



Board of County Commissioners Meeting Agenda

District #1
John E. Manning

District #2
Cecil L. Pendergrass

District #3
Larry Kiker

District #4
Brian Hamman
Chair

District #5
Frank Mann
Vice Chair

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

January 20, 2015

If you plan to address the Board, please complete a "Public Comment Card" located on the table outside the Chamber entrance. Completed cards should be returned to the Staff table at the right of the podium prior to the start of the meeting. Or you can submit your comment electronically by clicking on the agenda item below. Then click the "Make a Comment" button that appears in the right column. All back up for this agenda is available on the Internet at <http://www.lee-county.com>. **PLEASE NOTE:** During this meeting the Board may convene and take action in its capacity as the Lee County Port Authority or the Lee County Government Leasing Corporation.

**COMMISSION CHAMBERS, 2120 MAIN STREET, FORT MYERS, FLORIDA
9:30 AM**

Invocation: Pastor Pete Cova, Life Church

Pledge of Allegiance

Ceremonial Presentations

Recap

Agenda Items

- Items to be pulled for discussion by the Board
 - **Public comment on balance of items**
- Motion to approve balance of items
- Consideration of items pulled for discussion
 - **Public comment taken on each pulled item as it is considered**

Public Hearings

Walk-ons and Carry-overs

Commissioners' Items/Committee Appointments

County Manager Items

County Attorney Items

Public Presentation of Matters by Citizens

Work Session Update

- Public Comment on Work Session

Adjourn

CEREMONIAL PRESENTATIONS

Presentation of the 4th Quarter Employee Length of Service Awards (#20140806-HUMAN RESOURCES)

AGENDA ITEMS

CONSTITUTIONAL OFFICERS

- 1. Approve and record County disbursements per Florida law**
(No Funding Required):
Florida Statute Chapter 136.06(1) requires that all County disbursements be recorded in the Minutes of the Board. This is for the check and wire registers viewable on the Clerk's website.
(#20150009-CLERK OF COURTS)

COUNTY ADMINISTRATION

- 2. Approve negotiated settlement in the Workers' Compensation case of Carol Quinn v. Lee County**
(\$308,476; Self-Insurance Loss Fund; Included in Budget):
Resolves current and future medical costs along with indemnity benefits with a negotiated inclusive final settlement of \$308,476 involving an Animal Control employee who suffered an on the job injury and has been awarded Permanent Total Disability (PTD) benefits. The settlement will be paid by the County's self-insurance loss fund. (#20140832-COUNTY MANAGER)

COUNTY LANDS

- 3. Authorize commencement of negotiation process for Nom. 294-3, Cons 20/20 (Battista Island)**
(Appraisal estimated to cost \$3,500; General Fund; Conservation 20/20):
Provides Staff with direction on whether or not to pursue acquisition of a nominated Conservation 20/20 property, No. 294-3. Property is approximately 97 acres of mangroves, commonly referred to as Battista Island, located east of Bonita Beach. The Board's advisory committee, CLASAC, withdrew the parcel from further consideration on April 24, 2014, due to the Seller's high asking price of \$1,299,000 (\$13,400/acre). Seller has recently revised asking price to \$500,000 (\$5,200/acre).
(#20140835-COUNTY LANDS)

HUMAN SERVICES

- 4. Amend Annual Action Plan for U.S. Department of Housing and Urban Development**
(\$223,601; General Fund; Included in Budget):
Allows the reallocation of grant funds between established project categories as noted on the attached table. Approval allows Lee County to expend HUD grant funds in different project categories than originally planned. (#20140829-HUMAN SERVICES)

NATURAL RESOURCES

- 5. Provide the County with a consultant for FEMA Coastal Risk Map Development**
(\$200,000; General Fund; Included in Budget):
Provides Lee County with an experienced engineering firm/consultant to help independently review the FEMA Coastal Risk Map development process. This involves the coastal wave analysis that will revise elevation data and flood zones for Lee County's Flood Insurance Rate Maps (FIRMs) around 2018. This might affect as many as 100 of Lee County's 155 map panels, mostly near the Gulf, bay areas, and along the Caloosahatchee. Tasks for the consultant through this period may vary as FEMA shares data and reveals draft work maps. (#20140833-NATURAL RESOURCES)

6. **Approve FDEP Grant Agreement 14LE3 for Blind Pass Ecozone restoration funding**
(\$156,021.60; Capital Improvement Tourist Development Beach Projects; Not included in Budget; Tourism/Sports):
Provides reimbursement to TDC Beach Project Reserves for previously expended funds for the Blind Pass Restoration Project. (#20140839-NATURAL RESOURCES)

PARKS AND RECREATION

7. **Approve grant agreement from Gulf of Mexico Foundation for Galt Preserve Restoration**
(\$15,420; Capital Improvement Environmentally Sensitive Land Management; Not included in Budget; Conservation 20/20):
Conservation 20/20 staff requested and was awarded grant funds from the Gulf of Mexico Foundation for follow-up exotic plant control, native plantings and two interpretative panels at Galt Preserve, a Conservation 20/20 preserve. The Gulf of Mexico Foundation awarded the \$15,420 request in full and without a matching fund requirement. This grant award follows previous grant funds that were awarded by the Gulf of Mexico Foundation in 2011(\$63,000) and 2013 (\$40,000) (Blue Sheet #20111072 dated 01/10/12 and #20130538 dated 06/25/13, respectively). (#20140830-PARKS AND RECREATION)

UTILITIES

8. **Approve settlement proposal for eminent domain case of County v. Thomas Booher**
(\$16,000; Enterprise Fund; Included in Budget):
Submit a settlement proposal to the property owner in the eminent domain action of Lee County v. Thomas J. Booher, Case No. 11-CA-158, Parcel 153UE and 153TCE, in the amount of \$16,000, exclusive of attorney's fees and costs in an attempt to limit costs under §73.032, Fla. Stat. (2014). (#20140800-UTILITIES)

9:30 AM PUBLIC HEARINGS

- PH1 Vacate the public interest in an unimproved road right-of-way at 3920 North Road, N Fort Myers**
(No Funding Required):
Extinguishes the public interest in the western 1/2 (30 feet) of an unused and unimproved 60 foot wide right-of- way centered on the common lot line between Lots 55 and 56 to allow construction of a single family home on Lot 56. (#20140808-COMMUNITY DEVELOPMENT)

- PH2 Adopt Ordinance Amending Lee County Ordinance 13-06 regarding collection of impact fees**
(No Funding Required):
Meets State requirement to hold a public hearing to adopt an Ordinance. The Ordinance provides a six-month review period for permit applications filed on or before the two-year expiration date (March 13, 2015) provided in Ordinance 13-06 (reduction of impact fees to 20%), and permits applicants to pay the reduced rate when their permits are issued after the March 13, 2015 deadline.
(#20150008-COUNTY ATTORNEY)

Blue Sheet No. 20140806	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Presentation 1
TITLE: Presentation of the 4th Quarter Employee Length of Service Awards		
ACTION REQUESTED:		
FUNDING:		
WHAT ACTION ACCOMPLISHES:		
MANAGEMENT RECOMMENDATION:		
Requirement/Purpose: (specify)		Request Initiated
<input type="checkbox"/> Statute <input type="checkbox"/> Ordinance <input type="checkbox"/> Admin Code <input type="checkbox"/> Other		Commissioner: All Department: HUMAN RESOURCES Division: No Divisions By: Stephanie Figueroa
Background:		

Required Review:					
Stephanie Figueroa					
HUMAN RESOURCES					

4th Quarter LOS - 2014				
<u>First Name</u>	<u>Last Name</u>	<u>Ann Date</u>	<u>Yrs of Service</u>	<u>Department</u>
Leah	Garuti	12/3/2009	5	Animal Services
Tracy	Turner	11/18/2004	10	Animal Services
Abigail	Soto	12/16/2004	10	Animal Services
William	Avoglia	11/18/1999	15	Construction And Design
Robert	Clemens	10/19/1989	25	County Lands
Miguel	Figueroa	10/18/2004	10	County Manager
Laurel	Chick	12/22/1994	20	County Manager
Chris	Youngblood	12/9/2004	10	D C D Development Svcs
Jennifer	Cavanaugh	10/28/2004	10	D C D Development Svcs
Dan	Belisle	10/15/2004	10	D C D Development Svcs
Audra	Ennis	10/8/1999	15	D C D Development Svcs
Robert	Konior	10/7/1999	15	D C D Development Svcs
Constantine	Notte	12/2/1999	15	D C D Development Svcs
David	Crabtree	11/2/1989	25	D C D Development Svcs
Sam	Morris	11/29/1984	30	D C D Development Svcs
Richard	Burris	11/2/1989	25	D C D Planning
David	Wagley	11/4/2004	10	D O T Engineering
Chris	Davis	11/17/1994	20	D O T Engineering
Rachel	Diaz	10/15/2004	10	D O T Tolls
Susan	Hopwood	10/19/1989	25	D O T Tolls
John	Miller	10/8/2009	5	D O T Traffic
Mike	Say	11/29/1984	30	D O T Traffic
Michelle	Rodgers	10/8/2009	5	Economic Development
Michael	Rosario	11/4/1999	15	Facilities Management
Gary	McKart	12/8/1994	20	Facilities Management
Jayne	Elwell	11/16/1989	25	Facilities Management
Karl	Harsh	11/29/1984	30	Facilities Management
Anita	Rush	10/8/2009	5	Human Services
Joanne	Rodriguez	10/21/2004	10	Human Services
Nora	Donato Hitchcock	10/28/2004	10	Human Services
Diana	Childers	12/2/1999	15	Human Services
Ann	Arnall	11/2/1989	25	Human Services
Ann	Merricks	11/18/1999	15	Internal Services
Linda	Merola	10/15/2004	10	Library
Catherine	Bartholomew	12/2/2004	10	Library
Jessica	Girlando	10/7/1999	15	Library
Roger	Raczka	12/13/1984	30	Library
Michael	Campbell	10/8/2009	5	Natural Resources
Robert	Repenning	12/9/2004	10	Parks And Recreation
Jesse	Lavender	12/2/2004	10	Parks And Recreation

Susan	Slingerland	11/18/1999	15	Parks And Recreation
Gerry	Usher	12/9/2004	10	Public Resources
William	Wood	12/17/2009	5	Public Safety
Candace	Summersett	12/2/2004	10	Public Safety
Robert	Boudreaux	12/2/2004	10	Public Safety
Timothy	Lamontagne	10/28/2004	10	Solid Waste
Lillie	Boston	11/5/2009	5	Transit
James	Rosa	10/22/2009	5	Transit
David	Sapata	11/19/2009	5	Transit
Steven	Thomas	11/19/2009	5	Transit
Wayne	Phang Lyn	12/17/2009	5	Transit
Jean Jacques	Hector	12/27/2004	10	Transit
Carl	Duncan	12/27/2004	10	Transit
Edwin	Tubens	12/27/2004	10	Transit
Yves	Saint Hilaire	11/4/2004	10	Transit
John	Margiotta	10/21/2004	10	Transit
Carlos	Silva	12/27/2004	10	Transit
Martti	Wright	10/21/1999	15	Transit
William	Wotring	10/21/1999	15	Transit
Dana	Marshall	10/21/1999	15	Transit
Gerard	Tierney	10/21/1999	15	Transit
Michael	Scanlon	10/21/1999	15	Transit
Andrew	Carmichael	10/8/2009	5	Utilities
Cody	Dodd	11/5/2009	5	Utilities
Daniel	Varner	11/5/2009	5	Utilities
Hector	Ibarra Juarez	11/5/2009	5	Utilities
L	Davis	11/5/2009	5	Utilities
Jerry	Wunderly	11/19/2009	5	Utilities
Michael	Reinek	10/28/2004	10	Utilities
Michelle	Rios	12/9/2004	10	Utilities
Payne	Moore	12/2/1999	15	Utilities
Christine	Davlin	11/5/2009	5	Visitor And Convention Bureau

Blue Sheet No. 20150009	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Item No. 1
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TITLE:
Approve and record County disbursements per Florida law

ACTION REQUESTED:
Request Board approves disbursements. The check and wire registers can now be viewed on the Clerk's website, www.leeclerk.org by accessing the BoCC Minutes and Documents link.

FUNDING:
No Funding Required.

WHAT ACTION ACCOMPLISHES:
Florida Statute Chapter 136.06(1) requires that all County disbursements be recorded in the Minutes of the Board. This is for the check and wire registers viewable on the Clerk's website.

MANAGEMENT RECOMMENDATION:
Compliance with the requirements of FS 136.06(1).

Requirement/Purpose: <i>(specify)</i>	Request Initiated
<input checked="" type="checkbox"/> Statute 136.06(1) <input type="checkbox"/> Ordinance <input type="checkbox"/> Admin Code <input type="checkbox"/> Other	Commissioner: All Department: CONSTITUTIONAL OFFICERS Division: Clerk of Courts By: Terry Mallow

Background:

Required Review:					
Terry Mallow					
FINANCE					

Blue Sheet No. 20140832	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Item No. 2
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TITLE:
Approve negotiated settlement in the Workers' Compensation case of Carol Quinn v. Lee County.

ACTION REQUESTED:
Approval of proposed settlement resolves all current and future medical care along with indemnity benefits in the matters of Carol Quinn v. Lee County.

FUNDING:
\$308,476; Self-Insurance Loss Fund; Included in Budget

No future budget implications.

Self-Insurance Loss Fund; GC5133857700.504540

WHAT ACTION ACCOMPLISHES:
Resolves current and future medical costs along with indemnity benefits with a negotiated inclusive final settlement of \$308,476 involving an Animal Control employee who suffered an on the job injury and has been awarded Permanent Total Disability (PTD) benefits. The settlement will be paid by the County's self-insurance loss fund.

MANAGEMENT RECOMMENDATION:
Approve

Requirement/Purpose: (specify)	Request Initiated
<input type="checkbox"/> Statute <input type="checkbox"/> Ordinance <input type="checkbox"/> Admin Code <input type="checkbox"/> Other	Commissioner: Department: COUNTY MANAGER Division: Risk Management By: Peter Winton

Background:

1. Settle – resolves outstanding litigation, medical, and indemnity benefits.
2. Continue PTD benefits – continues future medical for the remainder of her life and indemnity benefits until the age of 75.

On September 5, 2007, Ms. Quinn suffered an on-the-job injury while removing a rope from a dog's neck that immediately attempted to run away from Ms. Quinn. As she was holding onto the animal, the sudden jerking movement caused injury to her shoulder and neck. Ms. Quinn was unable to return to her position as an Animal Control Officer with the County and continues to treat for her condition.

The County will meet its self-insurance retention and as such the County's excess insurance carrier will reimburse Lee County all amounts above such retention.

Required Review:					
Peter Winton	Anne Henkel	Mike Figueroa	Peter Winton	Richard Wm. Wesch	Roger Desjarlais
COUNTY MANAGER	Budget Analyst	Risk	Budget Services	County Attorney	County Manager

Quinn, Carol - BS Backup (final)

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Claim Defense/Litigation Status Report

GENERAL INFORMATION

TYPE OF CLAIM: Workers' Compensation
DATE OF LOSS: 09/05/2007
PLAINTIFF: Carol Quinn
PLAINTIFF'S AGE: 58
PLAINTIFF'S ATTORNEY: Bill Berke, Esq. of Berke Law Firm, P.A.
DEFENDANT(S): Lee County Board of County Commissioners
CASE NUMBER: 08-029455KAS
INJURIES: Permanent Injury

LITIGATION INFORMATION

DAMAGES: On-the-job permanent injury
DEFENSE FIRM: Lee County Attorney's Office
DEFENSE ATTORNEY: John Turner, Esq. and Ashley D. Roberts, Esq.

FACTUAL BACKGROUND

On September 5, 2007, Ms. Quinn suffered an on-the-job injury while removing a rope from a dog's neck that immediately attempted to run away from Ms. Quinn. As she was holding onto the animal, the sudden jerking movement caused injury to her shoulder and neck. She had ultimately had surgery and given permanent restrictions. As a result, Ms. Quinn was unable to return to her position as an Animal Control Officer with the County and continues to treat for her condition.

A final hearing for permanent total disability (PTD) was held on January 30, 2012 and an order granting PTD was received on March 15, 2013, awarding PTD benefits retroactively from February 7, 2011 to present.

FINANCIAL

FULL CLAIM EXPOSURE:	\$ 1,056,680
SELF-INSURED RETENTION:	\$ 500,000
TOTAL EXPERIENCE:	\$ 481,578
TOTAL PAID TO DATE:	\$ 406,257
RESERVES:	\$ 75,321
LEGAL EXPENSES PAID TO DATE:	\$ 124,416
SETTLEMENT AMOUNT:	\$ 308,476

COMMENTS

The office of Risk Management and the County Attorney's Office recommend approval of this settlement. The County will meet its self-insurance retention and as such the County's excess insurance carrier will reimburse Lee County all amounts above such retention.

Settlement resolves further litigation, continued medical and future medical care.

Blue Sheet No. 20140835	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Item No. 3
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TITLE:
Authorize commencement of negotiation process for Nom. 294-3, Cons 20/20 (Battista Island).

ACTION REQUESTED:
1. Direct Staff, as to whether or not, to commence negotiation for the potential purchase of Nomination 294-3, Conservation 20/20, commonly referred to as Battista Island, containing approximately 97 acres of mangroves.
2. If so, authorize County Lands to initiate the process by first obtaining a certified appraisal estimated to cost \$3,500.

FUNDING:
Appraisal estimated to cost \$3,500; General Fund; Conservation 20/20

Conservation 20/20 Acquisition Fund: 30103; Program: 20; CIP: Project: 8800

WHAT ACTION ACCOMPLISHES:
Provides Staff with direction on whether or not to pursue acquisition of a nominated Conservation 20/20 property, No. 294-3. Property is approximately 97 acres of mangroves, commonly referred to as Battista Island, located east of Bonita Beach. The Board's advisory committee, CLASAC, withdrew the parcel from further consideration on April 24, 2014, due to the Seller's high asking price of \$1,299,000 (\$13,400/acre). Seller has recently revised asking price to \$500,000 (\$5,200/acre).

MANAGEMENT RECOMMENDATION:
Not Applicable

Requirement/Purpose: (specify)	Request Initiated
<input type="checkbox"/> Statute <input checked="" type="checkbox"/> Ordinance 13-09; 05-17 <input type="checkbox"/> Admin Code <input checked="" type="checkbox"/> Other Blue Sheet 20140622	Commissioner: Department: COUNTY LANDS Division: No Divisions By: Karen Maguire

Background:

On October 21, 2014, the Board directed Staff to again contact the property Sellers to determine if they were willing to revise their asking price to a more reasonable amount. Directly before the Holiday Season, the Sellers' representative informed staff in writing, the Sellers would reduce their asking price by approximately 40%.

Staff is of the opinion this reduction is a good faith effort made by the Seller.

Required Review:					
Karen Maguire	Reginald Kantor	Mike Figueroa	Peter Winton	John Fredyma	Peter Winton
COUNTY LANDS	Budget Analyst	Risk	Budget Services	County Attorney	County Manager

Attachments:

1. Blue Sheet 20140622
2. Location Map
3. Initial and Secondary Criteria Review sheets

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20140622

ACTION REQUESTED/PURPOSE:

Determine if Conservation 20/20 Program Nomination 294-3, commonly referred to as Battista Island, containing approximately 97 acres of mangroves, should be pursued for acquisition. If so, authorize County Lands to initiate the process by first obtaining certified appraisals estimated to cost \$5,000 for two.

FUNDING SOURCE:

Conservation 20/20 Acquisition; Fund 30103; Program: 20CIP; Project: 8800

WHAT ACTION ACCOMPLISHES:

Provides Staff with direction on whether or not to pursue acquisition of a nominated Conservation 20/20 property, No. 294-3. Property is approximately 97 acres of mangroves, common referred to as Battista Island. The Board's advisory committee, CLASAC, withdrew the parcel from further consideration due to the Seller's high asking price of \$1,299,000 (\$13,400/acre).

MANAGEMENT RECOMMENDATION: At the will of the Board.

Departmental Category: Item #13		Meeting Date: 10/21/2014
Agenda:	Requirement/Purpose: (specify) <input type="checkbox"/> Statute <input checked="" type="checkbox"/> Ordinance 13-09; 05-17 <input type="checkbox"/> Admin Code <input checked="" type="checkbox"/> Other 8/19/14 Comm. Manning item	Request Initiated Commissioner: Department: COUNTY LANDS Division: No Divisions By: Karen Maguire

Background:

Battista Island was first nominated to the program in 2005. The Seller, at that time, Cora Battista, Trustee was asking \$5,000,000 (\$51,500/acre). On November 10, 2005 after all environmental reviews were completed, CLASAC voted unanimously to not pursue for acquisition.

Battista Island was nominated again in 2006 with a price reduction to \$4,880,000 (\$50,300/acre). On December 14, 2006, CLASAC voted (7 to 6) to have staff pursue acquisition. An independent certified appraisal was obtained reflecting a market value of \$489,000 (\$5,040/acre). Offer was made by staff for \$489,000 and rejected by the Seller. Seller did not make a counteroffer and file was closed.

On March 7, 2014, Battista Island was nominated for a third time by its new owner/sellers, Silvio Battista and Loreta Battista Valone, Trustees, for \$1,299,000 (\$13,400/acre). As routine for the initial criteria process, staff noted to CLASAC the asking price was significantly high. CLASAC decided by vote (10 to 1) at its April 24, 2014 meeting, to not forward the nomination onto a secondary review (which includes a site inspection). The file was again closed.

On June 11, 2014, a 97 acre property, lying approximately ½ mile to the south, with very similar characteristics as Battista Island, sold for \$350,000 (\$3,589/acre). This sale has been verified to have been an arms-length transaction.

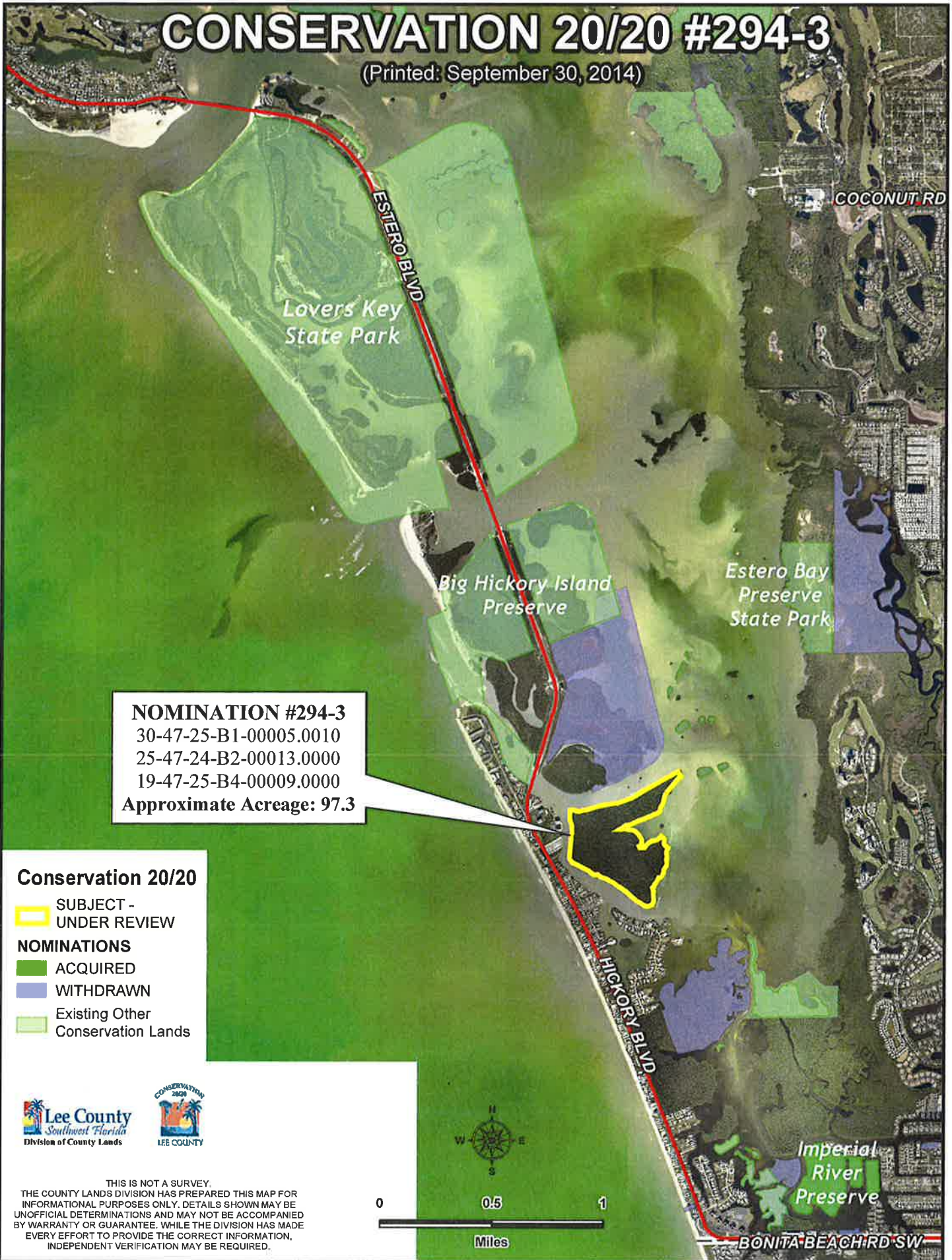
11. Required Review:

<i>Karen Maguire</i>	<i>Emma Wolf</i>	<i>Peter Winton</i>	<i>John Fredyma</i>	<i>Peter Winton</i>	
COUNTY LANDS	Budget Analyst	Budget Services	County Attorney	County Manager	

12. Commission Action:

CONSERVATION 20/20 #294-3

(Printed: September 30, 2014)



NOMINATION #294-3
30-47-25-B1-00005.0010
25-47-24-B2-00013.0000
19-47-25-B4-00009.0000
Approximate Acreage: 97.3

Conservation 20/20

- SUBJECT - UNDER REVIEW
- NOMINATIONS**
- ACQUIRED
- WITHDRAWN
- Existing Other
- Conservation Lands



THIS IS NOT A SURVEY. THE COUNTY LANDS DIVISION HAS PREPARED THIS MAP FOR INFORMATIONAL PURPOSES ONLY. DETAILS SHOWN MAY BE UNOFFICIAL DETERMINATIONS AND MAY NOT BE ACCOMPANIED BY WARRANTY OR GUARANTEE. WHILE THE DIVISION HAS MADE EVERY EFFORT TO PROVIDE THE CORRECT INFORMATION, INDEPENDENT VERIFICATION MAY BE REQUIRED.

