Traffic Control Devices.
- g) Eliminating or minimizing roadway designs which lead to hazardous conditions by implementing the Engineering Design Standards. Such standards shall address the topics of:
 - 1) Access control
 - 2) Site access design
 - 3) Geometric design
 - 4) Traffic signals
 - 5) Construction zones
 - 6) Emergency access lanes
 - 7) Transit facilities
 - 8) Noise
 - 9) Striping and signing
 - 10) Street lights and utilities

11) Parking

Policy 1.1.5: Traffic demands created by proposed development will be reviewed for consistency with the Comprehensive Plan and level-of-service standards as referenced in Policy 1.1.1.

Policy 1.1.6: A proposed development shall be determined concurrent for transportation if any of the following conditions are met:

- a) At the time a development order or building permit is issued, the necessary transportation facilities and services are in place or under actual construction; or
- b) A development order or building permit is issued subject to the condition that the necessary transportation facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than three (3) years after issuance of a building permit. The required transportation facilities and services shall be provided for in the Capital Improvements Element; or
- c) At the time a development order or building permit is issued, the necessary transportation facilities and services are the subject of a binding executed agreement which requires the necessary transportation facilities and services to serve the new development to be in place or under actual construction no more than three (3) years after the issuance of a building permit; or
- d) At the time a development order or building permit is issued, the necessary transportation facilities and services are guaranteed in an enforceable development agreement, pursuant to Section 163.3220, Florida Statutes, or an agreement or development order issued pursuant to Chapter 380, Florida Statutes, to be in place or under actual construction not more than three (3) years after issuance of a building permit.

Policy 1.1.7: New development, redevelopment and infill development projects located within the City of Cape Coral Downtown CRA Transportation Concurrency Exception Area (TCEA) may be exempt from transportation concurrency requirements, so long as said new development, redevelopment or infill development opts to mitigate impacts to transportation levels of service through the strategies described Policy 14.5 of the Future Land Use Element of this comprehensive plan. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project agrees to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5, or opts to be subject to

standard transportation concurrency requirements, all projects shall be subject to concurrency review for the purpose of assessing the transportation impacts of the proposed development.

Policy 1.1.8: If a proposed development is determined not concurrent for transportation, the applicant may choose to satisfy the transportation concurrency requirement(s) by making a proportionate fair-share contribution pursuant to the Proportionate Fair-Share Regulation(s) adopted by the City. The City shall maintain the Proportionate Fair-Share Ordinance, or otherwise develop a basis upon which the landowners will be assessed a proportionate share of the cost addressing the transportation impacts resulting from a proposed development.

Policy 1.1.9: For the purposes of issuing a development order or building permit, a proposed urban redevelopment project located within the Urban Services Infill Area, as identified on the Future Land Use Map, shall not be subject to concurrency requirements of Policy 1.1.6 for up to one hundred ten (110) percent of the transportation impact generated by the previously existing development. A previously existing development is the actual previous built use which was occupied and active within one (1) year of the date of application for a development order or building permit for the proposed redevelopment project.

Policy 1.1.10: For the purpose of issuing a development order or building permit, a proposed development may be deemed to have a de minimis impact and not subject to concurrency requirements of Policy 1.1.6 only if all of the following conditions are met:

- a) Development proposal is for an increase in density or intensity less than or equal to two (2) times the density or intensity of the existing development, or for the development of a vacant parcel of land, residential development proposal is for a density of less than four (4) dwelling units per acre, or for non-residential uses the proposal is for an intensity of less than 0.1 floor area ratio; and
- b) The Transportation impact of the proposed development does not exceed 0.1 percent of the maximum service volume at the adopted level-of- service standard for the peak hour of the affected transportation facility; and
- c) If the affected transportation facility does not meet adopted level-of-service standards, the cumulative total transportation impact from the de minimis exemption does not exceed three (3) percent of the maximum service volume of the adopted level-of-service standard.
- d) The proposed development does not exceed the adopted level-of-service standard of a designated hurricane evacuation route.

Policy 1.1.11: Notwithstanding Policy 1.1.8 and Policy 1.1.9, all new development proposals that generate three hundred (300) or more cumulative trips in the peak hour

shall submit a traffic impact study (TIS) in accordance with the City of Cape Coral Engineering Design Standards.

Policy 1.1.12: If deemed necessary to meet concurrency requirements for transportation facilities, the City shall revise the Comprehensive Plan to implement any or all of the following programs in accordance with s. 163.3180, Florida Statutes:

- a) Transportation Concurrency Management System
- b) Transportation Concurrency Management Areas
- c) Transportation Concurrency Exception Areas

Policy 1.1.13: The City will set priorities annually to make efficient use of existing capacity of transportation facilities before investing in additional facilities, by implementing the City's annual budget.

Policy 1.1.14: Proposed projects will be evaluated in an ongoing process by the City and ranked in order of priority according to the following guidelines:

- a) Projects addressing future peak hour level of service deficiencies as defined by Chapter 14-94, Florida Administrative Code.
- b) Projects involving existing conditions by procedures outlined in the current Highway Capacity Manual and/or the Florida Department of Transportation's 2002 Quality/Level of Service Handbook and subsequent updates.
- c) Both of the above are to incorporate safety considerations by use of benefit cost ratios.

Policy 1.1.15: The City will continue the Traffic Operations Program to Increase Capacity and Safety (TOPICS) to improve signal timing, signing, marking, channelization, and other traffic control measures. This program, which ranks prospective projects' capacity and safety impacts on a benefit cost ratio basis, shall be budgeted and implemented within a two year time frame after approval.

Policy 1.1.16: Priority setting for annual road resurfacing projects will be based on engineering studies that take into consideration among other factors: pavement conditions along 4-lane roadways, population densities, and whether utilities are in place. Arterial and Collector roadways under municipal jurisdiction will be given priority for resurfacing over local streets.

Policy 1.1.17: The City will continue to implement the Engineering Design Standards which establish standards set forth in the State of Florida Manual of Uniform Standards for

Design Construction and Maintenance for Street and Highways. All new roads will be constructed and maintained according to these standards.

Policy 1.1.18: The long range traffic circulation map, Figure 22, shall be derived primarily through the use of the Lee County Metropolitan Planning Organization's (MPO) travel demand forecast models and shall reflect the MPO's 2040 Financially Feasible Plan, roadways identified in the Florida Department of Transportation's 2040 Florida Transportation Plan, and other locally designated needs.

Policy 1.1.19: The City shall assure through the annual budgeting process that adequate funds are dedicated for the operation and maintenance of the City's existing transportation network.

Policy 1.1.20: The City shall provide adequate funding for operation and maintenance of Cape Coral's transportation network to provide for a safe and efficient transportation system.

Policy 1.1.21: The City of Cape Coral's transportation planning and improvement programs shall be based upon two planning horizons: (1) a short term planning horizon, based upon the Five-year Schedule of Capital Improvements; and, (2) a long term planning horizon, based upon the Future Land Use Element's long term horizon year (2035).

Objective 1.2: The City shall ensure the availability of rights-of-way for the construction of arterial and collector roadways and transportation projects to meet the projected travel demand by 2030.

Policy 1.2.1: The City will, by 2020, adopt an "Official Thoroughfare Map" identifying future rights-of-way (at buildout) based upon the Transportation Element and the Future Land Use Element of the Comprehensive Plan.

Policy 1.2.2: As indicated in the City's Engineering and Design standards, the City adopts the following minimum right of way requirements for new roadway construction. Right-of-way width reductions may be justified in specific instances as stated in the Uniform Manual of Minimum Standards.

6 Lane Rural Section 206 feet

6 Lane Urban Section 120 feet

6 Lane Urban Section Limited 100 feet

4 Lane Urban Section 100 feet

Local Section 60 feet (swale drainage)

50 feet (curb and gutter)

Alleys 20 feet

Policy 1.2.3: The City will establish and implement a comprehensive process of advance acquisition and protection of right-of-way on corridors identified and designated for advance acquisition on the City Thoroughfare Map. This right-of-way protection and acquisition is required to insure compliance with level of service standards established by Policy 1.1.1.

Objective 1.3: Level-of-service standards, roadway capacity, and safety shall be enhanced through the implementation of access management plans for major roadways.

Policy 1.3.1: The Florida Department of Transportation's Access Management Plan for SR 78 (Pine Island Road) shall be implemented through revisions to the City of Cape Coral ~~Land Use and Development Regulations~~ Land Development Code and Engineering Design Standards for properties located along SR 78 (Pine Island Road). These revisions include, but are not limited to:

- a) Establishing minimum driveway connection spacing.
- b) Establishing spacing of full and directional median openings.
- c) Establishing a program for the construction of a parallel access road system.
- d) Requiring, when feasible, cross-access easements to allow interconnection between abutting properties fronting SR-78.

Policy 1.3.2: Access management measures shall be implemented along Del Prado Boulevard from SR 78 (Pine Island Road) to US 41. These measures shall include, but are not limited to:

- a) Establishing driveway connection spacing.
- b) Establishing spacing of full and directional median openings.
- c) Establishing a program for the construction of a parallel access road system.

Policy 1.3.3: The Burnt Store Road-Veterans Parkway-Colonial Boulevard Bi-County Study shall be implemented through revisions to the City of Cape Coral ~~Land Use and Development Regulations~~ Land Development Code and Engineering Design Standards for properties located adjacent to Burnt Store Road and Veterans Parkway. These revisions include, but are not limited to:

- a) Establishing minimum driveway connection spacing.

- b) Establishing spacing of full and directional median openings.
- c) Establishing a program for the construction of parallel access roadways as needed.

Policy 1.3.4: Joint driveways shall be encouraged for properties located along Cape Coral's divided arterials and collectors. The joint driveways shall be designed to operate in a safe and efficient manner.

Policy 1.3.5: Circular driveways or driveways with a turnaround area shall be required for properties located along Cape Coral's divided arterials and collectors.

Policy 1.3.6: As a means of implementing access management controls such as rear access roads, frontage roads, or parallel access road systems, the City shall investigate the feasibility of establishing Municipal Services Benefit or Taxing Units (MSBU or MSTU).

Objective 1.4: Ground transportation times between Cape Coral and the Southwest Florida International Airport shall be maintained or improved beyond ~~their~~ 2014 levels, both by ensuring that roads within the City's jurisdiction and control maintain the level of service standards specified in the Transportation Element; and by working with the Lee County Metropolitan Planning Organization and neighboring jurisdictions to support road improvements that would act to reduce travel times between the City and the airport.

Policy 1.4.1: Road improvements within the City of Cape Coral will be made, in accordance with the Transportation and Capital Improvements Elements, to maintain access routes to the Southwest Florida International Airport.

Policy 1.4.2: The City will monitor the implementation of the Transit Element developed as part of the 2040 Lee County MPO Long Range Transportation Plan that includes expansion of existing transit routes and future consideration of a express service to the Southwest Florida International Airport.

Objective 1.5: Continue to implement and improve a program of mass transit and paratransit services, in coordination with Lee County Transit (Lee Tran), based upon existing and proposed major trip generators and attractors, safe and convenient mass transit terminals, and accommodation of the special needs of the transportation disadvantaged within the Urban Services Infill, Transition and Reserve Areas as recommended in the Transit Element developed as part of the 2040 Lee County MPO Long Range Transportation Plan.

Policy 1.5.1: The City will support the transit program included in the adopted Lee County MPO 2040 Long Range Transportation Plan and future versions as amended, and will also request that, at a minimum, present levels of County transit service to and from Cape Coral be maintained by Lee County Transit (Lee Tran).

Policy 1.5.2: The Transit Element of the Lee County MPO's 2040 Long Range Transportation Plan contains plans for both improved and additional transit service for the residents of the City of Cape Coral. The City will review such planned service and, within

one (1) year of the adoption of the City of Cape Coral ~~2035-2040~~ Comprehensive Plan, will determine whether to request further service expansions and/or improvements, and if necessary, will investigate the feasibility of reimbursing the County for its share of the subsidy associated with that improved or expanded service.

Policy 1.5.3: The City will continue to participate through the Lee County MPO in the implementation of a dedicated funding source to support transit service in Lee County.

Policy 1.5.4: The City will continue to assist Lee Tran in the development of its Park & Ride Program, by providing requested population and demographic information, assisting efforts to obtain permission to use parking lots for this program, and assisting in the development of public information.

Policy 1.5.5: The City will, in coordination with Lee County, continue to monitor transit fare structures to ensure that rates remain affordable for the transit dependent, and will object to Lee Tran in writing if fares increase beyond an affordable level.

Policy 1.5.6: If, in the future, the City of Cape Coral begins to maintain and improve its own mass transit system, the City will amend this Comprehensive Plan through the plan amendment process to establish a level of service standard for the City's mass transit system.

Policy 1.5.7: The City shall provide incentives for the assembly of land, mixed use developments, and shall promote development within all areas of the City in such a manner as to support the efficient and economical provision of public transit service.

Policy 1.5.8: The City shall encourage, through the ~~Planned Development Project (PDP)~~ site development plan process the provision of transit shelters and other amenities along existing mass transit routes.

Policy 1.5.9: The City shall, in conjunction with Lee County Transit; continue to promote the use and benefits of public transit.

GOAL 2: The City of Cape Coral will provide its residents with diverse travel choices in order to ensure mobility, sustain environmental quality, reduce energy consumption, and increase the quality of life for Cape Coral's citizens.

Objective 2.1: The City will continue to implement specific, non-motorized transportation policies and programs within the Urban Services Infill and Transition Areas, which will eventually result in the establishment of regularly maintained and improved bicycle and pedestrian facilities throughout the City of Cape Coral.

Policy 2.1.1: The City will continue to implement, in conjunction with other local governments and the private sector, a network of sidewalks, exercise trails, and bikeways connecting residential, commercial and industrial areas, in a manner that provides safe circulation of recreational traffic within the Urban Services Infill and Transition Areas.

Policy 2.1.2: The City shall continue to pursue funding for the construction of facilities to promote pedestrian and bicycle travel through the provisions of the Federal ~~Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)~~ Fixing America's Surface Transportation (FAST) Act.

Policy 2.1.3: The City shall continue to promote increased bicycle/pedestrian safety awareness in Cape Coral.

Policy 2.1.4: All new collector and arterial roadways shall be designed and constructed to include sidewalks and/or bicycle lanes to safely accommodate bicycle and pedestrian traffic. Bicycle and/or pedestrian facilities should be provided when feasible as a part of road widening, reconstruction, or resurfacing projects.

Policy 2.1.5: The City shall continue to require new development to incorporate design elements to accommodate and protect bicyclists and pedestrians.

Policy 2.1.6: The City shall attend and participate in the Lee County Bicycle and Pedestrian Advisory Committee.

Policy 2.1.7: Prioritization of road projects shall take into consideration the extent to which the facilities being prioritized would contribute to the connectivity of the bicycle/pedestrian network.

Policy 2.1.8: The City shall encourage the planning and development of interconnecting pedestrian/bike facilities between developments.

Policy 2.1.9: The City shall coordinate the design and construction of pedestrian and bicycle facilities between projects as well as with other entities.

Objective 2.2: The City shall continue to implement policies and programs designed to decrease the number of single occupancy vehicle miles traveled per capita, to increase the occupancy rate of all vehicles, and to decrease the per capita consumption of non-renewable fossil fuels.