INITIAL REVIEW

SOUTH ESTERO BAY

**BATTISTA ISLAND
NOMINATION 294**

STRAP #s30-47-25-B1-00005.0010, 19-47-25-B4-00009.0000 25-47-24-B2-00013.0000

INITIAL REVIEW CRITERIA QUESTION AND RESPONSE	
1	<i>Will the seller sell below market value?</i>
No	Asking price reduced from \$10 million to \$5 million. Not a bargain sale.
2	<i>Will matching funds be available to purchase the parcel?</i>
No	None identified
3	<i>Does the parcel contain any documented environmentally sensitive lands?</i>
Yes	Mangroves are environmentally sensitive
4	<i>Does the parcel have important water resource features?</i> Acquisition would preclude development of houses within the Coastal High Hazard Area and within a wetland system that provides water quality benefits to Estero Bay. Island is within the Coastal High Hazard Area. No significant surface water management benefits other than maintenance of water quality benefits.
No	
5	<i>Is the parcel within or contiguous to an existing or proposed preserve area?</i> This island is within the Estero Bay Aquatic Preserve and Estero Bay Preserve State Park Florida Forever project boundary. State land acquisition agents have contacted the property owners repeatedly over the years but have not pursued the property for acquisition because the owners' expectations as to development potential have been unrealistic thus far. The State is not currently negotiating the acquisition of this parcel and supports Lee County pursuing it for acquisition.
Yes	
6	<i>Does the parcel have good management potential?</i> The island could be managed to the overall benefit of the Estero Bay Aquatic Preserve. The Estero Bay Aquatic Preserve Program Manager, Heather Stafford, supports the public acquisition of this island to preclude its development.
Yes	
7	<i>Does the parcel have authorization for land clearing or development, such as planned zoning, approved development order, or an agricultural exemption?</i> FLUM is wetlands (1 d.u. per 20 acres). Zoning is AG-2. Note: vegetation map indicates that there is 0.16 acre of spoil area. The remaining acreage is wetlands. There are no permits pending or approved. Presumption is that maximum development potential is 4-5 homes - boat access only.
No	
3	NUMBER OF CRITERIA THAT THE PROPERTY MEETS
RECOMMENDATIONS	
16-Sep-05	Staff: Forward to secondary review.
4-Oct-05	CRSC: Forward to secondary review contingent on reduction of asking price Vote 3:2
5-Oct-05	Bonita Springs City Council: Does not endorse.
13-Oct-05	CLASAC: Forward to secondary review. Vote 7:2

CRITERIA		SCORE		COMMENTS
A. SIZE AND CONTIGUITY				
1. Size of Property				
a.	≥ 500 acres	6		
b.	400 to < 500 acres	5		
c.	300 to <400 acres	4		
d.	200 to <300 acres	3		
e.	100 to <200 acres	2		
f.	50 to <100 acres	1		Asking price is \$4,880,000. Asking price assumption is that development potential is 4-5 homesites. ASKING PRICE IS SIGNIFICANTLY HIGH.
g.	< 50 acres	0		
2. Contiguous to:				
a.	Coastal waters and other sovereignty submerged lands	4	4	Within Estero Bay
b.	Existing preserve area, c.e., wma or refuge	4	4	Within Estero Bay Aquatic Preserve State Park Within Florida Forever Project. State is not currently actively pursuing this island and supports its acquisition through the Conservation 20/20 Program.
c.	Preserve areas officially proposed for acquisition	2	2	
B. HABITAT FOR PLANTS AND ANIMALS				
1. Native Plant Cover				
a.	≥ 75 % of the property has native plant cover	8	8	Site review cancelled due to hurricane Wilma. Staff determined that a site review of this essentially 100% mangrove island was unnecessary and that the secondary review criteria could be interpreted from aerial mapping.
2. Significant for wide-ranging species				
	Panther Habitat, wetlands, ponds, grass lands, etc.	2	2	Shorebirds and neotropical migrants use mangroves for roosting and feeding.
3. Rare and Unique Uplands				
a.	Scrub, hammock, old growth pine	2		
b.	Mature, second growth pine flatwood	1		
4. Diversity				
a.	5 or more FLUCFCS native plant community categories	2		
b.	3 or 4 FLUCFCS native plant community categories	1		
c.	2 or less FLUCFCS native plant community categories	0	0	mangroves. Possibly salt ponds

C. SIGNIFICANCE FOR WATER RESOURCES				COMMENTS
1. Serves or can serve as flow-way				
	Site contains a primary flow-way, creek, river, wetland corridor, large contributing watershed; possibly identified in the Lee County Surface Water Master Plan, South Lee County Study, or by staff	4		
a.	Site contains flow-way, through tributary, medium size watershed, or just a portion of system/one side of conveyance, may not be identified in study	3		Site provides no conveyance of surface water
b.	Same as b., smaller watershed, not as defined, disconnected	2		
c.	Site conveys runoff, minimal area	1		
d.	Site provides no conveyance of surface water	0	0	
e.	Add 2 points if conveyance is natural (not man-made)	+2	1	Natural, but minimal conveyance
2. Strategic to Flood Management				
	Well defined flood-way within parcel, possibly identified in FEMA or other study, both sides of conveyance, large upstream area, protection from encroachment critical or known flooding history	4		
a.	Same as a., portion of floodway (one side) or within floodplain	3		No significant flood issues
b.	Medium size watershed, need for floodplain protection, possibly serves as an outfall for a road or development	2		
c.	Small watershed, minimal flooding	1		
d.	No significant flood issues	0	0	
3. Protect a water supply source.				
	Parcel is within area designated high potential productivity of the Water Table, Sandstone or Tamiari Aquifer and also within area of current or proposed wellfield development	2		
a.	Not within above mentioned zones, but advantageous due to proximity to existing water supply facilities or identified as potential water storage area	1		No recharge or potential water supply opportunities
b.	No recharge or potential water supply opportunities	0	0	
4. Offset Damage to or Enhance Water Quality.				
	Presence of wetland, retention, or lake that is currently providing water quality benefits	2	2	
a.	Same as a., but achieved through some alterations to existing site or very limited in contributing watershed	1		
b.	No existing or potential water quality benefits	0		Mangroves provide water quality benefits
c.				

D. LAND MANAGEMENT/RECREATION/PLANNED LAND USE		COMMENTS
1. Good Access for Public Use and Land Management		
Parcel can be accessed from a freeway, expressway, arterial street, or major collector	3	
Parcel can be accessed from a minor collector or local street	2	
Parcel can be accessed from a privately-maintained road that is dedicated for public use	1	Boat access only. The property has a 50' easement off of Bonita Beach Road that could potentially provide boat access and parking for the 4-5 homesites. 1 point is given for the availability of a launching site for boat access and the short travel distance to road access.
Parcel can only be accessed by a private road or does not have physical or legal access	0	
2. Recreation/Eco-Tourism Potential		
Score depends upon the variety or uniqueness of potential public uses. Examples of appropriate public uses include paddling sports, fishing, hiking, equestrian, mountain biking, photography, nature study, and environmental education	0-2	1
3. Land Manageability		
75% or greater of perimeter surrounded by low impact land uses	3	
50%-75% of perimeter surrounded by low impact land uses	2	Within Estero Bay Buffer Preserve boundary. Mangrove islands generally require minimal management. Bob Baker, of DEP, stated at the 10/13/05 CLASAC meeting that DEP supports this acquisition and offers management support.
25%-50% of perimeter surrounded by low impact land uses	1	
Less than 25% of perimeter surrounded by low impact land uses	0	
4. Development Status (Maximum 4 points)		
The Parcel is Approved for Development or is Exempt from Clearing Regulations	4	0
The Parcel is Zoned for Intensive Use	2	0
Future Land Use Map: Intensive Land Use Category	1	0
TOTAL POINTS		28

COMMENTS: City of Bonita Springs City Council declined to endorse the acquisition of Battista Island at their Oct. 5, 2005 meeting. The Bonita Daily News published an editorial on Oct. 22, 2005 and Dec. 12, 2006 in support of pursuing the acquisition of this island in the Conservation 20/20 Program. DEP supports the acquisition by 20/20.

STAFF RECOMMENDATION: Pursue for acquisition

Nov. 1, 2005 CRSC RECOMMENDATION: Unanimous to NOT FORWARD FOR ACQUISITION, due to high asking price and minimal development potential.

Nov. 10, 2005 CLASAC RECOMMENDATION: Unanimous to NOT FORWARD FOR ACQUISITION, due to high asking price and minimal development potential

November 9, 2006 CLASAC WALK-ON: CLASAC directed staff to conduct site review and re-evaluate secondary review.

November 29, 2006: Site Review

STAFF RECOMMENDATION: Pursue for acquisition (no changes to original secondary review)

CRSC RECOMMENDATION Date 12/5/2006: Do not pursue (Vote: 5:2)

CLASAC RECOMMENDATION Date 12/14/2006: Pursue for acquisition (Vote: 7:6) **NOTE:** Lloyd Mandell verbally stated that asking price has been reduced to \$4,880,000.

Blue Sheet No. 20140829	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Item No. 4
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TITLE:
Amend Annual Action Plan for U.S. Department of Housing and Urban Development.

ACTION REQUESTED:
A) Approve program amendments to the Lee County 2012 and 2013 Annual Action Plans for U.S. Department of Housing and Urban Development (HUD).
B) Authorize Board Chair to sign documents related to amendments.

FUNDING:
\$223,601; General Fund; Included in Budget

Community Development Block Grant (CDBG) funds are received on an entitlement basis. These program amendments will reallocate funds within the established budget.

Fund Name - Federal Grant through CDBG Entitlement Grant Fund; Program – HUD; Project – CDBG Year 25; Account String – 11108513920.
Fund Name - Federal Grant through CDBG Entitlement Grant Fund; Program – HUD; Project – CDBG Year 24; Account String – 11106213920.
Fund Name - Federal Grant through CDBG Entitlement Grant Fund; Program – HUD; Project – CDBG Year 23; Account String –11103813920.

WHAT ACTION ACCOMPLISHES:
Allows the reallocation of grant funds between established project categories as noted on the attached table. Approval allows Lee County to expend HUD grant funds in different project categories than originally planned.

MANAGEMENT RECOMMENDATION:
Approve.

Requirement/Purpose: (specify)	Request Initiated
<input type="checkbox"/> Statute <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Admin Code 15-2 <input checked="" type="checkbox"/> Other 24CFR91	Commissioner: All Department: HUMAN SERVICES Division: No Divisions By: Ann Arnall

Background:
Approve program amendments to expend funds timely and effectively to continue programs and services to low-income households, low-income neighborhoods, and nonprofit agencies in Lee County.

Each year Lee County is required to submit an Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD), which defines projects to be undertaken with federal grant funds. When an amendment is deemed necessary, the procedures outlined in Administrative Code 15-2 are followed, which states substantial amendments to Annual Action Plans must be publicly noticed and solicited for comment for 30 days, signed by the official representative (Board Chair), and sent to HUD. Comments received during the public comment period will be included in the submission.

Required Review:					
Ann Arnall	Anne Henkel	Peter Winton	Jack Peterson	Peter Winton	
HUMAN SERVICES	Budget Analyst	Budget Services	County Attorney	County Manager	

After developing the 2014 Annual Action Plan, the County learned that the urban county allocations need to be adjusted, which results in increases to the Town of Fort Myers Beach, the City of Bonita Springs and the City of Sanibel. Additionally, unused funds are being moved to a different project category to effectively utilize them in another project type.

Provides for Human Services in Lee County.

1. Project Table
2. HUD Transmittal Letter for Annual Action Plan Amendments
3. Public Notices (2)

Year	Amount	From	To	Reason
HUD FY 2014/CDBG Year 25	\$20,415.12	CDBG Non Profit Capital Improvements	CDBG Urban County Bonita Springs	After submitting the 2014 Annual Action Plan, the County was notified by HUD that the urban county allocations needed to be increased. Funds formerly obligated to non profit capital projects are being used to increase the allocations and the administration for the urban county projects.
HUD FY 2014/CDBG Year 25	\$3,894.88	CDBG Non Profit Capital Improvements	CDBG Urban County Fort Myers Beach	
HUD FY 2014/CDBG Year 25	\$1,770.56	CDBG Non Profit Capital Improvements	CDBG Urban County Sanibel	
HUD FY 2014/CDBG Year 25	\$3,556.44	CDBG Non Profit Capital Improvements	CDBG Urban County Administration	
HUD FY 2013/CDBG Year 24	\$50,000.00	CDBG Administration	CDBG Housing Program Support/Housing Delivery	Unspent funds in project type can be more effectively utilized in a timely manner in another project type.
HUD FY 2013/CDBG Year 24	\$6,022.02	CDBG Urban County Bonita Springs	CDBG Urban County Administration	The City terminated a project during the City's due diligence on the project. These funds must be moved from project expenditures to administrative expenditures.
HUD FY 2012/CDBG Year 23	\$137,941.70	CDBG Neighborhood Infrastructure	CDBG Non Profit Capital Improvements	Funds are being moved to provide additional funding for non profit agency capital improvements.

John E. Manning
District One

January 20, 2015

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

Nora Casal, CPD Representative
U.S. Department of Housing and Urban Development
Brickell Plaza Federal Building
909 S.E. First Avenue, Suite 500
Miami, FL 33131-3028

SUBJECT: Amendments to Lee County Annual Action Plans

Dear Ms. Casal,

Please find enclosed for your review and processing the following Lee County Annual Action Plan amendments. The amendments were advertised for 30 days and approved by the Lee County Board of County Commissioners.

In HUD FY 2014/CDBG Year 25:

Transfer \$20,415.12 from CDBG Non Profit Capital Improvements to CDBG Urban County Bonita Springs.
Transfer \$ 3,894.88 from CDBG Non Profit Capital Improvements to CDBG Urban County Fort Myers Beach.
Transfer \$ 1,770.56 from CDBG Non Profit Capital Improvements to CDBG Urban County Sanibel.
Transfer \$ 3,556.44 from CDBG Non Profit Capital Improvements to CDBG Urban County Administration.

In HUD FY 2013/CDBG Year 24:

Transfer \$50,000.00 from CDBG Administration to CDBG Housing Program Support/Housing Delivery.
Transfer \$ 6,022.02 from CDBG Urban County Bonita Springs to CDBG Urban County Administration.

In HUD FY 2012/CDBG Year 23:

Transfer \$137,941.70 from CDBG Neighborhood Infrastructure to CDBG Non Profit Capital Improvements.

Thank you for your assistance. Please contact Cyndy Cook, Neighborhood Relations Coordinator, Department of Human Services at (239) 533-7958 if you have any questions on this matter.

Sincerely,

Brian Hamman, Chairman
Lee County Board of County Commissioners

Enclosure: Public Comment Advertisement

C: Ann Arnall, Director, Department of Human Services
Barbara Hollis, Fiscal Manager, Department of Human Services
Julie Boudreaux, Program Manager, Department of Human Services
Cyndy Cook, Neighborhood Relations Coordinator, Department of Human Services

Public Notice

Program Amendments to the Lee County Annual Action Plans

Notice is hereby given that beginning on December 12, 2014, and ending January 12, 2015, public comment will be accepted on the proposed changes to the Lee County Community Development Block Grant (CDBG) program funded by the US Department of Housing and Urban Development (HUD). Changes include:

In HUD Fiscal Year (FY) 2013:

Transfer \$50,000.00 from CDBG Administration to CDBG Housing Program Support/Housing Delivery.

In HUD FY 2012:

Transfer \$137,941.70 from CDBG Neighborhood Infrastructure to CDBG Non Profit Capital Improvements.

In addition, \$6,022.22 spent in CDBG Urban County Bonita Springs will be revised from FY 2013 project expenditures to program administration under CDBG Urban County Administration.

The program amendments may be viewed on the County website at <http://dhs.leegov.com/planning/Pages/PlanningDocuments.aspx> (click on "Amendments"). Comments and questions regarding the amendments should be addressed to Cyndy Cook, Neighborhood Relations Coordinator, Lee County Department of Human Services, 2440 Thompson Street, Fort Myers, Florida 33901, or by email to CookCL@leegov.com. All comments will be considered in preparing the final amendments and reported in the documents. This notice can be made available in alternative accessible formats upon request. If you need an alternative format, please contact 239-533-7930. Este aviso público está relacionado a los fondos anuales de subsidios del Departamento de la Vivienda y Desarrollo Urbano de los Estados Unidos. Traducción del aviso pueden ser solicitados llamando al 533-7930. (This public notice is regarding annual entitlement funding from the U.S. Department of Housing and Urban Development. Translation of the notice may be requested by calling 533-7930.)

Public Notice

Program Amendments to the Lee County Annual Action Plans

Notice is hereby given that beginning on December 24, 2014, and ending January 24, 2015, public comment will be accepted on the proposed changes to the Lee County Community Development Block Grant (CDBG) program funded by the US Department of Housing and Urban Development (HUD). Changes include:

In HUD Fiscal Year (FY) 2014:

Transfer \$20,415.12 from CDBG Non Profit Capital Improvements to CDBG Urban County Bonita Springs
Transfer \$3,894.88 from CDBG Non Profit Capital Improvements to CDBG Urban County Fort Myers Beach
Transfer \$1,770.56 from CDBG Non Profit Capital Improvements to CDBG Urban County Sanibel
Transfer \$3,556.44 from CDBG Non Profit Capital Improvements to CDBG Urban County Administration

The program amendments may be viewed on the County website at <http://dhs.leegov.com/planning/Pages/PlanningDocuments.aspx> (click on "Amendments"). Comments and questions regarding the amendments should be addressed to Cyndy Cook, Neighborhood Relations Coordinator, Lee County Department of Human Services, 2440 Thompson Street, Fort Myers, Florida 33901, or by email to CookCL@leegov.com. All comments will be considered in preparing the final amendments and reported in the documents. This notice can be made available in alternative accessible formats upon request. If you need an alternative format, please contact 239-533-7930. Este aviso público está relacionado a los fondos anuales de subsidios del Departamento de la Vivienda y Desarrollo Urbano de los Estados Unidos. Traducción del aviso pueden ser solicitados llamando al 533-7930. (This public notice is regarding annual entitlement funding from the U.S. Department of Housing and Urban Development. Translation of the notice may be requested by calling 533-7930.)

Blue Sheet No. 20140833	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Item No. 5
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TITLE:
Provide the County with a consultant for FEMA Coastal Risk Map Development.

ACTION REQUESTED:
 A) Concur with the selection of Consultants by the Competitive Negotiations Committee for CN140361 FEMA COASTAL RISK MAP DEVELOPMENT as follows: Number 1 – Woods Hole Group, Inc.; Number 2 – AMEC Environment & Infrastructure; Number 3 – Tomasello Consulting Engineers.
 B) Authorize staff to negotiate a contract with the Number 1 ranked firm, Woods Hole Group, Inc. for a one year term with the option to re-negotiate and renew for two additional one year periods.
 C) Approve an estimated expenditure of \$200,000.
 D) Authorize the Chair on behalf of the Board to execute the Agreement upon completion of the final negotiations.

FUNDING:
 \$200,000; General Fund; Included in Budget

 Depending on the outcome of FEMA's draft maps, additional work may be requested of the consultants in the future. Those costs would be billed according to this contract's compensation table.

Fund: General Fund; Program: Non-Departmental; Project: N/A; Account String: GC5190300100.503190

WHAT ACTION ACCOMPLISHES:
 Provides Lee County with an experienced engineering firm/consultant to help independently review the FEMA Coastal Risk Map development process. This involves the coastal wave analysis that will revise elevation data and flood zones for Lee County's Flood Insurance Rate Maps (FIRMs) around 2018. This might affect as many as 100 of Lee County's 155 map panels, mostly near the Gulf, bay areas, and along the Caloosahatchee. Tasks for the consultant through this period may vary as FEMA shares data and reveals draft work maps.

MANAGEMENT RECOMMENDATION:
 Approve

Requirement/Purpose: (specify)	Request Initiated
<input type="checkbox"/> Statute <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Admin Code AC-4-4 <input type="checkbox"/> Other	Commissioner: Department: NATURAL RESOURCES Division: No Divisions By: Roland Ottolini

Background:
 1. Approve the award to the Number 1 ranked firm.
 2. Do not approve the award to the Number 1 ranked firm.

 Provides the County with an experienced engineering firm/consultant to act on behalf of the County in independently reviewing the FEMA Coastal Risk Map development process.

Required Review:					
Roland Ottolini	Anne Henkel	Peter Winton	Dawn Perry-Lehnert	Robert Franceschini	Doug Meurer
NATURAL RESOURCES	Budget Analyst	Budget Services	County Attorney	Purchasing	Public Works Director

Letters of Interest were solicited on behalf of the Board of County Commissioners for the project known as FEMA COASTAL RISK MAP DEVELOPMENT. A total of 8 Letters of Interest were considered at the Competitive Negotiations Committee meeting held on August 1, 2014. The Competitive Negotiations Committee consisted of the following staff members: Doug Meurer, County Manager's Office, Non-Voting Chair, Roland Ottolini, Natural Resources Director, Sam Lee, Natural Resources and Joan LaGuardia, Community Development. Based on the information submitted by the Consultants in their Letters of Interest, it was the consensus of the committee to short list 3 firms – Woods Hole Group, Inc., AMEC Environment & Infrastructure, and Tomasello Consulting Engineers – for presentations.

Presentations were conducted on August 26, 2014 with the "short list" firms. It was the consensus of the committee to rank the Woods Hole Group, Inc. as number one and request Board approval of this ranking and authorize the commencement of contract negotiations.

Per Section 6 of the Contracts Manual for annual-type master contracts, the Board can concur with the selection of a consultant and authorize staff to negotiate an annual contract within the same blue sheet. This will eliminate the need for an additional blue sheet requesting Board approval of the Agreement.

- 1) Listing of Firms
- 2) Sample Contract
- 2) Evaluation Meeting Minutes

LETTERS OF INTEREST SUBMITTED
FOR
CN140361
FEMA Coastal Risk Map Development

DUE DATE: 7/24/14
SHORT-LIST MEETING: 8/1/14
WRITTEN MATERIALS DUE:
TELEPHONE INTERVIEWS:

1	AMEC Environment & Infrastructure, Inc. Walter Reigner 2000 East Edgewood Drive, Suite 215 Lakeland, FL 33803 P: 863.667.2345 F: 863.667.2662 E: walter.reigner@amec.com	2	Cardno ENTRIX William Warren-Hicks 13700 Ben C Pratt Six Mile Cypress Pkwy Ste1 Fort Myers, FL 33912 P: 239.573.1919 F: 239.574.8106 E: William.warren-hicks@cardno.com
3	Coastal Technology Corporation Michael Walther 3625 20 th Street Vero Beach, FL 32960 P: 772.562.8580 F: 772.562.8432 E: mwalther@coastaltechcorp.com	4	Enercon Services, Inc. Gerald Williams 1501 Ardmore Blvd. Pittsburgh, PA 15221 P: 724.733.8711 F: 724.733.4630 E: gwilliams@enercon.com
5	INTERA Incorporated Terry Hull 100 SW 75 th Street, Ste. 107 Gainesville, FL 32607 P: 352.332.2323 F: N/A E: thull@intera.com	6	J.R. Evans Engineering, P.A. Elizabeth Fountain 23150 Fashion Drive, Suite 241 Estero, FL 33928 P: 239.405.9148 F: 239.288.2537 E: Elizabeth@jrevansengineering.com
7	Tomasello Consulting Engineers, Inc. Richard Tomasello 5906 Center Street Jupiter, FL 33458 P: 561.575.3910 F: N/A E: dixietom@aol.com	8	Woods Hole Group, Inc. Robert Hamilton, Jr. 81 Technology Park Drive East Falmouth, MA 02536 P: 508.540.8080 F: 508.540.1001 E: bhamilton@whgrp.com

This is to certify that the above list sets forth all of the Letters of Interest which were received by Procurement Management, prior to the announced deadline of 2:30 p.m. on, July 24, 2014.