Policy 2.2.1: The City will participate with the Florida Department of Transportation, Lee County Metropolitan Planning Organization, other local governments, and the private sector in the implementation of transportation demand management programs designed to ensure the efficient use of existing road space, to conserve energy, and to reduce peak hour vehicle use in congested areas. The program shall include, but shall not be limited to the following:

- 1) Employer-based variable work hours.
- 2) City government variable work hours.
- 3) Employer-based carpool programs.

- 4) Provision of high-occupancy vehicle lanes in congested areas, including bridges.
- 5) Peak-hour congestion pricing on toll bridges.
- 6) Telecommuting.

Policy 2.2.2: The City shall cooperate with Lee County in the implementation of any plan(s) that will assist in reducing peak hour congestion on the Cape Coral and Midpoint Bridges.

Policy 2.2.3: Through the Planned Unit Development ~~Planned Development Project (PDP)~~ process and other site plan review procedures, the City shall require new development to accommodate public transit, bicycles, pedestrians, and other alternative transportation modes in the project's site design.

Policy 2.2.4: Within one year of adoption of this plan, the City shall develop an action plan for the implementation of transportation demand management policies and programs within the City of Cape Coral.

Policy 2.2.5: As new transportation technologies evolve, the City shall pursue the implementation of such technologies that increase the efficiency of operation of the City's transportation network. These technologies may include but are not limited to hybrid vehicles, the use of propane/natural gas/grain fuels, in-vehicle navigation systems, telecommuting equipment, and other, as yet unforeseen, advances in transportation technology.

Policy 2.2.6: In order to promote bicycling, walking, and other alternative modes of transportation, the City shall provide incentives for the development of mixed use projects, commercial activity centers and alternative subdivision design and lot layouts.

Policy 2.2.7: The City shall discourage new strip style commercial development through efforts to promote the concentration of commercial development at the nodes of major intersections.

Policy 2.2.8: By 2020 or earlier, the City shall adopt a neighborhood traffic calming program. This program shall identify guidelines for roadway design, traffic operations, land use decisions, and site design to encourage a safe mix of automobiles, bicycles, and pedestrians.

Policy 2.2.9: City owned parking lots shall be considered for use as park and ride lots. Use of City-owned parking lots as park and ride lots shall be based on financial feasibility, compatibility with surrounding land uses, and efficiency of service, among other factors.

Policy 2.2.10: The City shall investigate the feasibility of providing park and ride lots at intersections of major arterial and collector roadways.

Policy 2.2.11: The City shall pursue federal funding through the ~~Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users~~ Fixing America's Surface Transportation (SAFETEA-LUFAST) Act for the planning and development of intermodal facilities.

Objective 2.3: In order to promote the economic viability of Downtown Cape Coral, the City of Cape Coral shall establish the Downtown CRA Transportation Concurrency Exception Area (Downtown TCEA). Establishment of the TCEA will enhance the ability of the City to undertake the following activities:

- Urban redevelopment;
- Urban infill development;
- Increasing retail and commercial services, as well as employment opportunities within the Downtown Area, thereby reducing the City's reliance on travel across bridges to reach such land uses;
- Providing residents of, and visitors to, the Downtown Area with a variety of transportation choices and opportunities including automotive, pedestrian, bicycle and transit;
- The creation and implementation of desirable urban design and form in the Downtown Area;
- The creation of a broader mix of residential and non residential uses in the Downtown Area;
- Implementing streetscaping and landscaping improvements in the Downtown Area; and
- Increasing comfort, safety and convenience for pedestrian, bicycle and Transit users in the Downtown Area.

Policy 2.3.1: New development, redevelopment and infill development projects located within the City of Cape Coral Downtown Transportation Concurrency Exception Area (Downtown TCEA) may elect to be exempt from transportation concurrency requirements through implementation of the mitigation strategies described in Policy 14.5 of the Future Land Use Element. New development, redevelopment and infill development projects that do not choose to mitigate transportation concurrency impacts in such manner shall be subject to all applicable transportation concurrency requirements. Whether or not a project elects to mitigate its transportation impacts through the strategies identified in Future Land Use Policy 14.5, or elects to be subject to standard transportation concurrency requirements, all projects shall be subject to concurrency review for the purpose of assessing the transportation impacts of the proposed development.

GOAL 3: The City shall assure the availability of transportation services to all citizens of Cape Coral with a special consideration for the elderly and handicapped.

Objective 3.1: Transportation services for the transportation disadvantaged shall be maintained at, or improved beyond, 2014 levels.

Policy 3.1.1: To facilitate use of transit by the elderly and handicapped persons, the City will:

- 1) Provide sidewalks with curb cuts and accessible transit stops or shelters.
- 2) Support the Transportation Disadvantaged Service provided by Lee County.
- 3) Continue to subsidize the City's mini-bus service.

Policy 3.1.2: The City will continue to provide mini-bus service to the transportation disadvantaged population of Cape Coral. This mini-bus service shall enable the elderly and handicapped the opportunity for recreation, shopping, and non-emergency medical appointments.

Policy 3.1.3: The City will continue to provide information to the public regarding bus routes and services. The Department of Parks and Recreation will be directly involved in all coordination efforts with other agencies.

Policy 3.1.4: The City will periodically seek grants and other non-ad valorem revenues to finance the expansion of the existing City mini-bus service.

Policy 3.1.5: All City of Cape Coral transportation services and facilities shall meet all requirements of the Federal Americans with Disabilities Act.

Policy 3.1.6: The City shall maintain adequate funding to assure the operation and maintenance of the City's mini-bus service in a safe and efficient manner.

GOAL 4: The City transportation system will emphasize safety and aesthetics.

Objective 4.1: The City will increase the amount and variety of landscaping and will undertake other beautification projects along the City's transportation network.

Policy 4.1.1: The City will implement criteria within the City of Cape Coral ~~Land Use and Development Regulations~~Land Development Code for landscaping and signs along all arterials and collectors and will continue to implement a program to landscape and maintain median strips and rights of way.

Policy 4.1.2: The City will assure that all landscaping and beautification projects placed within the right-of-way will not pose any danger to the traveling public by ensuring that such projects adhere to the City Engineering Design Standards.

Policy 4.1.3: The City will continue to explore methods for preserving corridor open space and enhancing landscaping along the City's four-lane divided roadways. The City will seek to implement, where feasible, wider setbacks, improved lot layouts, enhanced landscaping, and increased open space for improved corridor access, aesthetic purposes, enhancement of housing values within the roadway corridors, and the provision of newer, safer facilities for cycling, walking, and running.

Policy 4.1.4: The City will actively seek public/private partnerships with local businesses, civic organizations, neighborhood associations, and other groups in order to beautify Cape Coral's transportation network.

Objective 4.2: Emergency evacuation times from the City of Cape Coral shall meet or exceed regional evacuation standards, as determined by the Southwest Florida Regional Planning Council.

Policy 4.2.1: The City will provide, or support the provision of, adequate roadway capacity for emergency evacuation through its road improvement, concurrency management and development review programs.

Policy 4.2.2: ~~By 2020, the City will have worked toward improving its emergency evacuation clearance times through the four-laned extension of DeNavarra Parkway to U.S. 41, and the connection of Jacaranda Parkway and Averill Boulevard to North Del Prado Boulevard.~~ Reserved.

Policy 4.2.3: The City will continue to maintain or improve existing emergency evacuation times, as determined by the 2001 Regional Hurricane Evacuation Study Update prepared by the Southwest Florida Regional Planning Council.

Policy 4.2.4: All new development shall be reviewed to assure that the capacity and operation of emergency evacuation routes will be maintained or improved.

Policy 4.2.5: New road construction and road reconstruction of routes shall be reviewed to assure that they are designed to minimize the potential flooding of the route during hurricane evacuations. Special emphasis shall be placed on roads designated as hurricane evacuation routes identified in this Plan.

Policy 4.2.6: Emergency evacuation route designation and maintenance shall be coordinated with the Southwest Florida Regional Planning Council and Lee County Emergency Management.

Objective 4.3: The City shall implement continuous roadway safety enhancements to maintain a steady or reduced number of traffic crashes per vehicle miles of travel.

Policy 4.3.1: The City Traffic Engineer will, as an ongoing process, conduct traffic engineering studies of hazardous and congested locations and take appropriate corrective actions. Funding for the immediate implementation of measures to address serious hazards will be programmed annually.

Policy 4.3.2: The City shall assure that its transportation safety policies and requirements continue to be enforced. Such policies and requirements shall include, but may not be limited to:

- The provision of safe and convenient on-site traffic flow and parking for both motorized and non-motorized vehicles;
- The provision of safe and convenient access to major arterials for high-density residential developments; and
- The implementation of traffic controls and access management provisions that direct through traffic onto major arterials and collectors and, which discourage through traffic from low-density residential areas.

Policy 4.3.3: The City shall continue to implement, and shall continually improve, the programmed maintenance and replacement of all stop, street name, and traffic control signs.

Policy 4.3.4: The City of Cape Coral Department of Public Works shall establish and implement criteria for the installation of street lights in such a manner as to provide for the establishment of a safe transportation network. In establishing such criteria, priorities for the installation of street lights shall include, at a minimum, in no particular order:

- (1) Areas subject to be selected as a school bus stop, where placement of a streetlight would improve safety. Particular emphasis will be taken to improve visibility during the early morning hours.
- (2) Areas experiencing significant residential and/or commercial development;
- (3) Intersections or roadway links experiencing high traffic volumes and/or having an increased potential for accidents;
- (4) The installation of approach and intersection lighting at signalized and multiway stop intersections for the enhanced safety of both motorized and non-motorized vehicles at night.
- (5) Establishing adequate street lighting on both existing major commercial corridors and new commercial corridors, as they develop.

In implementing the street lighting program, the Department of Public Works will, if feasible, seek alternative funding sources. Such funding sources may include, but may not be limited to, safety grants, private donations, and municipal services benefit units (MSBUs).

Policy 4.3.5: The City shall implement a median curbing installation program to mitigate related roadway safety hazard and to protect landscaped medians. Priority locations for

safety related median curbing shall be based on technical criteria established by the City's Traffic Engineer and shall conform to national, state, and local standards.

Policy 4.3.6: The City shall continue to promote a safe and efficient roadway operation during construction through compliance with the basic traffic control requirements for construction and maintenance work. Such requirements shall conform to the U.S. Department of Transportation publication "Manual on Uniform Traffic Control Devices" (MUTCD).

GOAL 5: The City's transportation system will be an integrated and coordinated part of the county, regional, and state transportation system.

Objective 5.1: All planning for traffic circulation, mass transit and paratransit systems, as well as planning for any potential seaport or airport facilities, will be coordinated with the City of Cape Coral Future Land Use Map, the Florida Department of Transportation (FDOT) 2040 Florida Transportation Plan, the Lee County Metropolitan Planning Organization 2040 Long Range Transportation Plan and future versions as amended, and the plans of neighboring jurisdictions.

Policy 5.1.1: The City Public Works Department in conjunction with the Department of Community Development will annually review the FDOT Five Year Work Program in order to update the Comprehensive Plan if necessary.

Policy 5.1.2: The City Public Works Department in conjunction with the Department of Community Development will annually review, for compatibility with this element, the transportation plans and programs of Lee and Charlotte County as they are amended in the future.

Policy 5.1.3: The City will participate fully in County-wide transportation planning, including the Metropolitan Planning Organization (MPO). ~~Toward this end the City will implement its own computer modeling capabilities, by maintaining within the Department of Public Works and the Department of Community Development the ability to utilize the Florida Standard Urban Transportation Modeling Structure (FSUTMS).~~

Policy 5.1.4: The City, through participation in the Lee County Metropolitan Planning Organization (MPO) will coordinate with Lee County the correction of any deficiencies on County maintained roadways within the City of Cape Coral.

Policy 5.1.5: The City will coordinate with the Florida Department of Transportation the correction of any deficiencies on State maintained roadways within the City of Cape Coral.

Policy 5.1.6: In the unlikely event that the City of Cape Coral should consider approval of a proposed airport or seaport facility, the City will not issue development permits for any such facility without requesting comments from the Lee County Port Authority, the Lee County Metropolitan Planning Organization, the Southwest Florida Regional Planning Council and the Florida Department of Transportation. Permits will not be issued until the comment period expires or until comments are received and reviewed.

Policy 5.1.7: The City will coordinate all matters concerning seaport and airport facilities with the Lee County Port Authority, the Lee County Metropolitan Planning Organization, the Southwest Florida Regional Planning Council and the Florida Department of Transportation. The coordination shall include, but not necessarily be limited to notifying these agencies of any seaport or airport proposals, staff discussions and meetings relative to the proposed facilities, and formal communications relative to specific proposals.

Policy 5.1.8: The City will coordinate any aviation/airport planning with the Continuing Florida Aviation System Planning Process (CFASSP).

Policy 5.1.9: Any future mass transit or mini-bus service plans for the City of Cape Coral shall be consistent with the goals, objectives and policies set forth in the other elements of the Comprehensive Plan, specifically the Future Land Use and Conservation and Coastal Management Elements. These plans shall also be consistent and coordinated with the Lee County Metropolitan Planning Organization 2040 Long Range Transportation Plan and future versions as amended, the Lee County Transit Development Plan and Transportation Disadvantaged Program, and the Florida Department of Transportation 2040 Florida Transportation Plan.

GOAL 6: The transportation network shall promote and encourage positive economic development throughout the City.

Objective 6.1: The City's industrial, commercial and professional job opportunities and tax base shall increase over ~~2014~~2018 levels.

Policy 6.1.1: The City shall continue to support and promote the construction of the Burnt Store Road/Veterans Parkway Corridor, the DeNavarra Boulevard Extension to US 41, and the extension of Del Prado Boulevard from US 41 to an interchange with I-75 to promote efficient movement of vehicles and goods throughout the region, and to promote economic growth and development within Cape Coral.

Policy 6.1.2: The City's transportation network shall be designed and implemented to enhance economic development opportunities without jeopardizing land use and environmental goals contained within the Comprehensive Plan.

Cape Coral City Council

October 15, 2018

ORDINANCE 71-18

TXT18-0003

Background

- **Ordinance amends the Conservation and Coastal Management Element, Housing Element, Future Land Use Element, Infrastructure Element, Recreation and Open Space Element, and Transportation Element of the Comprehensive Plan**
- **First major overhaul of the Comprehensive Plan since the Evaluation and Appraisal Report of 2005.**

Background

- **This is one of four major efforts being undertaken in quick succession in late 2018 to update Cape Coral's planning guidance documents**
- **Six of the ten elements of the Comprehensive Plan were identified as requiring updates to implement the LDC**
- **The Future Land Use element is the most affected by this update**

Recommendation

Planning Division staff recommends Transmittal for the following reasons:

- Prepares Comprehensive Plan for future adoption of Land Development Code**
- Prepares Cape Coral to deal with recent and future issues and pressures facing the community**
- Planning and Zoning Commission voted unanimously to recommend Transmittal of this ordinance on 10/3/18.**

Item Number:	B.(3)
Meeting Date:	10/15/2018
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

**AGENDA
REQUEST FORM
CITY OF CAPE
CORAL**



TITLE:

Ordinance 73-18 Set Public Hearing Date for November 5, 2018

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? Yes
2. Is this a Strategic Decision? No
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan? No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

An ordinance declaring certain real property to be surplus property and authorizing the City Manager to sell the surplus property described in Exhibit A.