Robert Franceschini

Procurement Management

Distribution:

C: Members of the Competitive Negotiations Committee

Doug Meurer, Non-Voting Chair
Roland Ottolini, Natural Resources
Sam Lee, Natural Resources
Joan LaGuardia, Community Development

C: Invited Participants

Dawn Lehnert, Legal Advisor
Diana Khan, Procurement
Mary Patterson, Procurement
Jane Swanson, City of Bonita Springs
Connie Barron, City of Cape Coral
Saeed Kazemi, City of Fort Myers
Lois Poff, Town of Fort Myers Beach
Judie Zimomra, City of Sanibel

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT is made and entered into this _____ day of _____, 20____, between the Board of County Commissioners of LEE COUNTY, a political subdivision of the STATE OF FLORIDA hereinafter referred to as the "COUNTY", and **The Woods Hole Group, Inc.** hereinafter referred to as the "CONSULTANT".

WITNESSETH

WHEREAS, the COUNTY desires to obtain the professional services of said CONSULTANT to provide and perform professional services as further described hereinafter concerning the Project to be referred to and identified as: **CN140361 Technical Evaluation of FEMA's Southwest Florida Coastal Risk MAP Study and Associated Deliverables for Lee County**; and

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

WHEREAS, the CONSULTANT has reviewed the professional services required pursuant to this Agreement and is qualified, willing and able to provide and perform all such services in accordance with the provisions, conditions and terms hereinafter set forth; and

WHEREAS, the selection and engagement of the CONSULTANT has been made by the COUNTY in accordance with the provisions of the Consultants' Competitive Negotiation Act, Chapter 287.055, Florida Statutes, and in accordance with applicable Lee County Administrative Codes.

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

ARTICLE 1.00 - SCOPE OF PROFESSIONAL SERVICES

CONSULTANT hereby agrees to provide and perform the professional services required and necessary to complete the services and work as set forth in attached EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES".

ARTICLE 2.00 - DEFINITIONS

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

2.01 COUNTY

The term COUNTY refers to the Board of County Commissioners of Lee County, a charter County and political subdivision of the State of Florida, and any official or employee duly authorized to act on the COUNTY'S behalf relative to this Agreement.

2.02 CONSULTANT

The term CONSULTANT refers to the individual or firm offering professional services that, by

Date: 10/25/13

execution of this Agreement, is legally obligated, responsible, and liable for providing and performing any and all of the services, work and materials, including services and/or work of sub-consultants and subcontractors, required under the covenants, terms and provisions contained in this Agreement.

2.03 PROFESSIONAL SERVICES

The term PROFESSIONAL SERVICES refers to all of the services, work, materials and related professional, technical and administrative activities to be provided and performed by the CONSULTANT and its employees, including all sub-consultants and subcontractors engaged by the CONSULTANT, to complete the services required pursuant to the covenants, terms and provisions of this Agreement.

2.04 SUB-CONSULTANT

The term SUB-CONSULTANT refers to any individual or firm offering professional services that is engaged by the CONSULTANT to assist in providing and performing the professional services, work and materials for which the CONSULTANT is contractually obligated, responsible and liable to provide and perform under this Agreement. The COUNTY may not be deemed a party to, responsible or liable for, or assume any obligation whatsoever with respect to any Agreement between the CONSULTANT and any SUB-CONSULTANT.

2.05 SUBCONTRACTOR

The term SUBCONTRACTOR refers to any individual, company or firm providing services other than professional services that is engaged by the CONSULTANT to assist in providing and performing services, work and materials for which the CONSULTANT is contractually obligated, responsible, and liable to provide and perform under this Agreement. The COUNTY may not be deemed a party to, responsible or liable for, or assume any obligation whatsoever for any Agreement between the CONSULTANT and any SUBCONTRACTOR.

2.06 PROJECT

The term PROJECT refers to such facility, system, program or item as described in the summary statement set forth in the Preamble on Page One of this Agreement.

2.07 BASIC SERVICES

The term BASIC SERVICES refers to the professional services set forth and required pursuant to this Agreement as described in further detail in the attached EXHIBIT "A".

2.08 ADDITIONAL SERVICES

The term ADDITIONAL SERVICES refers to such professional services the COUNTY may request and authorize, in writing, for the CONSULTANT to provide and perform relative to this Agreement that are not included in the BASIC SERVICES. Additional services must be authorized by both parties through execution of a Change Order to this Agreement.

2.09 CHANGE ORDER

The term CHANGE ORDER refers to a written document, CHANGE ORDER AGREEMENT, executed by both parties to this Agreement setting forth and authorizing changes to the agreed upon Scope of Professional Services and Tasks, Compensation and Method of Payment, Time and Schedule of Performance, or Project Guidelines and Criteria as such were set forth and agreed to in the initial AGREEMENT, SUPPLEMENTAL TASK AUTHORIZATIONS, or previous CHANGE ORDERS issued thereto. The CHANGE ORDER document, which must be executed on a Lee County standard form, will set Date: 10/25/13

forth the authorized changes to the: scope of professional services, tasks, work or materials to be performed or provided by the CONSULTANT; the compensation and method of payment; the schedule or time period for performance and completion; and the guidelines, criteria and requirements pertaining thereto.

CHANGE ORDERS will be identified as follows: (1) Owner changes: These will be additional services. (2) Changes due to design errors or omissions: Design services for these will be at no cost to the County. Change orders resulting from gross negligence on the part of the CONSULTANT team may be required to be paid for by CONSULTANT in full, including equipment. (3) Changes due to differing site conditions: These will be additional services. The CONSULTANT will review all contract requests for change orders and make recommendations to the County. The CONSULTANT will periodically meet to review Change Orders to determine the nature of the change orders and the proper disposition thereof. The CONSULTANT will not be held liable for costs of that portion of any CHANGE ORDER that the County would have borne in the absence of any error or omission or otherwise results in the "betterment" of the project.

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

In the event the County decides to delete all, or portions, of the Scope of Services, Tasks, or Requirements set forth in the initial Agreement, Supplemental Task Authorization or previously authorized Change Order, the COUNTY may do so by the unilateral issuance of a written Change Order to the CONSULTANT. Such a unilaterally issued Change Order shall set forth, if appropriate: (1) an agreement by both the COUNTY and the CONSULTANT establishing changes in the amount of compensation to be paid the CONSULTANT as a result of the deletion or decrease in services required; or, (2) in the absence of such an agreement concerning compensation, the unilaterally issued Change Order shall set forth the basis to be used in subsequently considering, and reaching agreement on change(s) in the compensation to be paid the CONSULTANT. The failure on the part of the CONSULTANT to execute a Change Order issued unilaterally by the COUNTY to effect a deletion or decrease in the services required shall have no effect on or otherwise prevent the COUNTY from exercising its rights to direct the stated deletion or decrease in the services to be provided or performed by the CONSULTANT.

Should errors, omissions or conflicts in the drawings, specification or other Contract Documents prepared by or through the CONSULTANT be discovered, the CONSULTANT will prepare and submit to the County, within five working days unless otherwise authorized by the County, such amendments or supplementary documents to address the errors, omissions or conflicts, and provide consultation as may be required, for which the CONSULTANT will make no additional charges to the County.

2.10 SUPPLEMENTAL TASK AUTHORIZATION

The term Supplemental Task Authorization as used refers to a written document executed by both parties to an existing Professional Services Agreement, or Service Provider Agreement, setting forth and authorizing a limited number of Professional Services, tasks, or work. Such Supplemental Task Authorizations are consistent with and have previously been included within the scope of services in the initial Professional Services Agreement, or Service Provider Agreement, for which authorization has not been previously given or budgeted.

2.11 DEPARTMENT DIRECTOR

The term DEPARTMENT DIRECTOR refers to the Director of the Department requesting the
Date: 10/25/13

service, employed by the Lee County Board of County Commissioners to serve and act on the COUNTY'S behalf, as it relates to this Project. The Chairman of the Board of County Commissioners, or designated representative, shall act on behalf of the COUNTY to execute any and all CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS approved by the COUNTY and issued to the CONSULTANT pursuant to this Agreement. The DEPARTMENT DIRECTOR, within the authority conferred by the Board of County Commissioners, acting as the COUNTY'S designated representative, shall issue written notification to the CONSULTANT of any and all changes approved by the COUNTY in the CONSULTANT'S: (1) compensation; (2) time and/or schedule of service delivery; (3) scope of services; or, (4) other changes relative to BASIC SERVICES and ADDITIONAL SERVICES pursuant to this Agreement, including CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS pertaining thereto. The DEPARTMENT DIRECTOR is responsible for acting on the COUNTY'S behalf to administer, coordinate, interpret and otherwise manage the contractual provisions and requirements set forth in this Agreement, including approved CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS.

2.12 PROJECT MANAGER

The term PROJECT MANAGER refers to the person employed or retained by the COUNTY and designated, in writing, to serve and act on the COUNTY'S behalf to provide direct contact and communication between the COUNTY and CONSULTANT with respect to providing information, assistance, guidance, coordination, review, approval and acceptance of the professional services, work and materials to be provided and performed by the CONSULTANT pursuant to this Agreement and duly approved SUPPLEMENTAL TASK AUTHORIZATIONS and CHANGE ORDERS. The PROJECT MANAGER is not authorized to and may not issue any verbal, or written, request or instruction to the CONSULTANT that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatsoever the: (1) Scope of Services to be provided and performed by the CONSULTANT; (2) The time the CONSULTANT is obligated to commence and complete all such services; or, (3) The amount of compensation the COUNTY is obligated or committed to pay the CONSULTANT. The PROJECT MANAGER will review and make appropriate recommendations on all requests submitted by the CONSULTANT for payment for services and work provided and performed, and reimbursable costs and expenses, as provided for in this Agreement, CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS.

2.13 LUMP SUM FEES

Lump Sum Fees, hereinafter identified as L.S., are understood and agreed to include all direct and indirect labor costs, personnel related costs, overhead and administrative costs, costs of sub-consultants and/or subcontractors, out-of-pocket expenses and costs, professional service fees and any other costs or expenses which may pertain to the services and/or work to be performed, provided and/or furnished by the Consultant as may be required and/or necessary to complete each and every task set forth in the Scope of Professional Services, Exhibit "A", or as may be set in subsequent Supplemental Task Authorizations, and/or Change Orders agreed to in writing by both parties to this Agreement.

2.14 NOT-TO-EXCEED FEES

When all, or any portion, of the CONSULTANT'S compensation to provide and perform the services and work necessary and required pursuant to the Tasks set forth in Agreement Exhibit "A", and any Change Orders, Supplemental Task Authorizations, and Work Orders authorized thereto, is established to be made on a NOT-TO-EXCEED (N.T.E.) amount basis, it is mutually understood and agreed that such compensation for each completed Task will be made on the following basis:

For the actual hours necessary, required and expended by the CONSULTANT'S professional and technical personnel, multiplied by the applicable hourly rates for each classification or position as set

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forth in Attachment No. 1 to Exhibit "B", as attached, and any approved Change Orders or Supplemental Task Authorizations; and

For the actual necessary, required and expended non-personnel reimbursable expenses and costs, multiplied by the applicable "Basis of Charges" for each item as set forth in Attachment No. 2 to Exhibit "B", as attached, and any approved Change Orders or Supplemental Task Authorizations; and

For the actual, necessary and required hours, and non-personnel expenses and costs, expended by Sub-Consultants and SubContractors engaged by the CONSULTANT, multiplied by such hourly rates and unit costs as are agreed to by the COUNTY and the CONSULTANT and as are set forth as a part of this Agreement and any approved Change Orders or Supplemental Task Authorizations; and

With the understanding and agreement that the COUNTY will pay the CONSULTANT for all such costs and expenses within the established Not-to-Exceed amount for each Task or Sub-Task subject to the CONSULTANT presenting an itemized and detailed invoice with appropriate supporting documentation attached thereto to show evidence satisfactory to the COUNTY covering all such costs and expenses; and

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

ARTICLE 3.00 - OBLIGATIONS OF THE CONSULTANT

The obligations of the CONSULTANT with respect to all the BASIC SERVICES and ADDITIONAL SERVICES authorized pursuant to this Agreement include, but are not limited to, the following:

3.01 LICENSES

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

3.02 PERSONNEL

(1) QUALIFIED PERSONNEL

The CONSULTANT agrees when the services to be provided and performed relate to a professional service that, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in responsible charge of all BASIC SERVICES and ADDITIONAL SERVICES to be provided pursuant to this Agreement.

(2) CONSULTANT'S PROJECT DIRECTOR

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

(3) REMOVAL OF PERSONNEL

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

3.03 TIMELY ACCOMPLISHMENT OF SERVICES

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

3.04 STANDARDS OF PROFESSIONAL SERVICE

The work and/or services to be provided and/or performed by the CONSULTANT and by any

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Sub-Consultants and/or SubContractors engaged by the CONSULTANT as set forth in the Scope of Professional Services, Exhibit "A", shall be done in accordance with the generally accepted standards of professional practice and in accordance with the laws, rules, regulations, ordinances, codes, policies, standards or other guidelines issued by those governmental agencies which have jurisdiction over all or a portion of this project and which are in effect at the time the COUNTY approves this Agreement, or which may subsequently be changed or revised. Any subsequent change or revision to such laws, rules, regulations, ordinances, codes, policies, standards or other guidelines which requires the CONSULTANT to provide and/or perform work and/or services which are significantly different from that set forth in the Scope of Professional Services, Exhibit "A", shall serve as a basis for the COUNTY to consider the development and issuance of a Change Order to provide for a change to, or Additional Services to the services set forth in the Agreement.

3.05 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

(1) RESPONSIBILITY TO CORRECT

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

(2) COUNTY'S APPROVAL SHALL NOT RELIEVE CONSULTANT OF RESPONSIBILITY

Neither review, approval, or acceptance by the COUNTY of data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and incidental professional services, work and materials furnished hereunder by the CONSULTANT, or any sub-consultants or subcontractors engaged by the CONSULTANT, shall in any way relieve CONSULTANT of responsibility for the adequacy, completeness and accuracy of its services, work and materials and the services, work and materials of any and all sub-consultants and/or subcontractors engaged by the CONSULTANT to provide and perform services in connection with this Agreement. Neither the COUNTY'S review, approval or acceptance of, nor payment for, any of the CONSULTANT'S services, work and materials shall be construed to operate as a waiver of any of the COUNTY'S rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

3.06 LIABILITY

(1) CONSULTANT TO HOLD COUNTY HARMLESS

Consistent with the provisions of FS s. 725.08, CONSULTANT agrees to indemnify and hold harmless the COUNTY, its officers and employees, from liabilities, damages, losses and costs,

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including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT, including, but not limited to sub-consultants, sub-contractors and materialmen, in the performance of this contract, including any Change Orders or Supplemental Task Authorizations. CONSULTANT and COUNTY agree that the monetary limitation on the indemnification provided under this contract is limited to the full amount of the contract award (i.e. Compensation to be paid Consultant as set forth in the attached Exhibit B), including any sums added or subtracted from the contract award through Change Orders or Supplemental Task Authorizations. Consistent with FS s. 768.28, COUNTY agrees that CONSULTANT will not be liable for damages arising out of the negligence of the COUNTY, its officers or employees.

3.07 NOT TO DIVULGE CERTAIN INFORMATION

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

3.08 CONSULTANT TO REPAIR PROPERTY DAMAGE CAUSED BY THE CONSULTANT

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

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

3.09 RESPONSIBILITY FOR ESTIMATES

(1) In the event the services required pursuant to this Agreement include the CONSULTANT preparing and submitting to the COUNTY, cost estimates, the CONSULTANT, by exercise of his experience, effort, knowledge and judgment, shall develop such cost estimates as are set forth in, or as may be required under the Agreement and shall be held accountable, responsible and liable for the accuracy, completeness, and correctness of any and all such cost estimates. For purposes of the Liability Provisions of this Article only, the CONSULTANT'S estimates shall be considered valid and effective for a period of six (6) months from the date of the COUNTY'S acceptance of the estimates.

(2) The cost estimates of CONSULTANTS or SUB-CONSULTANTS engaged by CONSULTANTS, for the appraisal or valuation of property or easements, or the estimate of damages or costs associated with the acquisition of property or easements are exempted from the provisions of

Article 3.09.

(3) Cost Estimates

(A) ORDER OF MAGNITUDE ESTIMATE

This is an approximate estimate made without detailed architect/engineering data. Examples include, but are not limited to, an estimate from cost-capacity curves, an estimate using scale-up or scale-down factors, and an approximate ratio estimate. This type of estimate shall be accurate within plus fifty percent (50.0%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the ORDER OF MAGNITUDE ESTIMATE shall be recoverable by the COUNTY.

(B) BUDGET ESTIMATE

Budget in this case applies to the COUNTY'S budget and not to the budget as a project controlled document. A budget is prepared with the use of flowsheets, layouts, and equipment details. This type of estimate shall be accurate within plus twenty-five percent (25.0%). If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation and development of the BUDGET ESTIMATE shall be recoverable by the COUNTY.

(C) CONSTRUCTION COST ESTIMATE.

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

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

The CONSULTANT will, subject to the review and approval of the COUNTY, modify at its expense the specifications, design, drawings and related bidding and contract documents to the extent necessary to reduce the anticipated construction costs so that the re-solicitation of bids or price proposals will realize bids or price proposals being received that are within the

range of accuracy established for the CONSTRUCTION COST ESTIMATE prepared by the CONSULTANT. Any such modifications made by the CONSULTANT shall not conflict with the functional or operational requirements established by the COUNTY for the project and set forth in the Agreement or Change Order(s) or Supplemental Task Authorization(s) issued thereto, nor shall any such modifications conflict with established rules, regulations, requirements or professional standards pertaining to the design, specifications or drawings prepared by the CONSULTANT, nor shall such modifications adversely affect the safe use or operation of the constructed project.

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

For determination of compliance with the accuracy requirement established for the CONSTRUCTION COST ESTIMATE prepared by the CONSULTANT, the amount of the CONSTRUCTION COST ESTIMATE submitted by the CONSULTANT shall be adjusted from the date the CONSTRUCTION COST ESTIMATE was received by the COUNTY until the date bids or price proposals are received by the COUNTY, by applying the percent change in the "20 Cities Cost Index" as published in the ENR (formerly ENGINEERING NEWS-RECORD) a McGraw-Hill, Inc. publication.

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

3.10 PERMITS

The CONSULTANT will be responsible for preparing and submitting all required applications and other supportive information necessary to assist the COUNTY in obtaining all reviews, approvals and permits, with respect to the CONSULTANT'S design, drawings and specifications required by any governmental body having authority over the project. Any fees required for such reviews, approvals or permits will be covered by a check issued by the COUNTY and made payable to the respective governmental body upon the CONSULTANT furnishing the COUNTY satisfactory documentation of such fees. The CONSULTANT will be similarly responsible for preparing and submitting all required applications and other supportive information necessary to assist the COUNTY in obtaining any renewals and/or extensions of reviews, approvals or permits that may be required while this Agreement is in effect.

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The COUNTY shall, at the CONSULTANT'S request, assist in obtaining required signatures and provide the CONSULTANT with all information known to be available to the COUNTY so as to assist the CONSULTANT in the preparation and submittal of any original, renewal or extension of required reviews, approvals or permits.

3.11 ADDITIONAL SERVICES

Should the COUNTY request the CONSULTANT to provide and perform professional services for this project which are not set forth in EXHIBIT "A", the CONSULTANT agrees to provide and perform such ADDITIONAL SERVICES as may be agreed to in writing by both parties to this Agreement. Such ADDITIONAL SERVICES shall constitute a continuation of the professional services covered under this Agreement and shall be provided and performed in accordance with the covenants, terms, and provisions set forth in this Agreement thereto.

ADDITIONAL SERVICES shall be administered and authorized as "SUPPLEMENTAL TASK AUTHORIZATIONS" or "CHANGE ORDERS" under the Agreement. The CONSULTANT shall not provide or perform, nor shall the COUNTY incur or accept any obligation to compensate the CONSULTANT for any ADDITIONAL SERVICES unless and until a written "SUPPLEMENTAL TASK AUTHORIZATIONS" or "CHANGE ORDER" shall have been agreed to and executed by both parties.

Each such "SUPPLEMENTAL TASK AUTHORIZATION" or "CHANGE ORDER" shall set forth a comprehensive, detailed description of: (1) the Scope of the ADDITIONAL SERVICES requested; (2) the basis of compensation; and, (3) the period of time and/or schedule for performing and completing said ADDITIONAL SERVICES.

3.12 TRUTH-IN-NEGOTIATIONS CERTIFICATE

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

3.13 COMPLETION OF TASKS

Unless otherwise set forth in the Agreement the CONSULTANT shall be responsible for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete all of the tasks set forth in Agreement Exhibit "A" entitled "Scope of Professional Services" and Change Orders, and Supplemental Task Authorizations authorized. The compensation to be paid the CONSULTANT as set forth in Agreement Exhibit "B" entitled "Compensation and Method of Payment" and Change Orders, and Supplemental Task Authorizations authorized thereto shall be understood and agreed to adequately and completely compensate the CONSULTANT for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete the tasks set forth in Agreement Exhibit "A" and Change Orders, Supplemental Task Authorizations, and Work Orders authorized thereto as stated above."

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3.14 AFFIRMATIVE ACTION BY CONSULTANT WHEN ENGAGING SUB-CONSULTANTS

The Florida Legislature advocates expenditures with minority business enterprises and encourages agencies to establish procedures and opportunity for 25% of the annual fiscal funds spent for professional services to be used for contracts with certified Minority Business Enterprises. Accordingly, the CONSULTANT is encouraged, when selecting or engaging the services of sub-consultants or subcontractors pursuant to this Agreement, to spend 25% of the amount of awarded compensation established in this Agreement, and in subsequent CHANGE ORDERS and SUPPLEMENTAL TASK AUTHORIZATIONS authorized thereto, for the engagement of the services of certified Minority Business Enterprise sub-consultants or subcontractors.

In furtherance of this statutory goal the COUNTY expects the CONSULTANT, when the services of sub-consultants and subcontractors are necessary, to identify those services that may be provided by a certified Minority Business entity and take affirmative action to obtain their services. For purposes of this Agreement, "affirmative action" means a good faith effort by the CONSULTANT to achieve the stated goal of engaging certified Minority Business Enterprise sub-consultants or subcontractors to provide or perform services and/or work pursuant to the SCOPE OF SERVICES required under this Agreement. The CONSULTANT is required to document efforts taken to engage the services of minority business enterprises and submit this information to the County upon request. Appropriate documentation includes detailed written records regarding the services the CONSULTANT deemed appropriate for subcontract to minority business enterprises, as well as successful and unsuccessful attempts to engage a certified Minority Business Enterprise for these services.

The CONSULTANT, upon receipt of a written request by the COUNTY, shall within ten (10) calendar days thereafter submit to the COUNTY copies of records and supporting documentation to show evidence of its affirmative action efforts to achieve the above stated goal.

The CONSULTANT is encouraged to contact the Lee County Department of Equal Opportunity for information and assistance regarding the COUNTY'S Minority Business Enterprise certification program and listing of certified Minority Business Enterprises.

ARTICLE 4.00 - OBLIGATIONS OF THE COUNTY

4.01 DESIGNATION OF PROJECT MANAGER

The COUNTY agrees after the execution of this Agreement to promptly advise the CONSULTANT, in writing, of the person designated to serve and act as the COUNTY'S PROJECT MANAGER pursuant to the provisions of Article 2.13 of this Agreement. Such notification shall be provided to the CONSULTANT by the COUNTY'S DEPARTMENT DIRECTOR.

4.02 AVAILABILITY OF COUNTY INFORMATION

(1) PROJECT GUIDELINES AND CRITERIA

Guidelines to the CONSULTANT regarding requirements the COUNTY has established or suggests relative to the Project including, but not limited to such items as: goals, objectives, constraints, and any special financial, budgeting, space, site, operational, equipment, technical, construction, time and scheduling criteria are set forth in attached EXHIBIT "E", entitled "PROJECT GUIDELINES AND CRITERIA".

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(2) COUNTY TO PROVIDE PERTINENT REFERENCE MATERIAL

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

4.03 AVAILABILITY OF COUNTY'S DESIGNATED REPRESENTATIVES

The COUNTY agrees that the DEPARTMENT DIRECTOR and the PROJECT MANAGER shall be available within a reasonable period of time, with reasonable prior notice given by the CONSULTANT, to meet and/or consult with the CONSULTANT on matters pertaining to the services to be provided and performed by the CONSULTANT. The COUNTY further agrees to respond within a reasonable period of time to written requests submitted by the CONSULTANT.

4.04 ACCESS TO COUNTY PROPERTY

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

ARTICLE 5.00 - COMPENSATION AND METHOD OF PAYMENT

5.01 BASIC SERVICES

The COUNTY will pay the CONSULTANT for all requested and authorized BASIC SERVICES rendered hereunder by the CONSULTANT and completed in accordance with the requirements, provisions, and/or terms of this Agreement and accepted by the COUNTY in accordance with the provisions for compensation and payment of said BASIC SERVICES as set forth and prescribed in attached EXHIBIT "B", or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement and evidenced by a written and duly approved Change Order.

5.02 ADDITIONAL SERVICES

The COUNTY will pay the CONSULTANT for all ADDITIONAL SERVICES that have been requested and authorized by the COUNTY and agreed to, in writing, by both parties to this Agreement and which have been rendered as ADDITIONAL SERVICES by the CONSULTANT and completed in accordance with the requirements, provisions, and/or terms of this Agreement and accepted by the COUNTY in accordance with the provisions for compensation and payment of said ADDITIONAL SERVICES as set forth and prescribed in attached EXHIBIT "B" or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement as evidenced by a written Change Order or Supplemental Task Authorization executed by both parties.

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5.03 METHOD OF PAYMENT

(1) MONTHLY STATEMENTS

The CONSULTANT is entitled to submit no more than one invoice statement to the COUNTY each calendar month covering services rendered during the preceding calendar month. The CONSULTANT'S invoice statements must be itemized to correspond to the basis of compensation as set forth in the Agreement, CHANGE ORDERS, or SUPPLEMENTAL TASK AUTHORIZATIONS. The CONSULTANT'S invoice statements must contain a breakdown of charges, description of services and work provided and/or performed, and where appropriate, supportive documentation of charges consistent with the basis of compensation set forth in the Agreement, CHANGE ORDERS, and/or SUPPLEMENTAL TASK AUTHORIZATIONS.

(2) PAYMENT FOR SERVICES PERFORMED

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

- (A) The COUNTY shall pay the CONSULTANT on the basis of services completed for tasks set forth in Exhibits "A" and "B", as evidenced by work products such as reports, drawings, specifications, etc., submitted by the CONSULTANT and accepted by the COUNTY. No payments shall be made for CONSULTANT'S Work-in-Progress until service items for which payment amounts have been established and set forth in this Agreement have been completed by the CONSULTANT and accepted by the COUNTY. Whenever an invoice statement covers services for which no work product is required to be furnished by the CONSULTANT to the COUNTY, the COUNTY reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.
- (B) The COUNTY shall pay the CONSULTANT for services performed for tasks set forth in Exhibits "A" and "B" on the basis of an invoice statement covering CONSULTANT'S Work-in-Progress expressed as a percentage of the total cost of the service and/or work required for each task invoiced in this manner. All such Work-in-Progress percentages are subject to the review and approval of the COUNTY. The decision of the COUNTY shall be final as to the Work-in-Progress percentages paid. Payment by the COUNTY for tasks on a Work-in-Progress percentage basis shall not be deemed or interpreted in any way to constitute an approval or acceptance by the COUNTY of any such service or Work-in-Progress. The CONSULTANT shall be responsible for correcting, re-doing, modifying or otherwise completing the services and work required for each task before receiving final, full payment whether or not previous Work-in-Progress payments have been made. All tasks to be paid for on a Work-in-Progress percentage basis shall be agreed to by both parties to the Agreement and each task to be paid in this manner shall be identified in Exhibit "B" with the notation (WIPP). Only tasks so identified will be paid on a Work-in-Progress percentage basis. The COUNTY reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

(3) PAYMENT SCHEDULE

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

5.04 PAYMENT WHEN SERVICES ARE TERMINATED AT THE CONVENIENCE OF THE COUNTY

In the event of termination of this Agreement at the convenience of the COUNTY, not at the fault of the CONSULTANT, the COUNTY shall compensate the CONSULTANT only for: (1) all services performed prior to the effective date of termination; (2) reimbursable expenses then due; and, (3) reasonable expenses incurred by the CONSULTANT in affecting the termination of services and work, and incurred by the submittal to the COUNTY of project drawings, plans, data, and other project documents.

5.05 PAYMENT WHEN SERVICES ARE SUSPENDED

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

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

In the event the services required pursuant to this Agreement are terminated, eliminated, cancelled, or decreased due to: (1) termination; (2) suspension in whole or in part; and, (3) and/or are modified by the subsequent issuance of SUPPLEMENTAL TASK AUTHORIZATIONS and/or CHANGE ORDERS, other than receiving the compensation set forth in Sub-Articles 5.04 and 5.05, the CONSULTANT shall not be entitled to receive compensation for anticipated professional fees, profit, general and administrative overhead expenses or for any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, cancelled or decreased.

ARTICLE 6.00 - TIME AND SCHEDULE OF PERFORMANCE

6.01 NOTICE TO PROCEED

Following the execution of this Agreement by both parties, and after the CONSULTANT has complied with the insurance requirements set forth hereinafter, the COUNTY shall issue the CONSULTANT a WRITTEN NOTICE TO PROCEED. Following the issuance of such NOTICE TO PROCEED the CONSULTANT shall be authorized to commence work and the CONSULTANT thereafter

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shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion.

6.02 TIME OF PERFORMANCE

The CONSULTANT agrees to complete the services required pursuant to this Agreement within the time periods for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in attached EXHIBIT "C", entitled "SCHEDULE OF PERFORMANCE.

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

6.03 CONSULTANT WORK SCHEDULE

The CONSULTANT is required to prepare and submit to the COUNTY, on a monthly basis commencing with the issuance of the NOTICE TO PROCEED, a CONSULTANT'S WORK SCHEDULE. The WORK SCHEDULE must set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of the services and work required for completion of the various phases and/or tasks of the project services as set forth in EXHIBIT "C" in such a manner that the CONSULTANT'S planned and actual work progress can be readily determined. The CONSULTANT'S WORK SCHEDULE of planned and actual work progress must be updated and submitted by the CONSULTANT to the COUNTY on a monthly basis.

6.04 FAILURE TO PERFORM IN A TIMELY MANNER

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

ARTICLE 7.00 - SECURING AGREEMENT

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

Date: 10/25/13

ARTICLE 8.00 - CONFLICT OF INTEREST

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

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

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

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

ARTICLE 9.00 - ASSIGNMENT, TRANSFER AND SUBCONTRACTS

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

In providing and performing the services and work required pursuant to this Agreement, CONSULTANT intends to engage the assistance of the sub-consultants and/or subcontractors set forth in attached EXHIBIT "D", entitled "CONSULTANT'S ASSOCIATED SUB-CONSULTANTS AND SUBCONTRACTORS".

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ARTICLE 10.00 - APPLICABLE LAW

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

ARTICLE 11.00 - COVENANTS AGAINST DISCRIMINATION

11.01 FOR PROJECTS WITH FUNDS APPROPRIATED FROM GENERAL LEE COUNTY REVENUES

The CONSULTANT for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to COUNTY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The CONSULTANT shall comply with Lee County's Affirmative Action Plan or state laws in the hiring of sub-consultants. CONSULTANTS who are uncertain of their obligation must obtain a copy of all relevant guidelines concerning Lee County's Affirmative Action Plan from the Lee County Department of Equal Opportunity.

11.02 FOR PROJECTS WITH FUNDS APPROPRIATED EITHER IN PART OR WHOLLY FROM FEDERAL OR STATE SOURCES

The CONSULTANT for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to COUNTY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The CONSULTANT shall make every effort to comply with any Disadvantaged Business Enterprise goals which have been established for this project. CONSULTANTS who are uncertain of their obligations regarding Disadvantaged Business Enterprises for this project must obtain a copy of all relevant federal or state guidelines from the Lee County Department of Equal Opportunity. The failure of the CONSULTANT to adhere to relevant guidelines shall subject the CONSULTANT to any sanctions which may be imposed upon the COUNTY.

ARTICLE 12.00 - WAIVER OF BREACH

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

ARTICLE 13.00 - INSURANCE

13.01 INSURANCE COVERAGE TO BE OBTAINED

- (1) The CONSULTANT shall obtain and maintain such insurance as will protect him from: (1) claims under workers' compensation laws, disability benefit laws, or other similar employee benefit laws; (2) claims for damages because of bodily injury, occupational sickness or disease or death of his employees including claims insured by usual personal injury liability coverage; (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees including claims insured by usual personal injury liability coverage; and, (4) from claims

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for injury to or destruction of tangible property including loss or use resulting therefrom; any or all of which claims may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of this Agreement, whether such services, work and operations be by the CONSULTANT, its employees, or by any sub-consultants, subcontractors, or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

- (2) The insurance protection set forth hereinabove shall be obtained and written for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.
- (3) The CONSULTANT, throughout the time this Agreement is in effect, shall require and ensure that any and all of its Sub-Consultants and/or SubContractors obtain, have, and maintain the insurance coverage's required by law to be provided.
- (4) The CONSULTANT shall obtain, have and maintain during the entire period of this Agreement all such insurance policies as are set forth and required herein.
- (5) In the event that the CONSULTANT engages Sub-Consultants or Sub-Contractors to assist the CONSULTANT in providing or performing services or work pursuant to the requirements of this Agreement, the insurance coverage's required under Article 13.03 to be provided by the CONSULTANT shall cover all of the services or work to be provided or performed by all of the Sub-Consultants or SubContractors engaged by the CONSULTANT. However, in the event the services or work of Sub-Consultants or Sub-Contractors engaged by the CONSULTANT is not covered by the CONSULTANT'S INSURANCE POLICY(s), it shall be the responsibility of the CONSULTANT to ensure that all Sub-Consultants or Sub-Contractors have fully complied with the COUNTY insurance requirements for: (1) Worker's Compensation; (2) Commercial General Liability; (3) Commercial Automobile Liability; or, (4) Professional Liability as required and set forth in Agreement Article 13.00.

The services or work to be provided or performed by the following Sub-Consultants or Sub-Contractors identified in Agreement Exhibit "D" are exempted and excluded from the Professional Liability insurance coverage requirements set forth in this Agreement:

<u>Service and/or work to be Provided and/or Performed</u>	<u>Indicate Name of Individual or Firm</u>
--	--

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

- (6) The insurance coverage to be obtained by the CONSULTANT or by Sub-Consultants or Sub-Contractors engaged by the CONSULTANT, as set forth in Agreement Article 13.03 for: (1) Workers' Compensation; (2) Comprehensive General Liability; (3) Comprehensive Automobile Liability; or (4) Professional Liability is understood and agreed to cover any and all of the services or work set forth in Agreement Exhibit "A" and all subsequent Change Orders or Supplemental Task Authorizations. In the event the COUNTY shall execute and issue a written Change Order or Supplemental Task Authorization authorizing the CONSULTANT to provide or perform services or work in addition to those set forth in Agreement Exhibit "A", it is agreed that the COUNTY has the right to change the amount of insurance coverage's required to cover the additional services or work. If the additional insurance coverage's established exceeds the amount of insurance coverage carried by the CONSULTANT, the compensation established for the Change Order or Supplemental Task Authorization shall include consideration of any increased premium cost incurred by the CONSULTANT to obtain same.

13.02 CONSULTANT REQUIRED TO FILE INSURANCE CERTIFICATE(S)

- (1) The CONSULTANT shall submit to the COUNTY'S RISK MANAGEMENT DIVISION all insurance certificates which are required under this Agreement for review and approval with respect to compliance with the insurance requirements. After approval by the RISK MANAGEMENT DIVISION, the COUNTY will execute this Agreement and issue a written Notice to Proceed. The CONSULTANT may then commence with any service or work pursuant to the requirements of this Agreement.
- (2) All such insurance certificates shall be in a form and underwritten by an insurance company(s) acceptable to the COUNTY and licensed in the State of Florida.
- (3) Each Certificate of Insurance submitted to the COUNTY shall be an original and shall be executed by an authorized representative of the insurance company affording coverage.
- (4) Each Certificate of Insurance shall be addressed to the Lee County Board of County Commissioners, Attention: Lee County Procurement Management, P O Box 398, Fort Myers, Florida 33902-0398.
- (5) Each Certificate of Insurance shall specifically include all of the following:
 - (A) The name and type of policy and coverage's provided; and
 - (B) The amount or limit applicable to each coverage provided and the deductible amount, if any, applicable to each type of insurance coverage being provided; and
 - (C) The date of expiration of coverage; and
 - (D) The designation of the Lee County Board of County Commissioners both as an additional insured and as a certificate holder. (This requirement is excepted for Professional Liability Insurance and for Workers' Compensation Insurance); and
 - (E) A specific reference to this Agreement and the Project to which it pertains. (This requirement may be excepted for Professional Liability Insurance); or

In the event the CONSULTANT has, or expects to enter into an agreement for professional services other than those provided for in this Agreement, the CONSULTANT may elect to submit a certificate of insurance containing the following statement:

"This policy covers the services or work provided or performed by the Named Insured for any and all projects undertaken for Lee County pursuant to one or more written Professional Services Agreements, or written Supplemental Task Authorizations, or Change Orders thereto, and the limits of liability shown shall not be intended or construed as applying to only one project."

Upon receipt and approval of such a certificate of insurance the COUNTY will administer the insurance required for all such agreements utilizing the single "multi-project" certificate of insurance and a separate certificate of insurance will not be required for each separate agreement.

- (F) A statement indicating any services or work included in or required under Agreement Exhibit "A" Scope of Professional Services that is specifically excluded or exempted from coverage under the provisions, terms, conditions or endorsements of the CONSULTANT'S insurance policy. A statement which indicates any and all deductible amounts applicable to each type of insurance coverage required. In the absence of any such statements, the COUNTY will proceed with the understanding, stipulation and condition that there are no deductible amounts, or exclusions or exemptions to the insurance coverage provided.
- (6) Each Certificate of Insurance shall be issued by an insurance agent and/or agency duly authorized to do so by and on behalf of the insurance company affording the insurance coverage indicated on each Certificate of Insurance.
- (7) If the initial or any subsequently issued Certificate of Insurance expires prior to the completion of the work or termination of this Agreement, the CONSULTANT shall furnish to the COUNTY renewal or replacement Certificate of Insurance, or Certified Binder, not later than fifteen (15) calendar days after the date of their expiration. Failure of the CONSULTANT to provide the COUNTY with such renewal certificates shall be considered justification for the COUNTY to terminate this Agreement.
- (8) If any of the insurance coverages required by this Agreement shall reach the date of expiration indicated on the approved Certificates of Insurance without the COUNTY having received satisfactory evidence of renewal or replacement, the CONSULTANT shall automatically and without further notice stop performing all previously authorized services and work. During any time period that the CONSULTANT'S services or work is suspended for failure to comply with the insurance requirements set forth in the Agreement, the CONSULTANT shall not be entitled to any additional compensation or time to provide and perform the required services or work and the COUNTY shall not be required to make payment on any invoices submitted by the CONSULTANT. Upon receipt and approval of renewal or replacement Certificates of Insurance, payment for any such invoices shall be made promptly by the COUNTY.

13.03 - INSURANCE COVERAGES REQUIRED

The CONSULTANT shall obtain and maintain the following insurance coverages as provided hereinbefore, and in the type, amounts and in conformance with the following minimum requirements:

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(1) WORKERS' COMPENSATION

Statutory benefits as defined by FS 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees regardless of the number of employees. Workers Compensation exemptions may be accepted with written proof of the State of Florida's approval of such exemption. Employers' liability will have minimum limits of:

\$100,000 per accident
\$100,000 disease limit
\$500,000 disease – policy limit

(2) COMMERCIAL GENERAL LIABILITY

Coverage must be afforded on a form no more restrictive than the last edition of the Commercial General Liability Policy filed by the Insurance Services Office. Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, contractual liability exposures with minimum limits of:

\$500,000 per occurrence
\$1,000,000 general aggregate
\$500,000 products and completed operations
\$500,000 personal and advertising injury

Coverage must include the following:

- (A) Contractual coverage applicable to this specific Agreement including any hold harmless and/or such indemnification agreement.
- (B) Such additional requirements as are set forth in Article 13.01 and 13.02 hereinabove.

(3) BUSINESS AUTOMOBILE LIABILITY

Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy filed by the Insurance Services Office and must include the following:

- (A) Minimum limits of \$ 500,000.00 combined single limit (CSL).
- (B) Coverage shall include owned vehicles, hired and leased, or non-owned vehicles.
- (C) Such additional requirements as are set forth in Articles 13.01

(4) ERRORS AND OMISSIONS

Coverage shall include professional liability insurance, to cover claims arising out of negligent acts, errors or omissions of professional advice or other professional services.

Coverage must include the following:

- (A) \$1,000,000 combined single limit (CSL) of BI and PD
- (B) Such additional requirements as are set forth in Articles 13.01 and 13.02 hereinabove.
- (C) Should the Professional Liability Insurance Policy issued pursuant to the above requirements and limits be written so as to provide an applicable deductible amount, or other exclusion or limitation as to the amount of coverage to be provided within the minimum coverage limits set forth above, the COUNTY shall hold the CONSULTANT responsible and liable for any such difference in the amount of coverage provided by the insurance policy. In the event of any such deductible amount, exclusion or limitation, the CONSULTANT shall be required to provide written documentation that is acceptable to the COUNTY establishing that the CONSULTANT has the financial resources readily available to cover damages, injuries and/or losses which are not covered by the policy's deductible amounts, exclusions and/or limitations as stated above.

*The required minimum limit of liability shown in (2) Commercial General Liability and (3) Business Automobile Liability, may be provided in the form of "Excess Insurance" or "Commercial Umbrella Policies." In which case, a "Following Form Endorsement" will be required on the "Excess Insurance Policy" or "Commercial Umbrella Policy."

ARTICLE 14.00 - DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

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

ARTICLE 15.00 - REPRESENTATION OF THE COUNTY

The CONSULTANT in providing and performing the services and work required pursuant to this Agreement thereto shall only represent the COUNTY in the manner and to the extent specifically set forth in writing in this Agreement, and as provided in any written SUPPLEMENTAL TASK AUTHORIZATION or CHANGE ORDER issued hereunder.

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

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

ARTICLE 16.00 - OWNERSHIP OF DOCUMENTS

All documents such as drawings, tracings, notes, computer files, photographs, plans, specifications, maps, evaluations, reports and other records and data relating to this project, other than working papers, specifically prepared or developed by the CONSULTANT under this Agreement shall be property of the

Date: 10/25/13

CONSULTANT until the CONSULTANT has been paid for providing and performing the services and work required to produce such documents.

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

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

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

ARTICLE 17.00 - MAINTENANCE OF RECORDS

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

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

ARTICLE 18.00 - HEADINGS

The HEADINGS of the Articles, Sections, Exhibits, Attachments, Phases or Tasks as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such Articles, Sections, Exhibits, Attachments, Phases or Tasks.

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ARTICLE 19.00 - ENTIRE AGREEMENT

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

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

- (1) EXHIBIT "A" entitled "Scope of Professional Services".
- (2) EXHIBIT "B" entitled "Compensation and Method of Payment".
- (3) EXHIBIT "C" entitled "Time and Schedule of Performance".
- (4) EXHIBIT "D" entitled "Consultant's Associated Sub-Consultants and SubContractors".
- (5) EXHIBIT "E" entitled "Project Guidelines and Criteria".
- (6) EXHIBIT "F" entitled "Truth in Negotiation Certificate".
- (7) EXHIBIT "G" entitled "Insurance". (Containing copies of applicable Certificates of Insurance)
- (8) EXHIBIT "H" entitled "Amendment to Articles".

ARTICLE 20.00 - NOTICES AND ADDRESS OF RECORD

20.01 NOTICES BY CONSULTANT TO COUNTY

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

Lee County Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33902-0398
Department: Natural Resources

20.02 NOTICES BY COUNTY TO CONSULTANT

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

The Woods Hole Group Inc.
81 Technology Park Drive
East Falmouth, MA 02536
Phone and Fax No.508.540.8080/508.540.1001
ATTENTION: Robert P. Hamilton Jr.
Email: bhamilton@whgrp.com

20.03 CHANGE OF ADDRESS OF RECORD

Either party may change its address of record by written notice to the other party given in accordance with the requirements of this Article.

ARTICLE 21.00 - TERMINATION

This Agreement may be terminated by the COUNTY at its convenience, or due to the fault of the CONSULTANT, by the COUNTY giving thirty (30) day written notice to the CONSULTANT.

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

In addition to the COUNTY'S contractual right to terminate this Agreement in its entirety as set forth above, the COUNTY may also, at its convenience, stop, suspend, supplement or otherwise change all, or any part of, the Scope of Professional Services as set forth in Exhibit "A", or the Project Guidelines and Criteria as set forth in Exhibit "E", or as such may be established by a Supplemental Task Authorization or Change Order Agreement. The COUNTY shall provide written notice to the CONSULTANT in order to implement a stoppage, suspension, supplement or change.

The CONSULTANT may request that this Agreement be terminated by submitting a written notice to the COUNTY dated not less than thirty (30) calendar days prior to the requested termination date and stating the reason(s) for such a request. However, the COUNTY reserves the right to accept or not accept the termination request submitted by the CONSULTANT, and no such termination request submitted by the CONSULTANT shall become effective unless and until CONSULTANT is notified, in writing, by the COUNTY of its acceptance.

21.01 CONSULTANT TO DELIVER MATERIAL

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

Date: 10/25/13

ARTICLE 22.00 - AMENDMENTS

The covenants, terms and provisions set forth and contained in all of the Articles to this Agreement may be amended upon the mutual acceptance thereof, in writing, by both parties to this Agreement, as evidenced by Exhibit H for amending articles. In the event of any conflicts between the requirements, provisions and/or terms of the Agreement and any written Amendment (Exhibit H), the requirements, provisions and/or terms of the Amendment shall take precedence.

ARTICLE 23.00 - MODIFICATIONS

Modifications to covenants, terms and provisions of this Agreement shall only be valid when issued in writing as a properly executed CHANGE ORDERS or SUPPLEMENTAL TASK AUTHORIZATIONS. In the event of any conflicts between the requirements, provisions, and/or terms of this Agreement and any written CHANGE ORDERS and/or SUPPLEMENTAL TASK AUTHORIZATIONS, the latest executed CHANGE ORDER and/or SUPPLEMENTAL TASK AUTHORIZATION shall take precedence.

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

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

ARTICLE 24.00 – SEVERABILITY

If any word, phrase, sentence, part, subsection, or other portion of this Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.

ARTICLE 25.00 – VENUE

Venue for any administrative and/or legal action arising under this Agreement shall be in Lee County, Florida.

ARTICLE 26.00 – NO THIRD PARTY BENEFICIARIES

Both parties explicitly agree, and this Agreement states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

ARTICLE 27.00 - ACCEPTANCE

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

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

ATTEST:
CLERK OF CIRCUIT COURT
Linda Doggett, Clerk

COUNTY: LEE COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

BY: _____

BY: _____
Chair

DATE: _____

APPROVED as to Form for the Reliance of Lee County
Only

BY: _____
County Attorney's Office

ATTEST:

Firm

BY: _____
Authorized Signature

(Witness)

Authorized Signature Printed Name

(Witness)

Authorized Signature Title

DATE: _____

CORPORATE SEAL:

MEMORANDUM

To: PROJECT FILE, MINUTES OF MEETING
From: Procurement Management
RE: **CN140361 FEMA COASTAL RISK MAP DEVELOPMENT -
PRESENTATIONS/EVALUATION MEETING**

MEETING DATE: August 26, 2014 TIME: 1:00 p.m.

ATTENDEES:

COMMITTEE MEMBERS:

Robert Franceschini, Non-Voting Chair
Roland Ottolini, Natural Resources
Sam Lee, Natural Resources
Joan LaGuardia, Community Development

INVITED MEMBERS:

Dawn Lehnert, County Attorney
Diana Khan, Procurement Management
Stephen Boutelle, Natural Resources
Anura Karuna-Muni, Natural Resources
Sandy Larsen, City of Sanibel
Tom Chernesky, City of Cape Coral
Vince Miller, City of Fort Myers

At 1:00 p.m. the Competitive Negotiations Committee meeting was called to order by Robert Franceschini, Procurement Management Representative. Introductions were put on the record by everyone in attendance.

Presentations were completed with the three firms.

Discussions were held by the committee members, as well as invited participants with respect to each presentation from the three firms.

Brief Committee Discussion Decision:

AMEC: Technically capable; they are second to Woods Hole on many points; too large and spread out.

Tomasello: Lacking outreach and modeling experience; Familiarity with Lee County.

Woods Hole: Technically capable. Location? Better technical expertise than the others; knowledge of ADCRC; can face down FEMA; great understanding of ramifications; concentrated expertise.

Following the discussions, the consensus of the committee was to recommend the following order of ranking:

1. Woods Hole Group
2. AMEC Environment & Infrastructure
3. Tomasello Consulting Engineers

The chair entertained a motion to approve the ranking. The motion was made by Roland Ottolini and seconded by Joan LaGuardia and then called and carried with no further questions.

The meeting was adjourned by the chair at 5:30 p.m.

Attachment: Overall Ranking Sheet

Blue Sheet No. 20140839	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Item No. 6
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TITLE:
Approve FDEP Grant Agreement 14LE3 for Blind Pass Ecozone restoration funding.

ACTION REQUESTED:
A) Execute FDEP Grant Agreement 14LE3 which provides for reimbursement of previous construction related tasks at Blind Pass including construction and immediate post-construction monitoring tasks.

B) Approve budget amendment resolution for \$156,021.60 in unanticipated revenue from FDEP offsetting prior year expenses on the Blind Pass Eco Zone Project to be returned to 30101 reserves, the original funding source.