LEGAL REVIEW:

Brian R. Bartos, Assistant City Attorney

EXHIBITS:

Ordinance 73-18

PREPARED BY:

Division- Department- City
 Attorney

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
□ Ordinance 73-18	Ordinance

ORDINANCE 73 - 18

AN ORDINANCE DECLARING CERTAIN REAL PROPERTY DESCRIBED HEREIN TO BE SURPLUS PROPERTY AND AUTHORIZING THE CITY MANAGER TO SELL THE SURPLUS PROPERTY DESCRIBED HEREIN PURSUANT TO SECTION 2-155 OF THE CITY OF CAPE CORAL CODE OF ORDINANCES; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 2-155(a) of the City of Cape Coral Code of Ordinances provides that whenever the City owns real property not presently used for municipal purposes, nor projected in the foreseeable future to be used for municipal purposes, such property may be declared to be surplus property and may be sold or otherwise disposed of; and

WHEREAS, the City of Cape Coral has acquired certain parcels of real property as described in the attached Exhibit A which have been determined by the City Manager to be unusable municipal surplus real property, no longer needed by the City of Cape Coral; and

WHEREAS, none of the real properties described herein have been acquired by the City through civil actions or under the threat of condemnation; and

WHEREAS, Section 2-155(c) of the Code of Ordinances provides that prior to the sale or other disposition of any City-owned real property, an appraisal shall be obtained; and

WHEREAS, Section 2-155(e) of the Code of Ordinances provides for eight methods in which the City may divest itself of City properties, including the listing for sale in the multiple listing service (MLS) for a period of not less than 30 days; and

WHEREAS, Section 4.17 of the City Charter provides that the conveyance of any lands owned by the City shall be by ordinance; and

WHEREAS, the City Council desires to sell the surplus real properties described in Exhibit A as provided in Section 2-155 of the City of Cape Coral Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby declares the real properties described in Exhibit A, attached hereto and incorporated by reference, to be surplus property.

Section 2. The City Manager is hereby authorized to sell the surplus properties described in the attached Exhibit A pursuant to the procedure set forth in Section 2-155 of the Code of Ordinances.

Section 3. The City Council hereby approves funding for initial appraisal costs in an amount not to exceed \$10,000.

Section 4. Pursuant to Section 4.17 of the City Charter, all contracts for sale of the subject properties shall be presented to City Council for approval.

Section 5. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

Section 5. Effective Date. This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO _____
GUNTER _____
CARIOSCIA _____
STOUT _____

NELSON _____
STOKES _____
WILLIAMS _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2018.

REBECCA VAN DEUTEKOM,
CITY CLERK

APPROVED AS TO FORM:



BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
Ord\Sale of Surplus Property

EXHIBIT A

Lot 31, Block 4261, Unit 60, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 19, Page 162, Public Records of Lee County, Florida.
1213 NW 36th Place

Lots 1-2, Block 4262, Unit 60, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 19, Page 162, Public Records of Lee County, Florida.
1207 NW 36th Place

Lot 21, plus Vacated ROW described in Instrument #2018000028575, Block 4199, Unit 60, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 19, Page 160, Public Records of Lee County, Florida.
1031 NW 32nd Place

Lots 46-48, Block 4223, Unit 60, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 19, Page 158, Public Records of Lee County, Florida.
1001 Old Burnt Store Road North

Lots 40-41, Block 4226, Unit 60, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 19, Page 155, Public Records of Lee County, Florida.
902 NW 37th Place

Lots 29-32, Block 5460, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 27, Public Records of Lee County, Florida.
4202 NW 39th Lane

Lots 35-36, Block 5460, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 27, Public Records of Lee County, Florida.
4122 NW 39th Lane

Lots 49-50, Block 5460, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 27, Public Records of Lee County, Florida.
4010 NW 39th Lane

Lots 53-54, Block 5460, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 27, Public Records of Lee County, Florida.
4002 NW 39th Lane

Lots 25-32, Block 5463, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 28, Public Records of Lee County, Florida.
4302 NW 40th Street

Lots 37-38, Block 5463, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 28, Public Records of Lee County, Florida.
4013 NW 43rd Avenue

Lots 40-41, Block 5464, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 25, Public Records of Lee County, Florida.
3809 NW 43rd Avenue

Lots 44-45, Block 5464, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 25, Public Records of Lee County, Florida.
3801 NW 43rd Avenue

Lots 48-51, Block 5464, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 25, Public Records of Lee County, Florida.
3729 NW 43rd Avenue

Lots 52-53, Block 5464, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 25, Public Records of Lee County, Florida.
3723 NW 43rd Avenue

Lots 49-50, Block 5465, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 27, Public Records of Lee County, Florida.
4111 NW 39th Street

Tract A, Unit 91, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 93, Public Records of Lee County, Florida.
Strap #: 18-43-23-C2-00000.00A0

Lots 49-50, Block 5437, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 20, Public Records of Lee County, Florida.
4411 NW 35th Terrace

Lots 29-30, Block 5438, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 21, Public Records of Lee County, Florida.
4211 NW 35th Street

Lots 11-14, Block 5448, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 24, Public Records of Lee County, Florida.
4103 NW 36th Terrace

Lots 21-24, Block 5449, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 24, Public Records of Lee County, Florida.
4206 NW 36th Lane

Lots 7-8, Block 5413, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 14, Public Records of Lee County, Florida.
3216 NW 45th Place

Lots 60-61, Block 5427, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 16, Public Records of Lee County, Florida.
4635 NW 34th Terrace

Lots 1-6, Block 5437, Unit 90, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 19, Public Records of Lee County, Florida.
3430 NW 46th Place

Lots 49-50, Block 5152, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 48, Public Records of Lee County, Florida.
2843 NW 46th Place

Lots 15-16, Block 5162, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 48, Public Records of Lee County, Florida.
2800 NW 46th Avenue

Lots 17-18, Block 5162, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 48, Public Records of Lee County, Florida.
2750 NW 46th Avenue

Lots 35-36, Block 5195, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 51, Public Records of Lee County, Florida.
3010 NW 47th Avenue

Lots 37-38, Block 5195, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 51, Public Records of Lee County, Florida.
3006 NW 47th Avenue

Lots 41-42, Block 5195, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 51, Public Records of Lee County, Florida.
2856 NW 47th Avenue

Lots 43-44, Block 5195, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 51, Public Records of Lee County, Florida.
2852 NW 47th Avenue

Lots 53-54, Block 5195, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 48, Public Records of Lee County, Florida.
2832 NW 47th Avenue

Lot 68, Block 5196, Cape Coral Spreader Waterway, according to the map or plat thereof, as recorded in Plat Book 32, Page 59, Public Records of Lee County, Florida.
2824 NW 46th Place

Lots 21-23, Block 5162, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 48, Public Records of Lee County, Florida.
2742 NW 46th Avenue

Lot 24, Block 5162, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 45, Public Records of Lee County, Florida.
2740 NW 46th Avenue

Lots 27-28, Block 5162, Unit 83, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 45, Public Records of Lee County, Florida.
2732 NW 46th Avenue

Block 2990B, Unit 43, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 17, Page 51, Public Records of Lee County, Florida.
803 Kismet Parkway West

North $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 30, Township 43 South, Range 23 East, Lee County, Florida.
Strap #: 30-43-23-C1-00005.0000

South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 30, Township 43 South, Range 23 East, Lee County, Florida.
Strap #: 30-43-23-C1-00006.0040

Lots 18-19, Block 5248, Unit 82, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 125, Public Records of Lee County, Florida.
2314 NW 44th Place

Lots 27-30, Block 5255, Unit 82, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 116, Public Records of Lee County, Florida.
1632 Old Burnt Store Rd North

Lot 47, Block 5257, Cape Coral Spreader Waterway, according to the map or plat thereof, as recorded in Plat Book 32, Page 66, Public Records of Lee County, Florida.
1729 NW 41st Avenue

Lot 33, Block 5268, Unit 82, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 118, Public Records of Lee County, Florida.
1729 NW 43rd Avenue