FUNDING:
\$156,021.60; Capital Improvement Tourist Development Beach Projects; Not included in Budget; Tourism/sports.

Prior FDEP Agreement 05LE1 as amended, provided reimbursement of cost associated with the Blind pass maintenance dredging completed in May 2013. The FDEP funding was based on a percentage of eligible costs up to a state maximum of \$1,149,923. The actual cost percentage exceeded the FDEP maximum. In accordance with the rules of the state beach erosion control grant program (62B-36 Florida Administrative Code), application was made for reimbursement of eligible expenses that exceeded funds available in 05LE1. Agreement 14LE3 provides for reimbursement of those eligible expenses. As the work has already been completed, this reimbursement has no future budget implications.

Capital Improvement – Tourist Development Beach Projects; Non-Departmental Revenues; project name is not applicable; GC5000030101.369900.9046 Refund Prior Year Expense.

WHAT ACTION ACCOMPLISHES:
Provides reimbursement to TDC Beach Project Reserves for previously expended funds for the Blind Pass Restoration Project.

MANAGEMENT RECOMMENDATION:
Approve.

Requirement/Purpose: (specify)	Request Initiated
<input type="checkbox"/> Statute <input type="checkbox"/> Ordinance <input type="checkbox"/> Admin Code <input checked="" type="checkbox"/> Other Grant requirement	Commissioner: Department: NATURAL RESOURCES Division: No Divisions By: Roland Ottolini

Background:

Lee County paid for contracted services associated with maintenance dredging of Blind Pass and associated beach nourishment of Sanibel. FDEP previously reimbursed 31.05% of the eligible costs but

Required Review:					
Roland Ottolini	Jack Peterson	Anne Henkel	Peter Winton	Doug Meurer	
NATURAL RESOURCES	County Attorney	Budget Analyst	Budget Services	Public Works Director	

had insufficient funds to reimburse the total eligible amount. This Agreement provides for after-the-fact reimbursement of expenses up to the total 31.05% of eligible costs. Funds from FDEP would reimburse expenses from the Tourist Development Tax beach and shoreline fund thereby increasing funds available for future projects. All County obligations for reimbursement have already been satisfied.

Florida Department of Environmental Protection (FDEP) Agreement 05LE1, Blind Pass Ecozone Restoration was approved by the Board of County Commissioners at their meeting of September 6, 2005 (Bluesheet 20051198, C8c). The agreement was amended June 13, 2006 (20060726, C8d); May 29, 2007 (20070745, C8a); June 24, 2008 (20080730, C9d); October 7, 2008 (20081183, C9b); August 10, 2010 (20100689, C8b). The Agreement as amended provided FDEP funds for Blind Pass design, permitting, 2009 construction, 2013 construction, and monitoring in a maximum amount of \$1,149,923 (31.05% of eligible expenses).

Agreement 14LE3 would provide supplemental FDEP reimbursement up to \$156,021.60 for the state share of previously completed tasks paid for by Lee County. Funds will be deposited in GC5000030101.369900.9046, Refund Prior Year Expense

1. Previous FDEP Agreement 05LE1 Amendment 5
2. Proposed FDEP Agreement 14LE3
3. Budget Amendment Resolution

AMENDMENT No: 5
DEP AGREEMENT No: 05LE1
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF BEACHES AND COASTAL SYSTEMS
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
STATE OF FLORIDA
AMENDMENT TO GRANT AGREEMENT FOR
BLIND PASS ECOZONE RESORATION PROJECT

THIS AGREEMENT is entered into on the 6th day of September, 2005, and amended on the 13th day of June, 2006, and amended on the 29th day of May, 2007, and amended on the 24th day of June, 2008, and amended on the 7th day of October, 2008 between the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "DEPARTMENT") and LEE COUNTY, a local government, (hereinafter referred to as the "LOCAL SPONSOR"), for the project described herein:

WHEREAS, changes to the Agreement are necessary.

NOW, THEREFORE, the parties hereto agree as follows:

- Paragraph 2 the following language is hereby added to the Agreement:

If work identified in the approved Project Work Plan is completed prior to the date shown in the first sentence of this paragraph, the modification will be reduced to writing in an amendment to this Project Agreement.

- Paragraph 8 Table 1 is hereby revised as follows and the following language is hereby added to the Agreement:

TABLE 1

Task #	Eligible Project Tasks	Estimated Project Costs			
		Federal	DEP	Local	Total
1.0	Design and Permitting	\$0	\$54,662	\$121,383	\$176,045
2.0	Construction	\$0	\$1,056,448	\$2,345,961	\$3,402,409
3.0	Monitoring				
3.1	Post Construction Monitoring (FY 07/08)	\$0	\$11,411	\$25,339	\$36,750
3.2	Post Construction Monitoring (FY 08/09)	\$0	\$27,402	\$60,850	\$88,252
	TOTAL PROJECT COSTS	\$0	\$1,149,923	\$2,553,533	\$3,703,456

Prior written approval from the DEPARTMENT's Grant Program Administrator shall be required for changes between approved Project Tasks costs. Informal changes by the DEPARTMENT's Grant Program Administrator may not exceed 10% of the total budget amount and may not change the Total Project Costs. The DEPARTMENT's Grant Program Administrator will transmit a copy of the written approval and revised budget to the DEP Contracts Disbursements Office for inclusion in the Agreement file. Changes to Project Task costs greater than 10% will require a formal amendment to the Agreement. Any change to the Total Project Costs require formal amendment.

C8b

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8-10-10

- Paragraph 14 is hereby revised to replace the fourth sentence as follows:

The cumulative amount retained for each eligible Task Scope of Work shall be disbursed to the LOCAL SPONSOR upon notification to the DEPARTMENT with an executed notice of completion (Attachment E-1) and after the DEPARTMENT has certified that the LOCAL SPONSOR has complied with all the terms and conditions of the Agreement, all applicable DEPARTMENT permits and the applicable scope of work for said item.

- Paragraph 22 the following language is hereby added to the Agreement:

Any changes to the contact information shown above must be reduced to writing in the form of a Change Order to this Agreement.

- Paragraph 25 is hereby revised to add the following as subparagraph C:

C. In addition, the Grantee agrees to complete and submit the **Certification of Applicability to Single Audit Act Reporting, Attachment G**, attached hereto and made a part hereof, within four (4) months following the end of the Grantee's fiscal year. Attachment G should be submitted to the DEPARTMENT's Grants Development and Review Manager at 3900 Commonwealth Boulevard, Mail Station 93, Tallahassee, Florida 32399-3000. The Grants Development and Review Manager is available to answer any questions at (850) 245-2361.

- Paragraph 35 is hereby deleted in its entirety and replaced with the following:

The LOCAL SPONSOR shall also provide the bid form for the successful bidder. The LOCAL SPONSOR shall select eligible consultants licensed to offer services in the State of Florida for studies, design and permitting and monitoring tasks in accordance with Chapter 287, F. S. Upon the DEPARTMENT's request, the LOCAL SPONSOR shall furnish copies of the respective solicitation documents. Solicitation documents include, but are not limited to, the solicitation and responses thereto, the bid tabulations, and the resulting contract(s), including a detailed scope of work.

- Paragraph 38 is hereby deleted in its entirety and replaced with the following:

The DEPARTMENT may at any time, by written order designated to be a change order, make any change in the Grant Manager information or task timelines within the current authorized Agreement period. All change orders are subject to the mutual agreement of both parties as evidenced in writing. Any change, which causes an increase or decrease in the Grantee's cost or time, shall require formal amendment to this Agreement. Minor modifications which will be handled with a change order include notification of a change in Contract/Project Manager, modification of deliverable due dates when such change does not involve a contract extension, and modifying the scope of services when such modification would not involve a decrease/increase in price or an extension of the contract performance period.

- Attachment G as attached hereto is hereby added to the Agreement.

In all other respects, the Agreement of which this is an Amendment, and attachments relative thereto, shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have caused these presents to be duly executed, the day and year last written below.

LEE COUNTY

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: [Signature]
Title: *Commission Chair

By: [Signature]
Secretary or designee

Date: 8/10/10

Date: June 14, 2010

FEID No. 59-6000702

[Signature]
Department of Environmental Protection
Grant Program Administrator

APPROVED as to form and legality:

[Signature]
Grantee's Attorney
(if necessary)

[Signature]
Department of Environmental Protection
Attorney

*If someone other than the Commission Chair signs this Agreement, a resolution, statement or other documentation authorizing that person to sign the Agreement on behalf of the County/City must accompany the agreement.

List of Attachments/Exhibits included as part of this Agreement:

Specify Type	Letter/ Number	Description (include number of pages)
Attachment	G	Certification of Applicability to Single Audit Act Reporting (1 Page)

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ATTACHMENT G

CERTIFICATION OF APPLICABILITY TO SINGLE AUDIT ACT REPORTING

Grantee's Name:

Grantee's Fiscal Year Period: FROM: _____ TO: _____

Total State Financial Assistance Expended during Grantee's most recently completed Fiscal Year: \$ _____

Total Federal Financial Assistance Expended during Grantee's most recently completed Fiscal Year: \$ _____

Please identify grants to be included in the Single Audit that are provided by the Department of Environmental Protection

CSFA# CFDA# DEP GRANT AGREEMENT NUMBER

CERTIFICATION STATEMENT:

I hereby certify that the above information is correct:

Name

Date

Title

DEP AGREEMENT No: 14LE3
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER RESOURCE MANAGEMENT
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
STATE OF FLORIDA
GRANT AGREEMENT FOR
BLIND PASS ECOZONE RESTORATION

THIS AGREEMENT is entered into between the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "DEPARTMENT"), whose address is 2600 Blair Stone Road, MS 3554, Tallahassee, Florida 32399, and LEE COUNTY, a local government (hereinafter referred to as the "LOCAL SPONSOR"), whose address is 1500 Monroe Street, Fort Myers, Florida 33901, for the project described herein.

WHEREAS, the DEPARTMENT, pursuant to Section 161.091 - Section 161.161, Florida Statutes, provides financial assistance to eligible governmental entities for beach erosion control activities under the Florida Beach Management Funding Assistance Program; and,

WHEREAS, pursuant to 62B-36.005(1)(d), Florida Administrative Code, the LOCAL SPONSOR has resolved to support, serve as local sponsor, demonstrated a financial commitment to the beach erosion control project as described herein, and has the ability to perform the tasks associated with the project described herein.

NOW, THEREFORE, in consideration of the mutual benefits to be derived herefrom, the DEPARTMENT and the LOCAL SPONSOR do hereby agree as follows:

1. The DEPARTMENT does hereby retain the LOCAL SPONSOR to implement the beach erosion control project known as the BLIND PASS ECOZONE RESTORATION, (hereafter referred to as the PROJECT), as defined in **Attachment A (Grant Work Plan)**, attached hereto and made a part hereof. The LOCAL SPONSOR does hereby agree to perform such services as are necessary to implement the PROJECT in accordance with the terms and conditions set forth in this Agreement, and all attachments and exhibits named herein that are attached hereto and incorporated by reference. For purposes of this Agreement, the terms "Grantee", "Recipient" and "Local Sponsor" are used interchangeably.
2. This Agreement shall begin on the last date executed and end on **December 31, 2017**. Pursuant to Section 161.101 (18), Florida Statutes, and 62B-36.009, Florida Administrative Code, work conducted on this PROJECT by the LOCAL SPONSOR or its subcontractor and approved by the DEPARTMENT beginning on or after March 1, 2012, may be eligible for reimbursement by the DEPARTMENT, provided that the PROJECT is approved by the DEPARTMENT. If work identified in the approved Grant Work Plan is completed prior to time allowed in this Agreement, this Agreement may be amended to close out the Agreement.
3. The LOCAL SPONSOR shall perform the services in a proper and satisfactory manner as determined by the DEPARTMENT.
4. Any and all equipment, products or materials necessary to perform these services, or requirements as further stated herein, shall be supplied by the LOCAL SPONSOR.
5. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature of the State of Florida and subject to the release of funds appropriated to the DEPARTMENT.

6. The LOCAL SPONSOR shall implement the PROJECT and complete said PROJECT upon the terms and conditions set forth in this Agreement and all present and future requisite authorizations and environmental permits. The PROJECT consists of approximately 1.6 miles of shoreline on Sanibel Island between DEP Monuments R109 – R118 in Lee County. The life of the PROJECT is defined as ten (10) years following completion of each construction event. The parties expressly agree that the provisions of this paragraph shall survive and be enforceable beyond the expiration date of this Agreement.
7. For tasks, as specified in Table 1 below and in Attachment A, the LOCAL SPONSOR shall develop a detailed Scope of Work which shall include a narrative description of each task, a corresponding detailed budget for each deliverable under that task and a schedule for completion of each task and deliverable. Each Scope of Work shall require approval by the DEPARTMENT as to content, deliverables, and schedule prior to initiating the work.
8. A. The DEPARTMENT and the LOCAL SPONSOR agree that the estimated costs of the PROJECT are identified in Table 1 below:

TABLE 1

Task #	Eligible Project Tasks	State Cost Share (%)	DEP	Local	Total
3.0	Construction				
3.1	Maintenance Dredging	31.05%	\$156,021.60	\$346,463.44	\$502,485.04
	TOTAL PROJECT COSTS		\$156,021.60	\$346,463.44	\$502,485.04

- B. Changes in PROJECT costs that transfer funds from one task to another or that increase or decrease the total funding amount shall require a formal amendment to the Agreement.
9. The DEPARTMENT has determined that 62.10 percent of the non-federal PROJECT cost is eligible for state cost sharing. Therefore, the DEPARTMENT's financial obligation shall not exceed the sum of \$156,021.60 for this PROJECT or up to 31.05 percent of the non-federal project cost, if applicable, for the specific eligible PROJECT items listed above, whichever is less. Any indicated federal cost sharing percentage is an estimate and shall not affect the cost sharing percentages of the non-federal share.
10. The DEPARTMENT and the LOCAL SPONSOR agree that any and all activities associated with the PROJECT that are not shown in Table 1 are the responsibility of the LOCAL SPONSOR and are not a part of this Agreement. The LOCAL SPONSOR agrees that any costs for the specific eligible PROJECT tasks that exceed the estimated PROJECT costs for that task shall be the responsibility of the LOCAL SPONSOR. Any modifications to the estimated TOTAL PROJECT COSTS shown in Table 1 above, shall be provided through formal amendment to this Agreement.
11. The LOCAL SPONSOR shall perform as an independent contractor and not as an agent, representative, or employee of the DEPARTMENT.

12. The LOCAL SPONSOR agrees to maintain the public beach access sites and public parking spaces, as identified in **Attachment B (Funding Eligibility)**, attached hereto and made a part hereof, for beach use throughout the life of the PROJECT as established under this Agreement. The life of the PROJECT is defined as ten (10) years following the completion of each construction event commencing upon execution of this Agreement. If at any time the LOCAL SPONSOR fails to maintain the subject beach access sites and public parking, the LOCAL SPONSOR agrees to reimburse the DEPARTMENT all funds provided by the DEPARTMENT associated with any beach access site and/or parking spaces which are no longer available to the public for a 10-year period. All parking must be clearly signed or otherwise designated as public beach access parking.
13. A. In accordance with Section 216.181(16)(b), Florida Statutes, the DEPARTMENT, upon written request from the LOCAL SPONSOR, including justification for said request, and written approval from the State Chief Financial Officer, may provide an advance payment to the LOCAL SPONSOR. In addition to the written request for advance payment, the LOCAL SPONSOR shall also complete and submit the applicable portions of **Attachment C (Advance Payment Justification Form)**, attached hereto and made a part hereof. Consideration for advance payment is at the discretion of the DEPARTMENT, and shall be limited to eligible studies and project construction costs identified in Table 1. The LOCAL SPONSOR's expenditures shall draw proportionally upon both the LOCAL SPONSOR's funds and the DEPARTMENT's advanced funds in accordance with the cost share ratios established pursuant to this Agreement.
- B. If advance payment is authorized, the LOCAL SPONSOR shall temporarily invest the advanced funds in an interest bearing account. The LOCAL SPONSOR shall be responsible to the DEPARTMENT for a quarterly accounting of such funds on the dates identified in paragraph 16.
- C. **Attachment D (Advance Payment – Interest Earned Memorandum)**, attached hereto and made a part hereof, is provided as a sample of the document generated internally each calendar quarter by the DEPARTMENT's Bureau of Finance and Accounting for agreements that authorized an advance payment. The DEPARTMENT's Grant Program Administrator shall forward such memorandum to the LOCAL SPONSOR's Project Manager, who shall be responsible for completion of the applicable interest statement details and submission to the DEPARTMENT each quarter. Interest income shall be documented by the LOCAL SPONSOR's submission of a current statement of account from the financial institution or agent where such funds are invested. Interest income shall be returned to the DEPARTMENT, within thirty (30) days following each quarter as set forth under this Agreement. This responsibility shall continue as long as advanced funds remain with the LOCAL SPONSOR or until construction is completed and a final accounting on the advanced funds is completed and the unused funds and interest due the DEPARTMENT are returned to the DEPARTMENT. Unused funds, and interest accrued on any unused portion of advanced funds which have not been remitted to the DEPARTMENT, shall be returned to the DEPARTMENT within sixty (60) days of the completion of the construction portion of this PROJECT. Unused funds advanced to the United States Army Corps of Engineers through LOCAL SPONSORS will be due sixty (60) days after the Federal final accounting has been completed.
- D. The parties hereto acknowledge that the State Chief Financial Officer may identify additional requirements that must be met in order for advance payment to be authorized. If additional requirements are imposed by the State Chief Financial Officer, the LOCAL SPONSOR shall be notified, in writing, by the DEPARTMENT's Grant Program Administrator regarding the additional requirements. Prior to releasing any funds, the LOCAL SPONSOR shall be

required to provide a written acknowledgement to the DEPARTMENT's Grant Program Administrator of the LOCAL SPONSOR's acceptance of the terms imposed by the State Chief Financial Officer for release of funds.

14. As consideration for the satisfactory completion of the eligible work identified in Attachment A and approval of the work by the DEPARTMENT, the DEPARTMENT agrees to compensate the LOCAL SPONSOR on a cost reimbursement basis. All requests for reimbursement shall be made in accordance with **Attachment E (Contract Payment Requirements)**, attached hereto and made a part hereof, and State guidelines for allowable costs found in the Department of Financial Services' Reference Guide for State Expenditures at <http://www.fldfs.com/aadir/reference%5Fguide>. The LOCAL SPONSOR shall submit a request for reimbursement of funds on the forms provided as **Attachment F (Request for Payment, PARTS I – IV)**, attached hereto and made a part hereof. These forms are to be submitted upon completion of deliverables identified in the approved Scope of Work. These forms shall be certified as accurate by the LOCAL SPONSOR's Project Manager and the LOCAL SPONSOR's Project Financial Officer and submitted to the DEPARTMENT as a payment request. All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. All requests for the reimbursement of travel expenses shall be based on the travel limits established in Section 112.061, Florida Statutes. A final invoice shall be due no later than thirty (30) days following the completion date of this Agreement. The DEPARTMENT will not release funds for construction activities until such time as all requisite authorizations, environmental permits, and variances, including those required pursuant to Chapters 161, 253, 258 and 373, Florida Statutes, have been obtained. The final payment will not be processed until the match requirement has been met.
15. The DEPARTMENT's Project Manager shall have thirty (30) days after receipt of each request for payment to determine that the work has been accomplished in accordance with the terms and conditions of this Agreement prior to approving the request for payment. It is understood and agreed that any request for payment that requires the DEPARTMENT to request additional information of the LOCAL SPONSOR shall stop time for the DEPARTMENT's review period and will reset when such information is received as requested by the DEPARTMENT. Upon approval of the request for payment the DEPARTMENT shall disburse the funds due the LOCAL SPONSOR less ten (10) percent which shall be retained on account. The cumulative amount retained for each eligible deliverable item shall be disbursed to the LOCAL SPONSOR after the DEPARTMENT has certified that the LOCAL SPONSOR has complied with all the terms and conditions of the Agreement. The DEPARTMENT will periodically request proof of a transaction (invoice, payroll register, etc.) to evaluate the appropriateness of costs to the Agreement pursuant to State and Federal guidelines (including cost allocation guidelines), as appropriate. When requested, this information must be provided within thirty (30) calendar days of such request. If applicable, the LOCAL SPONSOR may also be required to submit a cost allocation plan to the DEPARTMENT in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits).
16. For the duration of this Agreement, the LOCAL SPONSOR shall submit to the DEPARTMENT's Project Manager on a quarterly basis, **Attachment F (Project Progress Report, Part III)**, as updates to the project schedule, no later than thirty (30) days following the completion date of the quarterly reporting period in which the project is underway. The term "quarterly" shall reflect the calendar quarters ending March 31, June 30, September 30, and December 31. Progress reports are to be submitted electronically in Word .doc or tab delimited .TXT format. Information provided shall be the best available and shall represent the most accurate forecast of future events. Specific information to be included in the quarterly report: tasks to be completed, start and finish dates, task duration, and actual start and finish dates with actual task duration. In cases where no reimbursement is sought for a given quarter, all applicable portions of the progress report must still be completed and submitted.

The timely submittal of these quarterly reports will result in points for the ranking of future projects under the Beach Management Funding Assistance Program.

17. Upon completion of a task or the PROJECT, the LOCAL SPONSOR shall submit to the DEPARTMENT a certification of completion, attached hereto as **Attachment G (Project Completion Certification)**. A final PROJECT certification inspection shall be made by the DEPARTMENT within sixty (60) days after the PROJECT is certified complete by the LOCAL SPONSOR.
18. The LOCAL SPONSOR shall, at a minimum, comply with monetary limits for competitive acquisition of both materials and services as required by Chapter 287, and Chapter 161.101(17), Florida Statutes, which are expressly made a part of this Agreement and incorporated herein by reference as if fully set forth.
19. The applicable provisions of Chapter 161, Florida Statutes, entitled “Beach and Shore Preservation”, and any rules promulgated there from, are expressly made a part of this Agreement and are incorporated herein by reference as if fully set forth.
20. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.
21.
 - A. The DEPARTMENT may terminate this Agreement at any time in the event of the failure of the LOCAL SPONSOR to fulfill any of its obligations under this Agreement. Prior to termination, the DEPARTMENT shall provide ten (10) days written notice of its intent to terminate and shall provide the LOCAL SPONSOR an opportunity to consult with the DEPARTMENT regarding the reason(s) for termination.
 - B. The DEPARTMENT may terminate this Agreement without cause and for its convenience by giving thirty (30) days written notice to the LOCAL SPONSOR. Notice shall be sufficient if delivered personally or overnight courier to the address set forth in this Agreement.
22. No payment will be made for deliverables deemed unsatisfactory by the DEPARTMENT. In the event that a deliverable is deemed unsatisfactory by the DEPARTMENT, the LOCAL SPONSOR shall re-perform the services needed for submittal of a satisfactory deliverable, at no additional cost to the DEPARTMENT, within ten (10) days of being notified of the unsatisfactory deliverable. If a satisfactory deliverable is not submitted within the specified timeframe, the DEPARTMENT may, in its sole discretion, either: 1) terminate this Agreement for failure to perform, or 2) the DEPARTMENT’S Grant Manager may, by letter specifying the failure of performance under this Agreement, request that a proposed Corrective Action Plan (CAP) be submitted by the LOCAL SPONSOR to the DEPARTMENT. All CAPs must be able to be implemented and performed in no more than sixty (60) days.
 - A. A CAP shall be submitted within ten (10) calendar days of the date of the letter request from the DEPARTMENT. The CAP shall be sent to the Department Grant Manager for review and approval. Within ten (10) calendar days of receipt of a CAP, the DEPARTMENT shall notify the LOCAL SPONSOR in writing whether the CAP proposed has been accepted. If the CAP is not accepted, the LOCAL SPONSOR shall have ten (10) calendar days from receipt of the DEPARTMENT letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain the DEPARTMENT approval of a CAP as specified above shall result in the DEPARTMENT’S termination of this Agreement for cause as authorized in this Agreement.
 - B. Upon the DEPARTMENT’S notice of acceptance of a proposed CAP, the LOCAL SPONSOR

shall have ten (10) calendar days to commence implementation of the accepted plan. Acceptance of the proposed CAP by the DEPARTMENT does not relieve the LOCAL SPONSOR of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by LOCAL SPONSOR, the DEPARTMENT shall retain the right to require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by the DEPARTMENT or steps taken by the LOCAL SPONSOR shall preclude the DEPARTMENT from subsequently asserting any deficiencies in performance. The LOCAL SPONSOR shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to the DEPARTMENT as requested by the Department Grant Manager.

- C. Failure to respond to the DEPARTMENT's request for a CAP or failure to correct a deficiency in the performance of the LOCAL SPONSOR as specified by the DEPARTMENT may result in termination of this Agreement.

The remedies set forth above are not exclusive and the DEPARTMENT reserves the right to exercise other remedies in addition to or in lieu of those set forth above, as permitted by this Agreement.

23. Any notices between the parties shall be considered delivered by email, overnight courier or delivered in person to the contact person at the addresses below.