Lot 38, Block 5268, Unit 82, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 118, Public Records of Lee County, Florida.
1730 NW 42nd Place

Tract A, Block 5268, Cape Coral Spreader Waterway, according to the map or plat thereof, as recorded in Plat Book 32, Page 67, Public Records of Lee County, Florida.
1731 NW 43rd Avenue

Tract B, Block 5268, Cape Coral Spreader Waterway, according to the map or plat thereof, as recorded in Plat Book 32, Page 67, Public Records of Lee County, Florida.
1732 NW 42nd Place

Lots 12-13, Block 5270, Unit 82, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 115, Public Records of Lee County, Florida.
4125 NW 16th Terrace

Lots 16-17, Block 5270, Unit 82, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 116, Public Records of Lee County, Florida.
4117 NW 16th Terrace

Lots 20-21, Block 5270, Unit 82, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 116, Public Records of Lee County, Florida.
4109 NW 16th Terrace

Lots 30-31, Block 5271, Unit 82, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 118, Public Records of Lee County, Florida.
1727 NW 42nd Place

Tract A, Block 5271, Cape Coral Spreader Waterway, according to the map or plat thereof, as recorded in Plat Book 32, Page 67, Public Records of Lee County, Florida.
1731 NW 42nd Place

Lots 53-54, Block 5241, Unit 81, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 110, Public Records of Lee County, Florida.
1432 Old Burnt Store North

Lots 65-66, Block 1824, Unit 45, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 21, Page 134, Public Records of Lee County, Florida.
3314 SW Santa Barbara Place

Lots 22-23, Block 4730, Unit 70, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 81, Public Records of Lee County, Florida.
1808 SW 38th Lane

Lots 38-40, Block 4730, Unit 70, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 81, Public Records of Lee County, Florida.
1733 SW 39th Street

Lots 41-42, Block 4730, Unit 70, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 81, Public Records of Lee County, Florida.
1803 SW 39th Street

Lots 45-46, Block 4730, Unit 70, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 81, Public Records of Lee County, Florida.
1811 SW 39th Street

Lots 28-29, Block 4731, Unit 70, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 78, Public Records of Lee County, Florida.
1730 SW 39th Street

Lots 30-31, Block 4731, Unit 70, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 78, Public Records of Lee County, Florida.
1726 SW 39th Street

Lots 38-40, Block 4731, Unit 70, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 78, Public Records of Lee County, Florida.
1733 SW 39th Terrace

Lots 41-42, Block 4731, Unit 70, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 78, Public Records of Lee County, Florida.
1803 SW 39th Terrace

Lots 43-44, Block 4731, Unit 70, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 78, Public Records of Lee County, Florida.
1807 SW 39th Terrace

Lots 45-46, Block 4731, Unit 70, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 77, Public Records of Lee County, Florida.
1811 SW 39th Terrace

Lots 54-55, Block 2095, Unit 31, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 164, Public Records of Lee County, Florida.
1125 NE 15th Lane

Lot 17, Block 1547, Unit 17- Part 1, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 5, Public Records of Lee County, Florida.
1701 NE 6th Street

Lots 15-17, Block 1548, Unit 17, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 35, Public Records of Lee County, Florida.
2005 NE 6th Street

Lots 18-21, Block 1548, Unit 17, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 35, Public Records of Lee County, Florida.
2011 NE 6th Street

Lots 17-18, Block 1632, Unit 30, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 32, Public Records of Lee County, Florida.
4313 SW 1st Avenue

Lots 25-26, Block 1708, Unit 44, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 21, Page 107, Public Records of Lee County, Florida.
4519 SW 6th Place

Lots 7-11, Block 3603, Unit 46, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 17, Page 120, Public Records of Lee County, Florida.
117 NE 4th Court

Lot 63, Block 1085, Unit 23, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 46, Public Records of Lee County, Florida.
225 SE 1st Avenue

Lots 4-5, Block 1074, Unit 23, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 40, Public Records of Lee County, Florida.
617 Santa Barbara Boulevard

Lots 51-53, Block 1947, Unit 29, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 25, Public Records of Lee County, Florida.
348 SW 2nd Street

Lots 5-6, Block 1936, Unit 29 Part 1, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 135, Public Records of Lee County, Florida.
713 SW 4th Street

Lots 26-27, Block 1340, Unit 18, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 13, Page 116, Public Records of Lee County, Florida.
206 SE 20th Court

Lots 22-30, Block 802, Unit 22, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 15, Public Records of Lee County, Florida.
1111 SE 9th Street

Lots 15-18, Block 1267, Unit 18, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 13, Page 101, Public Records of Lee County, Florida.
2021 SE 13th Terrace

Lots 12-13, Block 6034, Unit 95, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 25, Page 43, Public Records of Lee County, Florida.
1810 SW 12th Terrace

Lots 35-36, Block 1962, Unit 29, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 18, Public Records of Lee County, Florida.
934 Santa Barbara Boulevard

Lots 1-2, Block 774, Unit 24, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 77, Public Records of Lee County, Florida.
929 SE 6th Court

Lots 6-8, Block 774, Unit 24, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 77, Public Records of Lee County, Florida.
609 SE 10th Street

Lots 9-12, Block 774, Unit 24, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 77, Public Records of Lee County, Florida.
615 SE 10th Street

Lots 19-20, less R/W, Block 774, Unit 24, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 77, Public Records of Lee County, Florida.
713 SE 10th Street

Lots 21-22, less R/W, Block 774, Unit 24, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 77, Public Records of Lee County, Florida.
717 SE 10th Street

Lots 11-13, less R/W, Block 1052, Unit 24, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 77, Public Records of Lee County, Florida.
704 SE 10th Street

Lots 4-5, Block 1064, Unit 24, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 77, Public Records of Lee County, Florida.
608 SE 9th Terrace

Lots 6-7, Block 1064, Unit 24, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 77, Public Records of Lee County, Florida.
612 SE 9th Terrace

Lots 8-9, Block 1064, Unit 24, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 14, Page 77, Public Records of Lee County, Florida.
616 SE 9th Terrace

Lots 31-32, Block 1065, Unit 24 Part 1, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 3, Public Records of Lee County, Florida.
829 SE 5th Court

Lots 45-46, Block 1065, Unit 24 Part 1, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 24, Page 4, Public Records of Lee County, Florida.
927 SE 5th Court

Lot 28, Block 2300A, Unit 36, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 122, Public Records of Lee County, Florida.
Strap #: 25-43-23-C4-02300.A280

Lot 29, Block 2300A, Unit 36, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 122, Public Records of Lee County, Florida.
Strap #: 25-43-23-C4-02300.A290

Lot 30, Block 2763, Unit 40, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 17, Page 93, Public Records of Lee County, Florida.
3014 Santa Barbara Boulevard North

Lot 57, Block 2763, Unit 40, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 17, Page 90, Public Records of Lee County, Florida.
2816 Santa Barbara Boulevard North

Lots 12-14, Block 4287, Unit 61, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 21, Page 9, Public Records of Lee County, Florida.
1825 NW 37th Avenue

Lot 77, Block 2180, Unit 33, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 49, Public Records of Lee County, Florida.
2002 NE 16th Place

Lots 14-15, Block 4106, Unit 57, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 19, Page 133, Public Records of Lee County, Florida.
1754 NW 26th Avenue

Lots 34-35 plus Vacated Alley described in Instrument #2008000165570, Block 2220, Unit 33, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 44, Public Records of Lee County, Florida.
2216 Diplomat Parkway East

Lot 37, Block 5983, Unit 93, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 25, Page 21, Public Records of Lee County, Florida.
2420 Miracle Parkway

Lots 38-39, Block 2986, Unit 42 Part 1, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 97, Public Records of Lee County, Florida.
1231 NW 20th Terrace

Lots 7-8, Block 3171, Unit 66, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 23, Public Records of Lee County, Florida.
2711 SW 9th Place