LOCAL SPONSOR
Justin McBride
Lee County
1500 Monroe Street
Ft. Myers, FL 33901
(239) 533-8130
JMcbride@leegov.com

DEPARTMENT
Dena VanLandingham, Grant Program Administrator
Department of Environmental Protection
Beach Management Funding Assistance Program
2600 Blair Stone Road, MS 3554
Tallahassee, Florida 32399
(850) 245-7692
Dena.Vanlandingham@dep.state.fl.us

Any changes to the contact information shown above or in paragraph 24 must be reduced to writing in the form of an email notification.

24. The LOCAL SPONSOR's Project Manager for all matters is Justin McBride, Phone: (239) 533-8130. The DEPARTMENT's Project Manager for all technical matters is Vincent George, Phone: (850) 245-7557 and the DEPARTMENT's Grant Program Administrator for all administrative matters is Dena VanLandingham, Phone: (850) 245-7692.
25. This Agreement may be unilaterally canceled by the DEPARTMENT for refusal by the LOCAL SPONSOR to allow public access to all documents, papers, letters, or other material made or received by the LOCAL SPONSOR in conjunction with this Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1)(a), Florida Statutes.

26. The LOCAL SPONSOR shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. The DEPARTMENT, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five (5) years following Agreement completion. In the event any work is subcontracted, the LOCAL SPONSOR shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.
27. A. In addition to the requirements of the preceding paragraph, the LOCAL SPONSOR shall comply with the applicable provisions contained in **Attachment H (Special Audit Requirements)**, attached hereto and made a part hereof. Exhibit 1 to Attachment H summarizes the funding sources supporting the Agreement for purposes of assisting the LOCAL SPONSOR in complying with the requirements of Attachment H. A revised copy of Exhibit 1 must be provided to the LOCAL SPONSOR for each amendment that authorizes a funding increase or decrease. If the LOCAL SPONSOR fails to receive a revised copy of Exhibit 1, the LOCAL SPONSOR shall notify the DEPARTMENT's Grant Program Administrator at 850/245-7692, to request a copy of the updated information.
- B. The LOCAL SPONSOR is hereby advised that the Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. The LOCAL SPONSOR shall consider the type of financial assistance (federal and/or state) identified in **Attachment H, Exhibit 1** when making its determination. For federal financial assistance, the LOCAL SPONSOR shall utilize the guidance provided under OMB Circular A-133, Subpart B, Section __.210 for determining whether the relationship represents that of a sub recipient or vendor. For state financial assistance, the LOCAL SPONSOR shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website:
- <https://apps.fldfs.com/fsaa>
- The LOCAL SPONSOR should confer with its chief financial officer, or audit director or contact the DEPARTMENT for assistance with questions pertaining to the applicability of these requirements.
28. In accordance with Section 216.347, Florida Statutes, the LOCAL SPONSOR is hereby prohibited from using funds provided by this Agreement for the purposes of lobbying the Legislature, the judicial branch or a state agency.
29. The LOCAL SPONSOR covenants that it presently has no interest and shall not acquire any interest that would conflict in any manner or degree with the performance of services required.
30. This Agreement has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Any action hereon or in connection herewith shall be brought in Leon County, Florida.

31. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Agreement, shall impair any such right, power or remedy of either party. Nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.
32. To the extent required by law, the LOCAL SPONSOR will be self-insured against, or will secure and maintain during the life of this Agreement, Workers' Compensation Insurance for all of its employees connected with the work of this project. In the case any work is subcontracted, the LOCAL SPONSOR shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the subcontractor's employees unless such employees are covered by the protection afforded by the LOCAL SPONSOR. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation Law, Chapter 440, Florida Statutes. In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the LOCAL SPONSOR shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the DEPARTMENT, for the protection of its employees not otherwise protected.
33. The LOCAL SPONSOR warrants and represents that it is self-funded for liability insurance, appropriate and allowable under Florida law, and that such self-insurance offers protection applicable to the LOCAL SPONSOR's officers, employees, servants and agents while acting within the scope of their employment with the LOCAL SPONSOR.
34. The LOCAL SPONSOR recognizes that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Agreement.
35. This Agreement is neither intended nor shall it be construed to grant any rights, privileges or interest in any third party without the mutual written agreement of the parties hereto.
36.
 - A. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
 - B. An entity or affiliate who has been placed on the discriminatory vendor list maintained by the Florida Department of Management Services may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.
37.
 - A. The accounting systems for all LOCAL SPONSORS must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. LOCAL SPONSORS are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a LOCAL SPONSOR's, or subrecipient's, accounting system cannot comply with this requirement, the LOCAL SPONSOR, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.

- B. If the DEPARTMENT finds that these funds have been commingled, the DEPARTMENT shall have the right to demand a refund, either in whole or in part, of the funds provided to the LOCAL SPONSOR under this Agreement for non-compliance with the material terms of this Agreement. The LOCAL SPONSOR, upon such written notification from the DEPARTMENT shall refund, and shall forthwith pay to the DEPARTMENT, the amount of money demanded by the DEPARTMENT. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from the DEPARTMENT by the LOCAL SPONSOR to the date repayment is made by the LOCAL SPONSOR to the DEPARTMENT.
 - C. In the event that the LOCAL SPONSOR recovers costs, incurred under this Agreement and reimbursed by the DEPARTMENT, from another source(s), the LOCAL SPONSOR shall reimburse the DEPARTMENT for all recovered funds originally provided under this Agreement. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the payment(s) are recovered by the LOCAL SPONSOR to the date repayment is made to the DEPARTMENT by the LOCAL SPONSOR.
38. A. The LOCAL SPONSOR shall not subcontract, assign, or transfer any work under this Agreement without the prior written consent of the DEPARTMENT's Project Manager. Regardless of any subcontract, the LOCAL SPONSOR is ultimately responsible for all work to be performed under this Agreement. The LOCAL SPONSOR shall submit a copy of the executed subcontract to the DEPARTMENT within ten (10) days after execution. The LOCAL SPONSOR agrees to be responsible for the fulfillment of all work elements included in any subcontract consented to by the DEPARTMENT and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the LOCAL SPONSOR that the DEPARTMENT shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the LOCAL SPONSOR shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract. The LOCAL SPONSOR will be responsible for auditing all travel reimbursement expenses based on the travel limits established in Section 112.061, Florida Statutes.
- 1. The LOCAL SPONSOR may award, on a competitive basis, fixed price subcontracts to consultants/contractors in performing the work described in Attachment A. Invoices submitted to the DEPARTMENT for fixed price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (Invitation to Bid or Request for Proposals) resulting in the fixed price subcontract.
 - 2. The LOCAL SPONSOR may request approval from the DEPARTMENT to award a fixed price subcontract resulting from procurement methods other than those identified in the paragraph above. In this instance, the LOCAL SPONSOR shall request the advance written approval from the DEPARTMENT's Project Manager of the fixed price negotiated by the LOCAL SPONSOR. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of the DEPARTMENT Project Manager's approval of the fixed price amount, the LOCAL SPONSOR may proceed in finalizing the fixed price subcontract.
 - 3. All subcontracts are subject to the provisions of paragraph 14 and any other appropriate provisions of this Agreement which affect subcontracting activities.

- B. The DEPARTMENT supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. A list of Minority Owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
39. When applicable, the LOCAL SPONSOR shall also notify the DEPARTMENT's Project Manager of the selection of an intended subcontractor for a construction task and provide a tabulation list from which the intended subcontractor was selected. The LOCAL SPONSOR shall also provide the bid form for the successful bidder. The LOCAL SPONSOR shall select eligible consultants licensed to offer services in the State of Florida for studies, design and permitting and monitoring tasks in accordance with Chapter 287, F. S. Upon the DEPARTMENT's request, the LOCAL SPONSOR shall furnish copies of the respective solicitation documents. Solicitation documents include, but are not limited to, the solicitation and responses thereto, the bid tabulations, and the resulting contract(s), including a detailed Scope of Work.
40. The purchase of non-expendable equipment costing \$1,000 or more is not authorized under the terms and conditions of this Agreement.
41. The DEPARTMENT may at any time, by written order designated to be a change order, make any minor modifications, as described below. All change orders are subject to the mutual agreement of both parties as evidenced in writing. Any change, which causes an increase or decrease in the LOCAL SPONSOR's cost or time, shall require formal amendment to this Agreement. Minor modifications which will be handled with a change order include notification of a modification of deliverable due dates when such change does not involve an extension of contract, and modifying the Project Work Plan when such modifications would not involve a decrease/increase in cost or an extension of the performance period of this Agreement.
42. The LOCAL SPONSOR shall comply with all applicable federal, state and local rules and regulations in providing services to the DEPARTMENT under this Agreement. The LOCAL SPONSOR acknowledges that this requirement includes compliance with all applicable federal, state and local health and safety rules and regulations. The LOCAL SPONSOR further agrees to include this provision in all subcontracts issued as a result of this Agreement.
43. The LOCAL SPONSOR shall obtain from each owner of upland property, which is adjacent to the erosion control project, a sufficient property interest in order to construct, maintain, monitor, and repair the erosion control project prior to entering each individual property to conduct such activities.
44. If a force majeure occurs that causes delays or the reasonable likelihood of delay in the fulfillment of the requirements of this Agreement, the LOCAL SPONSOR shall promptly notify the DEPARTMENT orally. Within seven (7) days, the LOCAL SPONSOR shall notify the DEPARTMENT in writing of the anticipated length and cause of the delay, the measures taken or to be taken to minimize the delay and the LOCAL SPONSOR's intended timetable for implementation of such measures. If the parties agree that the delay or anticipated delay was caused, or will be caused by a force majeure, the DEPARTMENT may, at its discretion, extend the time for performance under this Agreement for a period of time equal to the delay resulting from the force majeure upon execution of an amendment to this Agreement. Such agreement shall be confirmed by letter from the DEPARTMENT accepting, or if necessary, modifying the extension. A force majeure shall be an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, flood, explosion, failure to receive timely necessary third party approvals through no fault of the LOCAL SPONSOR, and any other cause, whether of the kind specifically enumerated herein or otherwise, that is not reasonably within the control of the LOCAL SPONSOR and/or the

DEPARTMENT. The LOCAL SPONSOR is responsible for the performance of all services issued under this Agreement. Failure to perform by the LOCAL SPONSOR's consultant(s) or subcontractor(s) shall not constitute a force majeure event.

45. This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement, unless otherwise provided herein.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the undersigned have signed and executed this Agreement on the respective dates under their signatures:

LEE COUNTY

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____
Title: Commission Chair

By: _____
Department of Environmental Protection
Secretary or designee

Date: _____

Date: _____

FEID No. 59-6000702

Department of Environmental Protection
Grant Program Administrator

APPROVED as to form and legality:

Local Sponsor's Attorney
(if necessary)

Department of Environmental Protection
Attorney

*If someone other than the Commission Chair signs this Agreement, a resolution, statement or other documentation authorizing that person to sign the Agreement on behalf of the County/City must accompany the agreement.

List of Attachments/Exhibits included as part of this Agreement:

Specify Type	Letter/ Number	Description (include number of pages)
Attachment	A	Grant Work Plan (2 pages)
Attachment	B	Funding Eligibility (1 page)
Attachment	C	Advanced Payment Justification Form (3 pages)
Attachment	D	Advanced Payment – Interest Earned Memorandum Sample (1 page)
Attachment	E	Contract Payment Requirements (1 page)
Attachment	F	Request For Payment, Parts I - IV (4 pages)
Attachment	G	Project Completion Certification (1 page)
Attachment	H	Special Audit Requirements (5 pages)

ATTACHMENT A GRANT WORK PLAN

Project Title: Blind Pass Ecosystem Restoration.

Project Location: Blind Pass is located between R109 and R110, with placement location of bypassed material extending from the inlet southward for approximately 1.7 miles on Sanibel Island between DEP Monuments R110 – R118 in Lee County.

Project Background: Ecosystem restoration project consists of maintenance dredging of Blind Pass between Captiva and Sanibel Islands to maintain the inlet tidal flushing of the Pine Island Sound with the Gulf of Mexico through Wulfert and/Roosevelt Channels. Channel was restored in 2009 with supplemental dredging in 2012-13. Dredge material is placed on downdrift critically eroded shoreline on Sanibel Island.

The PROJECT shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable DEPARTMENT permits and the eligible project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standard technical specifications contained in the DEPARTMENT'S Monitoring Standards for Beach Erosion Control Projects (2004) and Geographic Information System Guidelines, unless otherwise specified in the approved Scope of Work (herein after referred to as SOW) for an eligible PROJECT item. The monitoring standards and GIS guidelines may be found at <http://www.dep.state.fl.us/beaches/publications/pdf/PhysicalMonitoringStandards.pdf>. One (1) electronic copy of all written reports developed under this Agreement shall be forwarded to the DEPARTMENT, unless otherwise specified.

Project Description:

The deliverables listed below are to be completed and approved by the DEPARTMENT by the due date listed.

3.0 Construction

Work performed and costs associated with the placement of fill material and/or the construction of erosion control structures within the project area. Eligible costs may include mobilization, demobilization, construction observation or inspection services, beach fill, tilling and scarp removal, erosion control structures, dune stabilization measures and native beach-dune vegetation. Construction shall be conducted in accordance with any and all permits issued by the Department.

Performance Standard: Work products (Deliverables) must meet acceptance standards of the engineer, building code inspector, Joint Coastal Permit, or a combination of these, as required, to assure all project-related construction is completed to desired specifications.

3.1 Maintenance Dredging

Deliverable A: Post Construction Completion Reports.

Total Cost: \$258,480.81 (DEP cost \$80,258.29).

Due Date: December 31, 2017.

Deliverable B: Immediate Post Construction Monitoring Reports.

Total Cost: \$218,145.73 (DEP cost \$67,734.25).

Due Date: December 31, 2017.

Deliverable C: During construction and immediate post-construction, turtle monitoring data submitted in FWC format.

Total Cost: \$19,660 (DEP cost \$6,104.43).

Due Date: December 31, 2017.

Deliverable D: During construction and immediate post-construction, shorebird monitoring data submitted in FWC format.
Total Cost: \$6,198.50 (DEP cost \$1,924.63).
Due Date: December 31, 2017.

NOTE: The deliverable due dates established in this Grant Work Plan indicate the time by which a deliverable is received and approved for cost sharing. The dates do not necessarily correspond with permit required due dates. The Local Sponsor must meet the terms of the permit for compliance. All Tasks are Contractual Services.

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ATTACHMENT B

FUNDING ELIGIBILITY

BLIND PASS ECOZONE RESTORATION

Project Boundary: 2,379 FEET

Approximate Shoreline Length: 2,379 FEET

Public Access

Location/Name	Address	R- Mon	Type of Access	Width of Access/ Frontage	Total units or parking spaces	Public Parking Spaces	Eligible shoreline (ft.)
Turner Park		R-109	Secondary	289	26	26	1662
Blind Pass Park		R-110	Secondary	83	12	12	717

Total eligible shoreline length: 2,379 FEET

Total project shoreline length: 2,379 FEET

Percent eligible for State funding: 62.10 PERCENT

**ATTACHMENT C
ADVANCE PAYMENT JUSTIFICATION FORM**

Required Signatures: **Original Ink**

Use of this form is not required unless the advance requested requires the prior approval of the Florida Department of Financial Services (DFS). For advance requests that are equal to or less than the purchasing threshold of category two as defined in Section 287.017, Florida Statutes, and meet one of the advance payment requirements identified in Section 215.422(14), Florida Statutes, use of this form is waived. However, the purchase requisition or contract review form must clearly identify the criteria being met under 215.422(14), Florida Statutes that allows the advance to be made without prior DFS approval.

A letter requesting advance payment from the recipient, on its letterhead, must be attached. The DEP Program Area should forward this information to the Contract Disbursements Section at MS 78. The Contract Disbursements Section will forward requests for advance payment to DFS for review and legislature consultation, as appropriate.

Name/Address of the Vendor/Recipient:			
Contact Person/Phone No.:			
Agreement No./Purchase Order No. (if known):			
Commodities/Services/Project Description:			
Organizational Structure (i.e. local gov't, non-profit corporation, etc.)			
Value of Purchase or Grant:			
Advance Payment Amount Requested:			
Period Advance Payment to Cover:	<input type="checkbox"/> 90 days startup	<input type="checkbox"/> Full Contract Period	
	<input type="checkbox"/> Quarterly	<input type="checkbox"/> Other (specify):	
Indicate Statutory Authority:	<input type="checkbox"/> 215.422, F.S.	<input type="checkbox"/> 216.181, F.S.	
GAA Year and Line Item Info:	SFY:	Line Item:	
1. Reason advance payment is required:			
2. The following information required for advances requested pursuant to 215.422, Florida Statutes (and the DFS's Reference Guide for State Expenditures) which exceed the purchasing threshold of category two as defined in 287.017, Florida Statutes.			
<p>A. Document, if applicable, the cost savings to be incurred as a result of an advance payment that are equal or greater than the amount the State would earn by investing the funds and paying in arrears. Include the percent (%) savings to be realized. In calculating the percent savings as compared to the percent that can be earned by the State, information may be obtained from the DFS, Division of Treasury at 850/413-3165 regarding the current Treasury earnings rate.</p>			

B. Document, if applicable, how the goods or services are essential to the operation of the Department and why they are available only if advance payment is made:

C. Identify the procurement method used to select the vendor.

3. The following information required for advances to Governmental Entities and Non-Profits pursuant to 216.181, Florida Statutes. (Limited to GAA Authorized, Statutorily Authorized, and Grant & Aid Appropriation Categories 05XXXX or 14XXXX)

A. The entity acknowledges the requirement to invest advance funds in an interest bearing account and to remit interest earned to the Department on a quarterly basis.

Provide a description of how the entity intends to invest the advanced funds and track the interest earned on the advanced funds:

Remittances must: 1) be identified as interest earnings on advances, 2) must identify the applicable DEP Agreement (or Contract) No., and 3) be forwarded to the following address:

Florida Department of Environmental Protection
Bureau of Finance and Accounting
Receipts Section
P.O. Box 3070
Tallahassee, Florida 32315-3070

3. The recipient must provide an estimated budget for each quarter covered by the agreement. The summary information should include salaries, fringe benefits, overhead, contracts (specify services to be contracted out), equipment, if authorized (specify items to be purchased), supplies, travel, and other costs.

A sample summary format is provided below. The summary should include the breakdown for each quarter of the agreement period.

Description	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Salaries (identify personnel/titles)				
Fringe Benefits				
Contractual Services (list services and estimated costs)				
Equipment (identify each item and cost)				
Supplies				
Travel				
Other (specify)				
Overhead/Indirect				
Total:				

Certification Statement

The forgoing information is presented to the Florida Department of Environmental Protection in support of our request for advance payment. I certify that the information provided accurately reflects the financial issues facing the entity at this time.

By: _____ Date: _____

Type Name of Signatory: _____

Date

Title: Chief Financial Officer or designee

DEP Program Area Review/Approval

Recommendation: **Approve Request** **Deny Request**

By: _____ Date: _____

Type Name of Signatory: _____

Title:

Bureau:

Division:

ATTACHMENT D

ADVANCE PAYMENT – INTEREST EARNED MEMORANDUM

“SAMPLE DOCUMENT”

TO: Dena VanLandingham, Beach Management Funding Assistance Program, MS#3554
FROM: Lydia Louis, Finance and Accounting Director, Bureau of Finance and Accounting, MS#78
DATE:
SUBJECT: Advance Payment – DEP Agreement No.: XXXX
 BECP Project No.: XXXX
 Interest Due to DEP: (Quarterly)

Pursuant to Section 216.181(16)(b), Florida Statutes, and paragraph 13 of the AGREEMENT, advance payments must be deposited into an interest bearing account until all funds have been depleted. In order to comply with this statute, advance approval of the State Chief Financial Officer, and the terms of the above referenced contract, the following information is needed for our records **no later twenty (20) days following each calendar quarter (i.e. January 20, April 20, July 20, and October 20.)**

- | | | |
|----|---|----------|
| | Advance funding disbursed (<i>date of disbursement</i>) | \$ _____ |
| 1. | Advanced funds expended by contractor covering period of (<i>agreement execution</i>) to (<i>end of most recent calendar qtr</i>) | \$ _____ |
| 2. | Balance advance funding principal available | \$ _____ |
| 3. | Interest earned on advanced funds covering period of (<i>agreement execution</i>) to (<i>end of most recent calendar qtr</i>) | \$ _____ |
| 4. | Amount of interest paid to DEP as of (<i>end of most recent calendar qtr</i>) | \$ _____ |
| 5. | Balance Due to DEP as of (<i>end of most recent calendar qtr</i>) | \$ _____ |

(Project Manager’s Signature) (Date)

Special Instructions: If the grant/contract specifies that any accrued interest that is based upon a grant/contract advance payment(s) will not be paid to DEP until after termination of the grant/contract, the advance fund recipient shall complete report items 1 and 2 only for the first three quarters of the state’s fiscal year. The report for the state’s fourth fiscal year quarter shall include items 1, 2, 3, 4, and 5. Items 3, 4, and 5 will be the life to date interest.

If the contract states that no interest is due, quarterly reports of unexpended advances are required, lines 1 and 2.

The lines 1 and 2 reported amounts are on a cash basis for the advance payment principal. Do not include receivables, payables, or interest previously paid to DEP.

If the grant/contract requires quarterly accrued interest payments to DEP, the fund recipient must complete items 1 through 5 for each quarterly report.

Payments of interest due to DEP shall be paid within the specifications of the contract/grant.

Thank you for your cooperation in providing the above information. If you have questions, please contact Lydia Louis (850) 245-2452 in the Contracts Disbursement Section.

ATTACHMENT E
Florida Department of Environmental Protection
DEP 55-219 Contract Payment Requirements

Required Signatures: No Signature

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.) Supporting documentation must be provided for each amount for which reimbursement is being claimed indicating that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved contract budget should be reimbursed.

Listed below are examples of the types of documentation representing the minimum requirements:

(1) Salaries	A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.
<hr/>	
(2) Fringe Benefits	Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.
<hr/>	
(3) Travel	Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher.
<hr/>	
(4) Other direct costs	Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.
<hr/>	
(5) In-house charges	Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.
<hr/>	
(6) Indirect costs	If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address: http://www.fldfs.com/aadir/reference_guide.htm.

ATTACHMENT F

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT – PART I**

PAYMENT SUMMARY

NAME OF PROJECT: Blind Pass Ecozone Restoration

LOCAL SPONSOR: Lee County

DEP Agreement Number: 14LE3

Billing Number: _____

Billing Type: Interim Billing Final Billing

Costs Incurred This Payment Request:

Federal Share*	State Share	Local Share	Total
\$ _____	\$ _____	\$ _____	\$ _____

*if applicable

Cost Summary:

State Funds Obligated \$ _____

Less Advance Pay \$ _____

Less Previous Payment \$ _____

Less Previous Retained \$ _____

Less This Payment \$ _____

Less This Retainage (10%) \$ _____

State Funds Remaining \$ _____

Local Funds Obligated \$ _____

Less Advance Pay \$ _____

Less Previous Credits \$ _____

Less This Credit \$ _____

Local Funds Remaining \$ _____

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REVISED REQUEST FOR PAYMENT – PART II**

Name of Project: _____
Billing Number: _____
DEP Agreement Number : _____

Billing Period (1): _____
Person Completing Form & Telephone Number (2): _____

REIMBURSEMENT DETAIL

Item #	Vendor Name	Invoice Number	Invoice Date	Check Number	Deliverable Number (3)	Eligible Cost (4)	% Fed Share (5)	Federal Share of Invoice Amount (6)	Non-Federal Share (7)	% State Share (8)	State Share (9)	Local Share (10)	Retainage Payment (11)	Withheld Retainage (12)	State Payment (13)

Totals: _____

Total Due to Local Sponsor (14) _____

Form Instructions:

1. Billing Period: Should reflect Invoice services performed date. (beginning date - earliest date of services, end date - latest date of services performed).
2. Person to Contact for questions regarding items submitted on this form.
3. Deliverable #: Must identify completed deliverable(s) for each invoice. If invoice covers multiple deliverables, that invoice would be listed multiple times, a line item for each deliverable.
4. Eligible Cost: Invoice amount paid by Local Sponsor less ineligible cost for Line Item Deliverable only.
5. % Federal Share: If applicable this should be the percentage listed in Agreement. Federal Share will be listed on Table 1 if applicable.
6. Federal Share: If applicable, Local Sponsor will multiply Eligible Cost by Federal Share Percentage.
7. Non-Federal Share: Eligible Cost (4) minus Federal Share of Invoiced Amount (6).
8. Percentage of State Share: This should be the State Share Percentage listed in Agreement.
9. State Share: Multiply Non-Federal Share by State Share Percentage.
10. Local Share: Subtract State Share from Non-Federal Share.
11. Retainage Payment: Requires separate line for each completed Task, Sub-Task and or Deliverable that retainage is being requested.
12. Withheld Retainage: Multiply State Share by 10%.
13. State Payment: Subtract Retainage from State Share.
14. Total Due to Local Sponsor: Add Retainage Payment Total to State Payment Total.

Notes: For questions or concerns regarding this form please contact: Janice Simmons - (850)245-8222 or email at Janice.L.Simmons@dep.state.fl.us

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT – PART III
PROJECT PROGRESS REPORT**

NAME OF PROJECT: Blind Pass Ecozone Restoration

LOCAL SPONSOR: Lee County

DEP Agreement Number: 14LE3

Billing Number: _____

Report Period: _____
Status of Eligible Project Items: (Describe progress accomplished during report period, including statement(s) regarding percent of task completed to date. Describe any implementation problems encountered, if applicable.)

Task No:	Eligible Project Item:
----------	------------------------

3.0 CONSTRUCTION

3.1 Maintenance Dredging

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
CERTIFICATION OF DISBURSEMENT REQUEST
REQUEST FOR PAYMENT – PART IV**

NAME OF PROJECT: Blind Pass Ecozone Restoration

LOCAL SPONSOR: Lee County

DEP Agreement Number: 14LE3

Billing Number: _____

Certification: I certify that this billing is correct and is based upon actual obligations of record by the LOCAL SPONSOR; that payment from the State Government has not been received; that the work and/or services are in accordance with the Department of Environmental Protection, Beach Management Funding Assistance Program's approved Project Agreement including any amendments thereto; and that progress of the work and/or services are satisfactory and are consistent with the amount billed. The disbursement amount requested on Page 1 of this form is for allowable costs for the project described in the grant work plan.

I certify that the purchases noted were used in accomplishing the project; and that invoices, check vouchers, copies of checks, and other purchasing documentation are maintained as required to support the cost reported above and are available for audit upon request.

Name of Project Administrator

Signature of Project Administrator

Date

Name of Project Financial Officer

Signature of Project Financial Officer

Date

ATTACHMENT G

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
FLORIDA BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
PROJECT COMPLETION CERTIFICATION**

NAME OF PROJECT: Blind Pass Ecozone Restoration

LOCAL SPONSOR: Lee County

DEP Agreement Number: 14LE3

Task Completion

Project Completion

*I hereby certify that the above mentioned project task has been completed in accordance with the Project Agreement, including any amendments thereto, between the DEPARTMENT and LOCAL SPONSOR, and all funds expended for the project were expended pursuant to this Agreement. All unused funds and interest accrued on any unused portion of advanced funds which have not been remitted to the DEPARTMENT, have been returned to the DEPARTMENT, or will be returned to the DEPARTMENT within sixty (60) days of the completion of construction portion of this PROJECT. Unused funds advanced to the United States Army Corps of Engineers through LOCAL SPONSORS will be due sixty (60) days after the Federal final accounting has been completed.

Name of Project Manager

Signature of Project Manager

Date



ATTACHMENT H
Florida Department of Environmental Protection

(SPECIAL AUDIT REQUIREMENTS)

Required Signatures: **No Signature**

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the contract/agreement*) to the recipient (*which may be referred to as the "Contractor", Grantee" or other name in the contract/agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department of Environmental Protection. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <http://12.46.245.173/cfda/cfda.html>.



ATTACHMENT H Florida Department of Environmental Protection

(SPECIAL AUDIT REQUIREMENTS)

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Attachment indicates state financial assistance awarded through the Department of Environmental Protection by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.state.fl.us/audgen>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this Attachment shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:



ATTACHMENT H
Florida Department of Environmental Protection

(SPECIAL AUDIT REQUIREMENTS)

A. The Department of Environmental Protection at the following address:

Audit Director

Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/fac/>

C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. Pursuant to Section .320(f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320(c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department of Environmental Protection at the following address:

Audit Director

Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

3. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department of Environmental Protection at the following address:

Audit Director

Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

B. The Auditor General's Office at the following address:

State of Florida Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32990-1450



ATTACHMENT H
Florida Department of Environmental Protection

(SPECIAL AUDIT REQUIREMENTS)

4. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at the following address:

Audit Director

Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

5. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
6. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with OMB Circular A-133, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of 5 years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of 3 years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

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**Florida Department of Environmental Protection
(SPECIAL AUDIT REQUIREMENTS)**

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:

Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:

Federal Program Number	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:

State Program Number	Funding Source	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Agreement	Ecosystem Management TF GGA Line Item # 1626	2013-2014	37.003	Beach Management Funding Assistance Program	\$156,021.60	140126

Total Award					\$156,021.60	
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For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<http://12.46.245.173/cfda/cfda.html>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>]. The services/purposes for which the funds are to be used are included in the Contract scope of services/work. Any match required by the recipient is clearly indicated in the Contract.

RESOLUTION

WHEREAS, the General Fund 00100 budget shall be amended to include Amending the Budget of General Fund 00100 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2014-2015.

WHEREAS, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the General Fund 00100 budget for \$156,022 of the unanticipated revenue from FDEP and an appropriation of a like amount for reserves and;

WHEREAS, the General Fund #00100 budget shall be amended to include the following amounts which were previously not included.

ESTIMATED REVENUES

Prior Total:		\$493,909,072
Additions		
GC5000030101.369900.9046	Refund Prior Year Expense	156,022
Amended Total Estimated Revenues		\$494,065,094

APPROPRIATIONS

Prior Total:		\$493,909,072
Additions		
GC5890130101.509930	Reserves	156,022
Amended Total Appropriations		\$494,065,094

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that the General Fund 00100 budget is hereby amended to show the above additions to its Estimated Revenue and Appropriation accounts. Duly voted upon and adopted in Chambers at a regular Public Hearing by the Board of County Commissioners on this ____ day of _____, 2015.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: _____
DEPUTY CLERK

CHAIR

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

OFFICE OF THE COUNTY ATTORNEY

Blue Sheet No. 20140830	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Item No. 7
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TITLE:
Approve grant agreement from Gulf of Mexico Foundation for Galt Preserve Restoration

ACTION REQUESTED:
A) Accept and execute grant agreement with the Gulf of Mexico Foundation/National Oceanic and Atmospheric Administration for Galt Preserve Restoration.
B) Approve a budget amendment in the amount of \$15,420 and amend the FY 14/15 Capital Improvement Environmentally Sensitive Land Management budget accordingly.
C) Authorize the Parks and Recreation Director, or designee, to execute additional documents applicable to the grant funding that do not affect the budget.

FUNDING:
\$15,420; Capital Improvement Environmentally Sensitive Land Management; Not included in Budget; Conservation 20/20

Grant funding does not increase future years budget costs

Capital Improvement Environmentally Sensitive Land Management; Galt Preserve Restoration; 11109330105.331720.9004 & 11109330105.503190

WHAT ACTION ACCOMPLISHES:
Conservation 20/20 staff requested and was awarded grant funds from the Gulf of Mexico Foundation for follow-up exotic plant control, native plantings and two interpretative panels at Galt Preserve, a Conservation 20/20 preserve. The Gulf of Mexico Foundation awarded the \$15,420 request in full and without a matching fund requirement. This grant award follows previous grant funds that were awarded by the Gulf of Mexico Foundation in 2011(\$63,000) and 2013 (\$40,000) (Blue Sheet #20111072 dated 01/10/12 and #20130538 dated 06/25/13, respectively).

MANAGEMENT RECOMMENDATION:
Approve

Requirement/Purpose: (specify)	Request Initiated
<input type="checkbox"/> Statute <input type="checkbox"/> Ordinance <input type="checkbox"/> Admin Code <input type="checkbox"/> Other	Commissioner: Department: PARKS AND RECREATION Division: No Divisions By: David Harner

Background:
A) Options
1. Accept grant funds (\$15,420) from the Gulf of Mexico Foundation for exotic plant treatment, native plantings and two interpretative signs.
2. Don't accept funds and pay for the items with the Conservation 2020 budget

B) History

Required Review:					
David Harner	Dawn Perry-Lehnert	Anne Henkel	Peter Winton	Christine Brady	
PARKS AND RECREATION	County Attorney	Budget Analyst	Budget Services	County Manager	

Conservation 20/20 staff requested and was awarded grant funds from the Gulf of Mexico Foundation for follow-up exotic plant control, native plantings and two interpretative panels at Galt Preserve, a Conservation 20/20 preserve. The Gulf of Mexico Foundation awarded the \$15,420 request in full and without a matching fund requirement. This grant award follows previous grant funds that were awarded by the Gulf of Mexico Foundation in 2011(\$63,000) and 2013 (\$40,000) (Blue Sheet #20111072 dated 01/10/12 and #20130538 dated 06/25/13 respectively).

The initial grant was one of three awarded nationally for restoration of natural communities and the only time the granting agency has worked with Lee County. In 2013, the Gulf of Mexico Foundation awarded an additional \$40,000 for more restoration work at Galt Preserve. In 2014, Conservation 20/20 staff requested an additional \$15,420 for exotic plant control, mangrove plantings and interpretative signs for the preserve.

Attachments:

1. Gulf of Mexico Community-Based Restoration Partnership Grant Agreement #GCRP 11-02A
2. Budget Amendment

**GULF OF MEXICO COMMUNITY-BASED RESTORATION PARTNERSHIP
GRANT AGREEMENT**

**Grantee Organization Name: Board of County Commissioners of Lee County, Florida
Project Name: Galt Preserve Restoration
Grant Agreement: #GCRP 11-02A**

This GRANT AGREEMENT (“Agreement”), dated as of December 17, 2014 is between the Gulf of Mexico Foundation, Inc., a Washington, D.C. corporation (“Grantor”), and Board of County Commissioners of Lee County, Florida (“Grantee”).

R E C I T A L S

- A. The Gulf of Mexico Foundation, Inc., is the authorized agent for the Gulf of Mexico Community-based Restoration Partnership (“Partnership”). The Partnership is a multi-year, regional partnership between the U.S. Environmental Protection Agency (“EPA”) Gulf Ecological Management Sites (“GEMS”) Program, the National Oceanic and Atmospheric Administration (“NOAA”) Community-Based Restoration Program (“CRP”) and the Grantor. Grantor is a 501(c)(3) nonprofit organization that funds and manages projects and programs that serve its mission, “to promote and facilitate conservation of the health and productivity of the Gulf of Mexico and its resources through education, public awareness, research and leadership programs”.
- B. The purpose of this Partnership is to strengthen conservation efforts by supporting on-the-ground habitat restoration of real property benefiting living marine resources and fostering local stewardship of the sites.
- C. Grantor desires to provide to Grantee federal funding appropriated by EPA in accordance with United States Office of Management and Budget (“OMB”), Catalog of Federal Domestic Assistance Number 66.475, for the purpose of Grantee’s habitat restoration project proposal approved by Grantor and incorporated hereto as Exhibit A (the “Project”).
- D. The Project is a continuation of the Partnership project executed by Grantee under Grantor’s Grant Agreement #11-02 with funding appropriated by NOAA.

Accordingly, in consideration of the mutual covenants and agreements contained herein, the receipt and adequacy of which are hereby acknowledged by both Parties, the Parties agree as follows:

**ARTICLE I
Definitions**

Terms defined in the preamble and the recitals of this agreement have their assigned meanings, and the following terms have the meaning assigned to them.

1.01 **“Agreement”** means this Agreement and all Appendices and Exhibits attached and amended by sequentially numbered Appendices and Exhibits.

1.02 “**Effective Date**” means the date upon which the Parties’ obligations commence under this Agreement, which shall be on December 17, 2014.

1.03 “**Federal**” means the federal government of the United States, unless otherwise specified.

1.04 “**Parties**” means Grantor and Grantee collectively.

1.05 “**Project Site**” means the location where the restoration project funded by the Agreement will be implemented.

ARTICLE II

Grant Provision

2.01 **Grant Amount.** Grantor shall provide to Grantee the total sum of **\$15,420.00** (the “Grant”), for the period commencing **December 17, 2014** and expiring **May 31, 2015** (“Grant Period”) for the approved Project, and Grantee hereby agrees to comply with all terms and conditions of this Agreement.

2.02 **Limitation and Return of Funding.** Grantor assumes no obligation to provide further funding or support to Grantee beyond the terms stated herein. Grantee shall return to Grantor any portion of the Grant not expended at the end of the Grant Period within thirty (30) days of the end of the Grant Period, along with any interest earned thereon, if any.

ARTICLE III

Grant Conditions

3.01 **Project Management.** Grantee shall be responsible for design, implementation, and management of the Project and with respect to requirements imposed by government authorities having jurisdiction over the Parties and the Project Site. Once the Project design or site plans are finalized, Grantee shall submit these designs for Grantor’s final approval. Grantor retains the right to withhold all or partial funding for the approved Project based on its reviews of the Grantee’s Quarterly Reports, Project design, implementation, and management. If the Grantor, EPA, or the Federal, state, or local authorities requires land surveys, geotechnical studies, environmental testing including soils, water, air and chemical test results, reports, surveys, or inspections Grantee shall obtain them prior to commencing the Project.

3.02 **Licensed Professionals.** Grantee shall provide expertise necessary to manage the Project including, but not limited to, architectural, environmental, engineering, legal, accounting, and insurance requirements. If Grantee retains licensed professionals including, but not limited to, architects, engineers, and surveyors, Grantee shall ensure that these licensed professionals are in good standing with the state and country where the Project is located. Grantee shall require any such licensed professionals to review and comply with all applicable laws, codes, rules and regulations applicable to the Project. Grantee is entitled to rely on the accuracy and completeness of service and information furnished by such licensed professionals; and, if Grantee becomes aware of any errors, omissions, or deficiencies in such services, Grantee shall immediately notify Grantor. Grantee shall bind any license professional to the terms of this Agreement and to a

nonexclusive license to use and reproduce all drawings, specifications, and other documents, including those in electronic form, whether prepared by the architect, engineer, or surveyor.

3.03 Project Materials. Grantee shall furnish all products, labor, and equipment required by the approved Project design. Any soils or other material excavated from the Project Site not used as backfill at the Project site is the property of Grantee and Grantee shall remove it from the Project Site. Grantee shall handle or dispose of hazardous materials in accordance with applicable federal, state, and local regulations. Grantee shall keep any adjacent public access areas or sidewalks clear of debris, mud, and standing water. Grantee shall restrict by barricade or fence any adjacent public access areas or sidewalks.

3.04 Project Amendments and Extensions. In the event there is any change in the Project purpose, objectives, character, method of operation, budget, or Project completion timeline, Grantee shall provide a written report to Grantor requesting approval of such changes. Grantee shall include an explanatory narrative, progress to date, revised budget and, as appropriate, explain any changes in scheduling of Project activities. Grantee shall not proceed with the requested changes unless and until Grantor expressly approves the changes in writing.

3.05 Prohibition Against Lobbying; Conflict of Interest. Grantee represents and warrants that it has not assigned or conveyed any rights or benefits arising from or involving either the Project or this Agreement to any party without the prior written consent of Grantor. Furthermore, Grantee shall not assign or convey any rights or benefits arising from or involving either the Project or this Agreement to any party without the prior written consent of Grantor. The prohibitions in this section includes but are not limited to photographs, video recordings, newspaper and magazine articles, publishing rights or marketing agreements.

3.06 Prohibition Against Assignment of Rights and Benefits. Grantee shall not use the funds provided under this Agreement to support lobbying activities, defined as any attempt to influence any legislation through an effort to affect the opinions of the general public or any segment thereof (grass roots lobbying), and any attempt to influence any legislation through communication with any member or employee of a legislative body or with any government official or employee who may participate in the formulation of legislation (direct lobbying). Except with Grantor's express written consent, Grantee shall not engage in activity or accept other activity that would reasonably appear to compromise the Project or the purpose of the Grant as set forth in the Agreement.

ARTICLE IV

Management of Grant Funds

4.01 Grant Budget. Grantee represents and warrants that the Project budget includes itemization of required fees for surveys, testing, and reporting.

4.02 Grant Funding Schedule. Grantor shall distribute to Grantee thirty eight percent (38%) of the total Grant upon Grantor's execution of the original Agreement executed by Grantee and upon receipt of copies of all required permits. Provided Grantee has not breached any conditions of this Agreement and has completed and delivered to Grantor acceptable Progress Reports as set forth in Sections 5.03 and 5.04, Grantor shall distribute the remaining Grant funds to Grantee in the following manner: (i) thirty eight percent (38%) once Grantee has

completed all items budgeted under Contractual and Grantor has approved the first Progress Report; and (ii) twenty four percent (24%) upon Grantor's approval and acceptance of Grantee's final report.

4.03 Subcontractors. If Grantee retains subcontractors, Grantee shall bind such subcontractors to all applicable provisions of this Agreement relating to use of federal funds and compliance with federal regulations as may be applicable to the subcontractors. Grantee shall provide Grantor with documentation evidencing the subcontractors' awareness and agreement of such provisions. Grantee shall require that all subcontractors execute a waiver of liens for work performed on the Project, and Grantee shall submit such waiver to Grantor with the Application and Certificate for Grant Funding/Report. Grantor may, upon notice to Grantee, pay subcontractors directly where such payment will expedite the Project. Amounts paid by Grantor directly to subcontractors are deducted from the total Grant.

4.04 Expenditure Limitation. The funds provided under this Agreement are provided to Grantor by EPA (Sponsor). Grantor is not liable to the Grantee for the payment of any funds not provided by the Sponsor. In the event of a reduction of funds by Sponsor, the Grantor reserves the right to reduce funds under this Agreement. Grantee shall state that Grantor reserves such right in any and all contracts Grantee signs for purposes of this Project.

ARTICLE V

Documentation and Reporting Requirements

5.01 Documentation and Record Keeping. Grantee agrees to establish and maintain systematic records of all expenditures relating to the Grant. Grantee's financial management system must comply with internal control requirements covering, but not limited to, cash receipts, cash disbursements, indirect costs, procurement, labor costs, invoices, canceled checks, receipts and interest earned on federal funds. Grantee will keep all documentation for three (3) years after the submission and acceptance by Grantor of the final report. Grantee will make such documentation available for inspection and audit, upon reasonable notice, by representatives of Grantor or any interested federal authority at any time during the Grant Period and for three (3) year period thereafter.

5.02 Volunteer or In-Kind Services and Donations. If any volunteers are involved in the Project, Grantee shall record volunteer information, volunteer release and consent forms, and certificate of hours worked on the form attached hereto as Exhibit C. Grantee shall deliver such forms to Grantor with the Quarterly Reports referenced in Section 5.03 below.

5.03 Progress Reports. Grantee will provide Grantor with a Progress Report which includes a written financial report including, a progress report, and documentation of expenses that is satisfactory to Grantor. Grantee shall provide the first Progress Report on completion of the work budgeted under Contractual in Exhibit A. Grantee shall provide the second Progress Report within 30 days of Project completion or the end of the Grant Period, whichever is earlier. **Grantee shall submit the Progress Reports on the forms attached hereto as Exhibit B and Exhibit C.** Instructions for completing the Progress Report and Final Report are attached hereto as Exhibit E. Grantee shall deliver the Progress Reports as both a paper copy sent via international courier (DHL, FedEx, or equivalent) with original signatures and as an electronic

copy (text, table, and charts in MS Word/Excel format, and photos as high resolution jpg files; **no** PDF documents) sent via electronic-mail to mike@gulfmex.org. Grantee shall deliver the Progress Reports to the Grantor at the physical and electronic addresses provided in Section 8.05. At the sole discretion of Grantor, Grantor may withhold payment of any and all portions of the remaining Grant funds until Grantor receives complete, accurate, and timely reports that comply with this Agreement.

5.04 Final Report. The final report is due within ninety (90) days of Project completion or within ninety (90) days of the end of the Grant Period, whichever occurs first. **Grantee shall submit the final report on the form attached hereto as Exhibit D.** Instructions for completing the Final Report are attached hereto as Exhibit E. Grantee shall deliver the Final Report as both a paper copy sent via international courier (DHL, FedEx, or equivalent) and as an electronic copy (text, table, and charts in MS Word/Excel format, and photos as high resolution jpg files) sent regular mail on a compact disk (CD) and also sent via electronic-mail, if possible to do so. Grantee shall deliver the Final Report to the Grantor at the physical and electronic addresses provided in Section 8.05.

5.05 Audit. Grantor may, at its own expense, examine, audit, or have audited the records of Grantee insofar as they relate to activities involved in the Project. Grantee shall reimburse Grantor, at Grantee's sole expense, the amount of any expenditure disallowed by auditors through an audit exception or other appropriate means. Auditors may note this as a written finding that such expenditures failed to comply with any provision of this Agreement including the management of federal funds as set forth in Article IV.

5.06 A-133 Audits. For all federal funds, Grantee is responsible for determining the audit requirements and conditions set forth in OMB Circular A-133 and other OMB Circulars as specified in Article VI. If an OMB A-133 audit is required, Grantee shall submit a copy of the audit to Grantor within nine (9) months after the end of Grantee's fiscal year in which this Agreement was executed.

ARTICLE VI

Grant Agreement Termination

6.01 Termination. Should Grantee fail to comply with any of the conditions of this Agreement, Grantor may, at its sole discretion, immediately terminate the Agreement and demand Grantee to repay, within sixty (60) days, all Grant funds and any interest earned thereon which have been advanced but not expended. In addition, Grantor may cancel all unpaid installments of the Grant. The Parties may terminate this Agreement by mutual agreement, in which case Grantee shall return to Grantor any sums advanced, but not expended, including any interest earned. It is expressly understood that in the event that the Grantor's agreement from the Sponsor is terminated or the funding thereunder ceases, the Grantor, at its option, may terminate, in whole or in part, the Agreement.

[Remainder of this page intentionally left blank.]

ARTICLE VII

Liability and Federal Regulations

7.01 **Liability.** In making this Grant, Grantor assumes no liability for injuries or loss to persons or property and/or environmental impact resulting from Grantee's activities under this Agreement.

7.02 **Federal Regulations and Requirements.** Grantee shall comply with all federal laws and regulations including the Equal Opportunity Employment Act, the Americans with Disabilities Act, and the drug-free work place requirements. Grantee is also subject to the requirements issued by the U.S. Office of Management and Budget ("OMB Circulars"). The following OMB Circulars are incorporated herein by reference.

OMB Circular A-21 or A-87 or A-122	(Allowable Costs)
OMB Circular A-102 or A-110	(Uniform Administrative Requirements)
OMB Circular A-128 or A-133	(Audit Guidelines)

7.03 **Grantee Certification.** Grantee represents and warrants to the best of its knowledge and belief that it and its principals:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency;
- B. Have not within a three (3) year period preceding the proposal been convicted of or had a civil judgment rendered against them for: (i) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction of contract under a public transaction; (ii) violation of federal or state antitrust statutes; or (iii) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not currently indicted for, or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of, any of the offenses enumerated here;
- D. Have not within a three (3) year period preceding the Project proposal had one or more public transactions (federal, state, or local) terminated for cause or default.

A false statement on this certification may be grounds for termination of the award. In addition, under 18 United States Code Section 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to five (5) years, or both.

ARTICLE VIII

General Terms

8.01 **Legal Relationship of Parties.** Nothing in the Agreement shall be construed as constituting a partnership, joint venture, employment relationship, agent/principal relationship,

or other association of any kind, between the Parties. Neither Party shall have the power to obligate or bind the other Party in any manner whatsoever. Neither Party may engage in any conduct which might create the impression or influence that the other Party is a partner, joint venture, agent, or representative of the Party.

8.02 Publicity and Credit. Grantee shall acknowledge and give proper credit to the Gulf of Mexico Foundation and EPA - GEMS when discussing this Project publicly and in written or electronic communications. Such acknowledgement and credit include, but is not be limited to, press releases, annual reports, brochures, video recordings and credits, dedications, and other public communications. Grantor reserves the right to review and approve such materials prior to publication or release. Grantee shall include copies of published materials in Grantee's required periodic reports to Grantor.

8.03 Patents and Copyrights. Grantee may have the right to obtain patents and copyrights on any work produced under this Agreement. Grantee shall grant to Grantor a non-exclusive, unlimited, royalty-free license to utilize and publish any and all works, patents and copyrights produced under this Agreement.

8.04 Choice of Law. The Agreement shall be governed by the laws of the State of Texas.

8.05 Notices. A Party shall deliver any notice required by this Agreement in writing and addressed as follows:

Grantor: Quenton Dokken, Ph.D., President/CEO
 Gulf of Mexico Foundation
 PMB 252, 4833 Saratoga Blvd.
 Corpus Christi, Texas 78413
 Phone: 361-882-3939
 Fax: 361-882-1262
 Email: qdokken@gulfmex.org

Grantee: Board of County Commissioners of Lee County, Florida
 c/o Cathy Olson, Lee County Parks & Recreation
 3410 Palm Beach Blvd.
 Ft. Myers, FL 33916
 Phone: 239.533.7455
 Fax: 239.485.2302
 colson@leegov.com

Notice is deemed to have been duly given on the date (i) delivered in person, (ii) one (1) business day after depositing for delivery via an internationally recognized overnight courier, or (iii) five (5) business days after being deposited, postage prepaid, in the United States mail via Certified Mail, return receipt requested,

8.06 **Entire Agreement.** The Agreement constitutes the complete agreement between the Parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement.

8.07 **Amendments.** The Parties may amend, modify, alter, supplement, or revoke this Agreement only by written agreement signed by a duly authorized representative of each Party.

8.08 **Severability.** If any provision of this Agreement is illegal or unenforceable, (a) the Parties shall negotiate in good faith to replace that provision with one that approximates as much as possible the Parties' original intent, and (b) the legality and enforceability of the other provisions remain unaffected.

ACCEPTED AND AGREED.