Lots 9-10, Block 3171, Unit 66, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 23, Public Records of Lee County, Florida.
2707 SW 9th Place

Lots 11-12, Block 3171, Unit 66, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 22, Page 23, Public Records of Lee County, Florida.
2703 SW 9th Place

Lot 9, Block 2709A, Unit 39, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 144, Public Records of Lee County, Florida.
247 Diplomat Parkway West

Lots 65-67, Block 2710A, Unit 39, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 144, Public Records of Lee County, Florida.
Strap #: 35-43-23-C3-02710.A650

Lots 74-76, Block 2710A, Unit 39, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 144, Public Records of Lee County, Florida.
Strap #: 35-43-23-C3-02710.A740

Lots 40-42, Block 2710A, Unit 39, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 144, Public Records of Lee County, Florida.
Strap #: 35-43-23-C4-02710.A400

Lots 73-74, Block 2173, Unit 36, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 16, Page 115, Public Records of Lee County, Florida.
2113 NE 7th Place

Lots 16-17, Block 3549, Unit 47 Part 2, Cape Coral Subdivision, according to the map or plat thereof, as recorded in Plat Book 23, Page 123, Public Records of Lee County, Florida.
2223 NE 10th Terrace

Item Number:	10.A.
Meeting Date:	10/15/2018
Item Type:	UNFINISHED BUSINESS

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Water Quality - Update

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Water Quality Memo

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Water Quality Memo	Backup Material

MEMORANDUM

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

TO: John Szerlag, City Manager

FROM: Paul Clinghan, Public Works Director *PC for P.C.*
Michael Ilczyszyn, Senior Public Works Manager *MI*
Maya Robert, Environmental Resources Manager *MR*

DATE: October 12, 2018

SUBJECT: Lake Okeechobee Level and Release Information

As of Thursday, October 11, 2018, the elevation of Lake Okeechobee was 14.22 feet. The elevation on September 28, 2018 was 14.37 feet. On October 5, 2018 the Army Corps started a new pulse release schedule that will last until October 25, 2018. Releases to the East coast are stopped, while releases to the West coast are decreased. To that effect, on Friday October 12, 2018, outflows measured at the Franklin Lock & Dam (S-79) decreased to 806 cfs compared to 2,930 cfs the previous week.

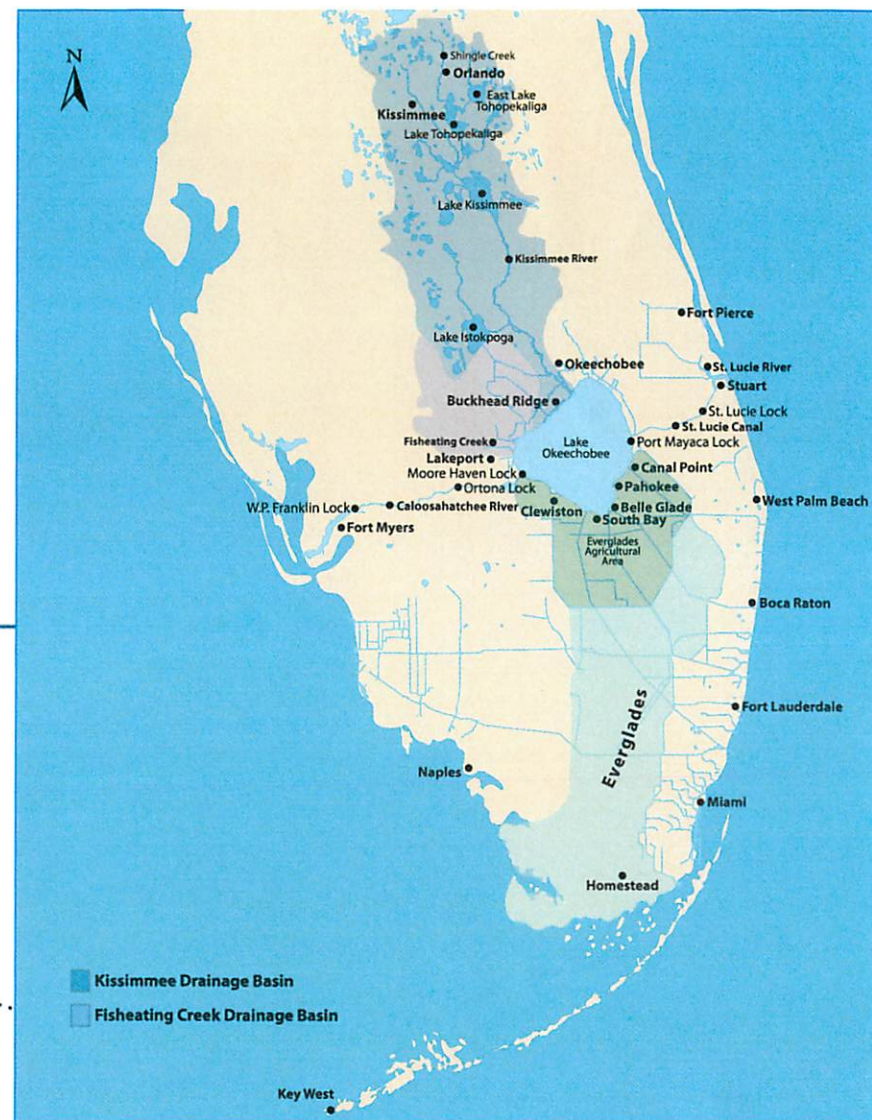
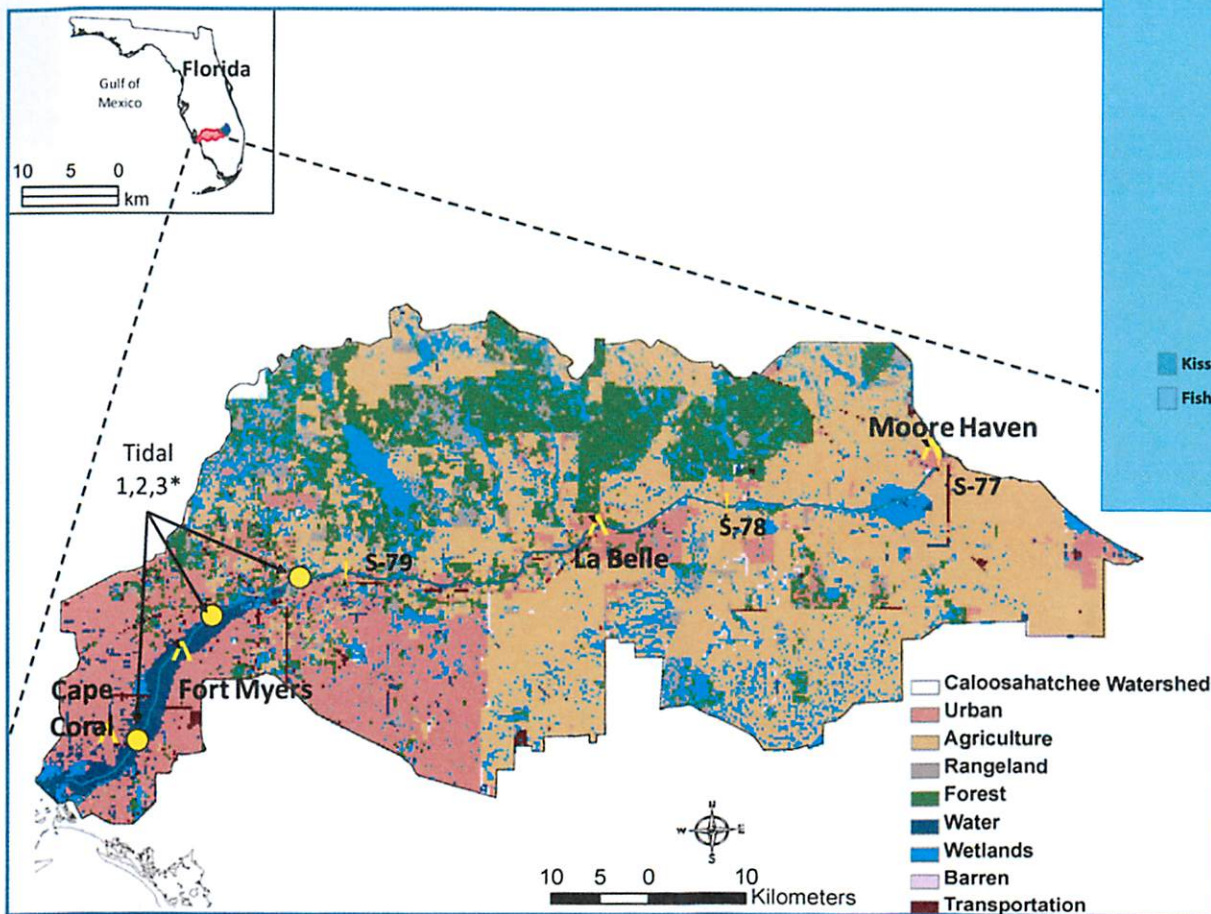
After months of low salinity in the estuary due to releases from the Lake, salinities have increased, 3.21 PSU was measured near Fort Myers and 26.78 PSU at Shell Point.

Blue-green algae is receding in the Caloosahatchee River and Cape Coral Canals. The public beach at the Yacht Club remains closed.

A patchy Red Tide bloom persists in Southwest Florida. There are two other Red Tide blooms in Florida, one on the Northwest Coast and one on the East Coast, which has not happened in over 10 years.

Attached is a map showing drainage basins of the Lake Okeechobee and the position of the Caloosahatchee River Locks.

PC/MI:mr (Weekly Lake Okeechobee Level and Release Information)
Attachment; Lake Okeechobee drainage basins, Caloosahatchee River Locks map



Item Number: 11.B.
Meeting Date: 10/15/2018
Item Type: NEW BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

ADDENDUM: Metropolitan Planning Organization Citizens Advisory Committee (MPOCAC)
(Brought forward by Councilmember Cosden)

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Application: Steve Henry

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
□ Application: Steve Henry	Backup Material

Citizens Advisory Committee Application

Return Application to: Lee County Metropolitan Planning Organization
Celandra Barraco
P.O. Box 180045
Cape Coral, Florida 33915-0015
Phone: (239) 330-2243 Fax: (239) 790-2595
Email: cbarraco@leemno.com

Please note: Your application will remain active in the MPO's Office for one (1) year. Resumes may be included; however, the application **MUST** still be completed. Read "Important Information" section on the second page of the application, then sign and date the application. (Use additional pages as needed.)

PLEASE TYPE OR PRINT IN INK

Date: 10-1-18 Commission District #/City ?

Name: Henry Steve M
Last First Middle

Address: 16820 Sanctuary Estates
Dr

City: Cape Coral Florida Zip: 33908

Home Telephone: 2394788722 Contact Time: Anytime

Email Address: stevhenry7752@gmail.com

Referred By: Comm C. Pendergrass Date Available: _____

Please list any Advisory Boards/Committees to which you are currently appointed:

1. Parks and Recreation 3. _____

2. _____ 4. _____

Occupation (Or if retired, please indicate): Owner Central Park
Complex

Employer: _____

Address: Same as
above

Phone: Same as above Contact Time: Anytime

Application for Citizen Advisory Committee (Attach additional sheets or a resume if necessary)

Complete the following: (Please describe those facets of your background/experience which you feel may be useful for membership on this Board/Committee. Please list all public involvement activities you been involved in (include efforts outside the local area). Should you feel it appropriate, you may include academic, vocational, and skill training; diplomas, degrees and certification; licenses and other background information).

Strong business background with both industrial companies and private equity.
Experience working with contractors and
suppliers

Please describe any public involvement or community service you've been involved in either locally or otherwise.

Coach Cape Coral Recreation boys soccer, Volunteer Lee Memorial Hospital Emergency
room

Would you be willing to serve on other advisory boards? Yes

IMPORTANT INFORMATION:

• Florida State Statute 119.07 designates that this application as a public document be made available for anyone requesting to view it.

Applicant's Signature: [Signature]

Date Signed: 16-1-18

Are you related to any member of the Lee County MPO?
_____ YES _____X_____ NO

A LIST OF SAMPLE ELIGIBILITY REQUIREMENTS OR DESIRED QUALIFICATIONS FOR MEMBERSHIP ON THE CITIZEN'S ADVISORY COMMITTEE

To assist the Lee County MPO in its selection process, please check as many of the following categories that apply to you:

1. Year-round resident of:

- a. Lee County (Unincorporated area) X
- b. City of Cape Coral X
- c. City of Fort Myers _____
- d. City of Bonita Springs _____
- e. City of Sanibel _____
- f. Town of Fort Myers Beach _____

2. Member of one of the following organizations or group:

- a. Florida Engineering Society _____
- b. Chamber of Commerce _____
- c. NAACP _____
- d. Historical Preservation Society _____
- e. A Homeowners' Association _____
- f. A Local Environmental Group _____
- g. Home Builders Association _____
- h. Lee County School Board _____
- i. Agricultural Community _____
- j. Other _____

3. Representative of one of the following:

- a. Persons with Disabilities _____
- b. Public Libraries _____
- c. Education _____
- d. Florida Department of HRS _____
- e. United Way _____
- f. Elderly Health Care Consumers _____
- g. Nongovernmental Health Care Consumers _____
- h. Consumers of Regular Bus Service _____
- i. Developmental Disability Services _____
- j. The Elderly _____
- k. Veterans _____
- L. Criminal Justice _____
- m. Health and Rehabilitative Services _____
- n. Other _____

4. Professional/Career Credentials:

- a. Registered Architect _____
- b. Licensed Attorney _____
- c. Licensed Engineer _____
- d. Licensed Building Contractor _____
- e. Licensed Electrical Contractor _____
- f. Licensed General Contractor _____
- g. Licensed Heating/Air Conditioning Contractor _____
- h. Licensed Plumbing Contractor _____
- i. Fire Official _____
- j. Geologist _____
- k. Licensed Health Professional _____
- l. Realtor _____
- m. Subcontractor (especially in building trades) _____
- n. Owner or Operator of Motel/Hotel, etc. _____
- o. Licensed Veterinarian _____
- p. Judge of the Family Law Division _____
- q. Land Surveyor _____
- r. Other _____

5. Knowledge, training, background, interest or experience in:

- a. Natural Sciences: Ecology, Biology, Botany, etc. _____
- b. Education _____
- c. Banking or Finance _____
- d. Real Estate _____
- e. Planning, Engineering, Environment _____
- f. The Development Industry _____
- g. Technical Codes (Building Codes) _____
- h. Archaeological, Historical Matters _____
- i. Architectural Development and Planning _____
- j. Historical Preservation _____
- k. Rehabilitation (related to health matters) _____
- l. Tourist Industry _____
- m. Child Advocates _____
- n. Agriculture _____
- o. Other _____

The Lee County MPO strives to ensure equal access for minorities, women, low income and those with disabilities to serve on advisory boards/committees.

The information below is voluntary only.

6. Ethnic Background:

- a. African American _____
- b. Asian American _____
- c. American Woman _____
- d. Hispanic American _____
- e. Native American _____
- f. Multi-lingual _____
- g. Other _____

7. Family Income Level:

- a. Less than \$20,000 per year _____
- b. Between \$20,001 and \$40,000 _____
- c. Between \$40,001 and \$60,000 _____
- d. Greater than \$60,000 per year X

8. Family Size

- a. One or two people X
- b. Three or four people _____
- c. Five or six people _____
- d. Greater than six people _____