“GRANTEE”:

Board of County Commissioners of Lee County, Florida

Signature: _____ Date: _____

Printed Name: Brian Hamman

Title: Chairman of the Board

“GRANTOR”:

The Gulf of Mexico Foundation, Inc.

Its: Agent

Signature: _____ Date: _____

Dr. Quenton Dokken on behalf of
The Gulf of Mexico Foundation, Inc.

[Remainder of this page intentionally left blank.]

Exhibit A
The Gulf of Mexico Community-based Restoration Partnership
Approved Project Proposal

Grant Agreement #: GCRP 11-02A

Grantee: Board of County Commissioners of Lee County, Florida

Project: Galt Preserve Restoration

Grant Period: December 17, 2014 through May 31, 2015

Total grant amount: \$15,420.00

If not listed in the Approved Project Proposal attached to this page, the following information must be provided:

- 1) legal property description
- 2) contact information for Grantee's Project manager and executive personnel
- 3) response to steering committee's concerns

[Remainder of this page intentionally left blank.]



LEE COUNTY
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS

John E. Manning
District One

Cecil Pendergrass
District Two November 20, 2014

Larry Kiker
District Three

Mike Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
County Hearing Examiner

Mr. Mike Smith
Gulf of Mexico Foundation
PMB 51 5403 Everhart Road
Corpus Christie, TX 78411

Dear Mr. Smith:

Thank you for your phone call regarding Galt Preserve and the possibility of increasing the scope of our existing grant. Below is a list of several projects that I would like to complete in the near future. Gulf of Mexico Foundation Funding would allow me to stretch our management dollars.

1. Herbicide re-treatment of 187 acres of the preserve. Southwest Florida requires multiple treatments for exotic plants (especially when there is a neighboring seed source). Currently there are scattered Brazilian pepper, melaleuca, caesar's weed, earleaf acacia, Australian pine, Guinea grass, and Senegal date palms. None of the exotics is thick, just scattered individuals that have seeded in since the last herbicide treatment. The project has been put to bid and the can be done for \$11,220 (\$60/acre).
2. Design additional educational panels for the preserve.
 - a. I would like to have a good bald eagle interpretative panel near the active nest. It could explain nesting and why there are so few eagles here during the summer. I estimate this will cost approximately \$2,000.
 - b. I would like to have a good interpretative panel on prescribed burning (why we do it, what it benefits (people as well as natural communities)). We are currently working on the design and have an estimate for \$1775.
3. Plant vegetation along the southern borrow pond (black and white mangroves) that will provide future roosting and perhaps nesting habitat for wading birds, cormorants and anhingas. I have an estimate for 20 plants which can be planted for approximately \$425.

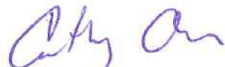
Grantee Initials: _____

Grantor Initials: _____

The exotic plant control has been bid and is ready to be awarded. It can be completed by mid-December. The fire sign is currently being designed and can be manufactured within several months. The bald eagle sign has not yet been designed. The planting can be put to bid and be completed by mid January. All three elements can be done for \$15,420; or individual elements may be selected.

Thank you so much for the opportunity and please let me know if I may provide any additional information.

Sincerely,



Cathy Olson
Conservation Lands Manager
colson@leegov.com
239 533-7455

Budget Table

	Budget Categories	Total Budgeted Grant Fund Expenditures
a	Personnel	0.00
b	Fringe	0.00
c	Travel	0.00
d	Equipment	0.00
e	Supplies	3,775.00
f	Contractual	11,645.00
g	Other	0.00
h	Total Direct Costs	15,420.00
i	Indirect Costs	0.00
j	Total Grant Budget	15,420.00

Budget Narrative

Supplies:

Grantor authorizes Grantee to spend up to \$3,775.00 to design, fabricate, and install two interpretive signs as described in Exhibit A above.

Contractual:

Grantor authorizes Grantee to spend up to \$11,220.00 for exotic plant control and up to \$425.00 for installation of mangrove vegetation as described in Exhibit A above.

[Remainder of this page intentionally left blank.]

Exhibit B
 The Gulf of Mexico Community-based Restoration Partnership
Grantee's Progress Report

Project Title: Galt Preserve Restoration
Award Number: GCRP 11-02A
Award Period: December 17, 2014 through May 31, 2015
Grantee Organization: Board of County Commissioners of Lee County, Florida
Contact Person: Cathy Olson, Conservation 20/20 Senior Supervisor
Email: colson@leegov.com
Phone Number: 239.533.7455

Reporting period: _____ through _____

Progress Report Narrative: Summarize the project activities undertaken during the current reporting period within the following headings, building onto the narrative from the previous report(s). Please refer to the instructions attached at the end of this report template for further information on what to include under each heading. You may use additional pages as necessary. Final reports should be comprehensive and cover the entire award period.

I. Results/Progress to Date

II. Restoration Targets and Progress

Habitat Type:	Acres/miles/metric tons accomplished in this reporting period:	Acres/miles/metric tons accomplished to-date (cumulative):	Acres/miles/metric tons projected to be completed at end of award:

III. Permit Status

IV. Species Benefitting

V. Project Partners

VI. Project Timeline

VII. Monitoring and Maintenance Activities

VIII. Community Involvement

	This reporting period:	To-date (cumulative):	Projected for completed award:
Volunteer Numbers:			
Volunteer Hours:			

IX. Outreach Activities

X. Supporting Materials

XI. Project Budget and Expenditures

	Budget Categories	Total Budgeted Grant Fund Expenditures	Grant Funds Expended this Report	Grant Funds Expended Cumulative
a	Personnel			
b	Fringe			
c	Travel			
d	Equipment			
e	Supplies	3,775.00		
f	Contractual	11,645.00		
g	Other			
h	Total Direct Costs	15,420.00		
i	Indirect Costs			
j	Totals	15,420.00		

Please explain any deviations from the approved budget (note that most budget changes require prior approval):

Briefly describe the total project cost, including the source and value of other contributing funds (leverage that is not counting towards your official match):

The undersigned verifies that the descriptions of activities and expenditures in this progress report are accurate to the best of my knowledge; and that the activities were conducted in agreement with the grant contract. I also understand that matching fund levels established in the grant contract must be met.

Grantee Signature: _____

Grantee Name: _____

Grantee Initials: _____

Grantor Initials: _____

Exhibit C
The Gulf of Mexico Community-based Restoration Partnership
Grantee's Progress Report - Volunteer Time Sheets & Release

By signing below, I certify that the representation of my time is accurate and complete. I waive all claims and release Grantee, the Gulf of Mexico Foundation, and any other non-profit or government agency from any use of my photograph or name. I hereby consent to the photographing of myself and the recording of my voice and the use of these photographs and/or recordings singularly or in conjunction with other photographs and/or recordings for advertising, publicity, commercial or other business purposes. I understand that the term "photograph" as used herein encompasses both still photographs and motion picture footage to reproduce and use such photographs and recordings of voice, for use in all domestic and foreign markets including the internet.

Activity/Event: _____ **Date:** _____

Name	Signature	Hours Worked

Total Hours Works: _____

Note: For additional volunteers, duplicate this page as many times as necessary.

Grantee Initials: _____

Grantor Initials: _____

Exhibit D
The Gulf of Mexico Community-based Restoration Partnership
Grantee's Final Report Form

Grant Agreement #: GCRP 11-02A

Grantee: Board of County Commissioners of Lee County, Florida

Project: Galt Preserve Restoration

Grant Period: December 17, 2014 through May 31, 2015

Total grant amount: \$15,420.00

Today's Date: _____

Project Summary (required)

Final # Volunteers _____

Final # Volunteer Hours _____

Final Value of Volunteer Service _____

Final Acreage/Miles Restored _____

Project Report: Please summarize below the project activity *as compared to the specific tasks and objectives outlined in the approved proposal, Grant agreement Attachment A.* Use additional pages as needed.

Please be sure to describe, as appropriate:

1. The success or failure of specific tasks;
2. Accomplishments associated with the Project;
3. Monitoring summary and analysis to date;
4. Knowledge gained during the Grant Period;
5. Any lessons learned during the Grant Period;
6. Community involvement in the implementation of the Project;
7. Any public outreach and education that transpired in association with the Project; and
8. Any short or long-term negative impacts to the area as a result of the project.

Please also include:

1. A final accounting for all Grant expenditures, receipts, matched contributions and total hourly volunteer in-kind services or goods donated; see the following budget table. Please include documentation for all match/in-kind contributions.
2. Copies of all reports (excluding Quarterly Reports), real estate or rental documents, surveys, and environmental testing results; and
3. Copies of all publications, press releases, test results, and other products produced as a result of the Grant funding during the Grant Period.

Grantee Initials: _____

Grantor Initials: _____

Attachment E
The Gulf of Mexico Community-based Restoration Partnership
Progress Report and Final Report Instructions

General Instructions

1. A report consists of:
 - Narrative statements under the Progress Report headings
 - Completed Project Budget and Expenditures table
2. The report should be completed and returned within 30 days of the end of a reporting period. Reporting periods are established in the grant agreement. If there was no project activity during the period, a report should still be filed, explaining why there was no activity.
3. Please use the template attached to these instructions to complete the progress report. The report should be completed in MS Word and submitted via email to (address). Signed originals should be sent via mail to (address).

Specific Instructions for each Section

Summarize the project activities undertaken during the current reporting period within the following headings, building onto the narrative from the previous report(s). You may use additional pages as necessary. Final reports should be comprehensive and cover the entire award period. Please include the information requested below:

Results/Progress to Date

Describe in sufficient detail the goals of the project and the progress and results achieved during the current reporting period, building onto the narrative from the previous report(s). This should include information such as:

- the problems that the project is addressing;
- the short and long term objectives, and how they are being or have been met;
- the relevance of the project to enhancing habitat and/or benefitting living marine resources;
- status of the project (planning/design phase, implementation, monitoring, or complete);
- the activities carried out in this reporting period, including the specific restoration techniques and materials used;
- lessons learned during this reporting period;
- challenges or potential roadblocks to future progress (Note: If you have immediate concerns about the project, please contact the Partnership or your NOAA Technical Monitor to discuss the issue).

Restoration Targets and Progress

Describe the progress towards your projected restoration targets, as explained below, and complete the table:

- the acreage restored/enhanced/protected/created under this grant, if applicable, and how this measurement was determined;
- for fish passage barrier removal projects, the number of stream miles that were made accessible to migratory fish passage under this grant and how this measurement was determined;
- for marine debris projects, the metric tons of debris removed under this award.

Permit Status

List the permits required for the project, and their status (not applied yet, pending, obtained, etc).

Species Benefitting

List the species that are benefitting from this project, and note if any species are federally listed as endangered, threatened, candidate and/or species of concern.

Project Partners

List major project partners, and briefly note their contributions.

Project Timeline

Provide an updated timeline of major project tasks, as applicable (e.g., permitting, design, construction phases, monitoring).

Monitoring and Maintenance Activities

Describe monitoring and maintenance activities that have taken place and/or procedures that are being used to evaluate the relative success of the project in achieving its goals and objectives, with particular attention to the monitoring plan that was agreed upon in the award document. Include a summary of monitoring results to-date, if available.

In the final report, please summarize and interpret the monitoring results for this project, paying special attention to the major targets that were described in the award document. Compare the actual results to the preliminary targets and discuss lessons learned. If available, attach a full monitoring report and the original monitoring plan with your targets noted. For fish passage barrier removal projects, please include the completed "Fish Passage Barrier Removal Performance Measures and Monitoring Worksheet." Please also note if your organization has plans to continue monitoring the success of this project after the award period, and if you would like to send updated monitoring results.

Community Involvement

Describe community support and any public involvement in the project, including the specific roles of volunteers in project activities. List the number of volunteers that contributed to the

project and the number of hours that were worked by the volunteers, both in this reporting period and cumulatively for the whole project, and complete the table.

Outreach Activities

Describe any outreach or educational activities (e.g. training, brochures, videos, press releases or public events) related to the project.

Supporting Materials

Please include supporting materials related to the project, such as project maps and project photographs depicting the site before, during, and after restoration (high resolution images on CD ROM are appreciated; please include captions). Send electronic copies of, or links to: news articles, related web sites, evidence of Grantor or Sponsor support (e.g. photographs of signs at project sites, funding credit on outreach materials, press releases with complete program name, etc.) as these material are released. If brochures, educational curricula, etc. are produced as part of the project, send electronic copies of these items as well.

Project Budget and Expenditures

Complete the table according to the following instructions:

1. The first column of the Project Budget and Expenditures table should show the approved budget from the signed grantee agreement or approved budget revision.
2. In column two, *Grant Funds Expended This Report*, enter funds spent within each budget category during this reporting period only. Funds paid to a sub-contractor for activities such as culvert replacement, dam removal, or reef installation should be entered in the “contractual” category.
3. In column three, *Grant Funds Expended Cumulative*, enter the total of current expenditures, plus expenditures for all previous reporting periods for each budget category.

Complete requested narrative questions regarding the budget, listed below the Budget and Expenditures table on the report template.

RESOLUTION

Amending the Capital Improvement Environmentally Sensitive Land Management Fund #30105 Budget to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2014-2015.

WHEREAS, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the Capital Improvement Environmentally Sensitive Land Management Fund #30105 budget for \$15,420 of the unanticipated revenue from the Gulf of Mexico Foundation and an appropriation of a like amount for other professional services and;

WHEREAS, the Capital Improvement Environmentally Sensitive Land Management Fund #30105 budget shall be amended to include the following amounts which were previously not included.

ESTIMATED REVENUES

Prior Total:		\$38,573,737
Additions		
11109330105.331720.9004	Grant	\$15,420
Amended Total Estimated Revenues		\$38,589,157

APPROPRIATIONS

Prior Total:		\$38,573,737
Additions		
11109330105.503190	Other Professional Services	\$15,420
Amended Total Appropriations		\$38,573,737

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that the Capital Improvement Environmentally Sensitive Land Management Fund #30105 budget is hereby amended to show the above additions to its Estimated Revenue and Appropriation accounts.

Duly voted upon and adopted in Chambers at a regular Public Hearing by the Board of County Commissioners on this ____ day of _____, 2015.

ATTEST:
LINDA DOGGETT, CLERK
BY: _____
DEPUTY CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

CHAIR

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

OFFICE OF COUNTY ATTORNEY

DOC TYPE YA
LEDGER TYPE BA

Blue Sheet No. 20140800	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Item No. 8
<p>TITLE: Approve settlement in eminent domain case of County v. Thomas Booher</p> <p>ACTION REQUESTED: Approve Proposal for settlement offer of \$16,000, exclusive of attorneys fees and costs in the eminent domain action for Lee County v. Thomas Booher, Case No. 11CA158, Parcel 153UE, 153TCE-A, and 153TCE-B, Registry Deposit of \$6025.00.</p> <p>This is an eminent domain action involving the Lee County Water Treatment Plant Well field Expansion Project 7602 (Leetana Rd. to I-75). Lee County filed this action and made a good faith deposit in the Court Registry pursuant to the Order of Taking and now desires to make a proposal for settlement to the property owner in the amount of \$16,000.00 exclusive of attorney's fees and costs. This offer is made pursuant to Section 73.032, Fla. Stat. (2014), which if accepted by the property owner, ends litigation. If the property owner does not accept the proposal for settlement, and the case goes to trial then if judgment rendered by the Court in this action is equal or less than the proposed settlement offer amount, Lee County can limit the amount of cost it must pay the property owner. If the judgment rendered by the Court is more than the proposed amount, no adverse impact results against Lee County.</p> <p>In anticipation to the 10 MG North RO Plant expansion, and forthcoming peak season demands, expansion of the North RO Plant wellfield was deemed necessary. Parcel 153 UE provided with the easement to interconnect the newly constructed Lower Hawthorn wells to the existing 10 MG North RO Plant.</p> <p>FUNDING: \$16,000; Enterprise Fund; Included in Budget</p> <p>The North Lee County Wellfield Expansion project has been designed and constructed in three phases during the past five years and we are currently working on the last portion of Phase 2B and finalize some outstanding land settlements. Total cost for Phase 2B is \$6,000,000 at completion.</p> <p>Fund: Utilities Water Connection Fees; Program: Capital Project; Project: North Lee County RO Plant Wellfield Expansion 20760248712.506820</p> <p>WHAT ACTION ACCOMPLISHES: Submit a settlement proposal to the property owner in the eminent domain action of Lee County v. Thomas J. Booher, Case No. 11-CA-158, Parcel 153UE and 153TCE, in the amount of \$16,000, exclusive of attorney's fees and costs in an attempt to limit costs under §73.032, Fla. Stat. (2014).</p> <p>MANAGEMENT RECOMMENDATION: Approve</p>		
Requirement/Purpose: (specify)		Request Initiated

Required Review:					
Richard Wm. Wesch	Emma Wolf	Peter Winton	Peter Winton		
COUNTY ATTORNEY	Budget Analyst	Budget Services	County Manager		

- | | |
|---|--------|
| <input checked="" type="checkbox"/> Statute | 73.032 |
| <input type="checkbox"/> Ordinance | |
| <input type="checkbox"/> Admin Code | |
| <input type="checkbox"/> Other | |

Commissioner:	
Department:	COUNTY ATTORNEY
Division:	No Divisions
By:	James Holloway

Background:

1. Submit a settlement proposal to the property owner in the eminent domain action of Lee County v. Thomas J. Booher, Case No. 11-CA-158, Parcel 153UE and 153TCE, in the amount of \$16,000, exclusive of attorney's in which case Lee County can limit its costs under §73.032, Fla. Stat. (2014). If the property owner does not accept the proposal for settlement then this case will proceed to trial and a jury will determine what compensation is due to the property owner.
2. Proceed to trial without submitting a settlement proposal. In which case Lee County will not be able to limit its costs if the judgment rendered by the Court is equal to or less than \$16,000.00.

On November 30, 2010, Lee County initiated condemnation action against Thomas J. Booher to condemn

Parcel 153UE and 153TCE. An Order of Taking was entered by the Court on March 01, 2011.

In anticipation to the 10 MG North RO Plant expansion, and forthcoming peak season demands, expansion of the North RO Plant wellfield was deemed necessary. Parcel 153 UE provided with the easement to interconnect the newly constructed Lower Hawthorn wells to the existing 10 MG North RO Plant.

Blue Sheet No. 20140808	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Item No. 9:30 AM Public Hearing 1
-----------------------------------	--	--

TITLE:
Vacate the public interest in an unimproved road right-of-way at 3920 North Road, N Fort Myers.

ACTION REQUESTED:
Conduct a Public Hearing to adopt a Resolution on a Petition to Vacate the public interest in a portion of an unused right-of-way between two residential lots in North Fort Myers to allow site development as a single family dwelling.

FUNDING:
No funding required

WHAT ACTION ACCOMPLISHES:
Extinguishes the public interest in the western 1/2 (30 feet) of an unused and unimproved 60 foot wide right-of-way centered on the common lot line between Lots 55 and 56 to allow construction of a single family home on Lot 56.

MANAGEMENT RECOMMENDATION:
Approve

Requirement/Purpose: (specify)	Request Initiated
<input checked="" type="checkbox"/> Statute F.S. Ch. 336	Commissioner: All
<input type="checkbox"/> Ordinance	Department: COMMUNITY DEVELOPMENT
<input checked="" type="checkbox"/> Admin Code AC 13-8	Division: Development Services
<input type="checkbox"/> Other	By: Ben Dickson

Background:

Staff has reviewed the Petition to Vacate together with letters of No Objection from the Public Utility Providers as well as FDOT and LDCOT. The vacation of this right-of-way will not affect development of other properties – the right-of-way is not necessary for any future drainage and/or utility requirements.

The completed petition to vacate, VAC2014-00012, was submitted by Amanda L. Brock, Esq., on behalf of the property owners, James E. and Virginia S. Hardwick who propose construction of a single family dwelling on Lot 56 Western Acres, 1st Addition being in Section 10, Township 43 South, Range 24 East and recorded in O.R. Book 767, Page 161 of the Public Records of Lee County Florida.

Resolutions, Notice of Public Hearing, Notice of Adoption of Resolution, Transmittal for Public Notice,

Required Review:					
Mary Gibbs	Neysa Borkert	Thelma Davis	Peter Winton	Peter Winton	
COMMUNITY DEVELOPMENT	County Attorney	Budget Analyst	Budget Services	County Manager	

Petition to Vacate.



PETITION TO VACATE
TRANSMITTAL FOR PUBLIC NOTICE
REQUIREMENTS

DATE: December 17, 2014

To: Kim Rasner
Public Resources

FROM: *Ben Dickson*
Ben Dickson
Development Services

BLUESHEET NUMBER: 20140808

CASE NUMBER: VAC2014-00012

Applicable Public Noticing Requirement:

PTV under AC13-1
1st Notice - 15 days prior to Public Hearing
2nd Notice - 7 days prior to Public Hearing

PTV under AC13-8
One Notice - 15 days prior to Public Hearing

Upon scheduling of Public Hearing date, please provide e-mail notice to Ben Dickson, Development Services Acting Director (bdickson@leegov.com) and Neysa Borkert, Assistant County Attorney (nborkert@leegov.com)

NOTICE OF PUBLIC HEARING FOR PETITION TO VACATE

Case Number: VAC2014-00012

NOTICE is hereby given that on the _____ in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider and take action on a Petition vacating, abandoning, closing and discontinuing the public's interest in the right-of-way or portion of a right-of-way, legally described in the attached Exhibits "A".

Interested parties may appear in person or through a representative and be heard with respect to the Petition to Vacate.

Anyone wishing to appeal the decision made by the Board with respect to any matter considered at this meeting will need a record of the proceeding for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

A copy of the Petition to Vacate is on file in the Office of the Clerk of the Circuit Court of Lee County, Florida, Minutes Office, 2115 Second Street, Fort Myers, Florida.

In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. Contact the Lee County Division of Public Resources at 239-533-2737 for assistance.

LINDA DOGGETT, CLERK

Deputy Clerk Signature

Please Print Name

Approved as to Form for the
Reliance of Lee County Only

County Attorney Signature

Please Print Name

THIS INSTRUMENT PREPARED BY:

Department of Community Development
Development Services Division
1500 Monroe Street
Fort Myers Florida 33901

RESOLUTION NO. _____ FOR PETITION TO VACATE

Case Number: VAC2014-00012

WHEREAS, Petitioners James E & Virginia S. Hardwick in accordance with Florida Statute (F.S.) Chapter 336 and Lee County Administrative Code (LCAC) 13-8, filed a Petition to vacate, abandon, close and discontinue the public's interest in the right-of-way or portion of a right-of-way legally described in the attached Exhibit "A"; and

WHEREAS, the Board of County Commissioners of Lee County, Florida held a Public Hearing concerning a Petition to Vacate on the _____; and

WHEREAS, a legally sufficient Affidavit of Publication regarding the Notice of Public Hearing on this Petition to Vacate was entered into the minutes of the County Commission Meeting and a copy of said Affidavit is attached as Exhibit "C"; and

WHEREAS, notice concerning the intent of the Petition to Vacate was provided in accordance with LCAC 13-8; and

WHEREAS, it appears that vacating, abandoning, closing or discontinuing the subject rights-of-way or portion of rights-of-way is in the best interest of the public and promotes the public's health, safety and welfare without invading or violating individual property rights; and

WHEREAS, the letters of review and recommendation provided by the various governmental and utility entities indicate granting Petitioner's request is appropriate and in accordance with F.S. Chapter 336.

NOW therefore be it resolved by the Board of County Commissioners as follows:

1. Petition to Vacate No. VAC2014-00012 hereby granted.
2. The public's interest in the rights-of-way or portion of rights-of-way described in Exhibits "A" and graphically depicted in Exhibit "B" is hereby vacated, abandoned, closed and discontinued.
3. A Notice of Resolution of Adoption will be published one time within 30 days of adoption in a newspaper of general circulation. An Affidavit of Publication for the Notice of Resolution Adoption will be attached to this Resolution as Exhibit "D".
4. This Resolution will become effective upon the recording of a fully executed Resolution, including all exhibits referred to above, in the public records of Lee County, Florida.

This Resolution passed by voice and entered into the minutes of the Board of County Commissioners of Lee County, Florida, this _____ .

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

Deputy Clerk Signature

Chair Signature

Please Print Name

Please Print Name

Approved as to Form for the
Reliance of Lee County Only

County Attorney Signature

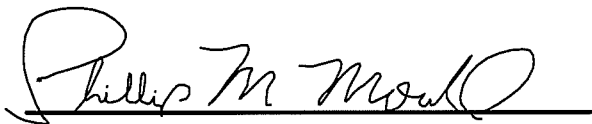
Please Print Name

DESCRIPTION:

PROPOSED VACATION OF THE WEST HALF OF A PORTION OF A 60 FOOT WIDE UNNAMED ROAD RIGHT OF WAY, THE CENTERLINE OF SAID 60 FOOT WIDE RIGHT OF WAY RUNNING ALONG THE COMMON LINE OF LOT 55 AND LOT 56, WESTERN ACRES, FIRST ADDITION SUBDIVISION, LYING IN A PORTION OF THE SOUTHEAST QUARTER (SE1/4), OF SECTION 10, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS RECORDED IN OFFICIAL RECORDS BOOK 767, PAGE 161, PUBLIC RECORDS, LEE COUNTY, FLORIDA, SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;

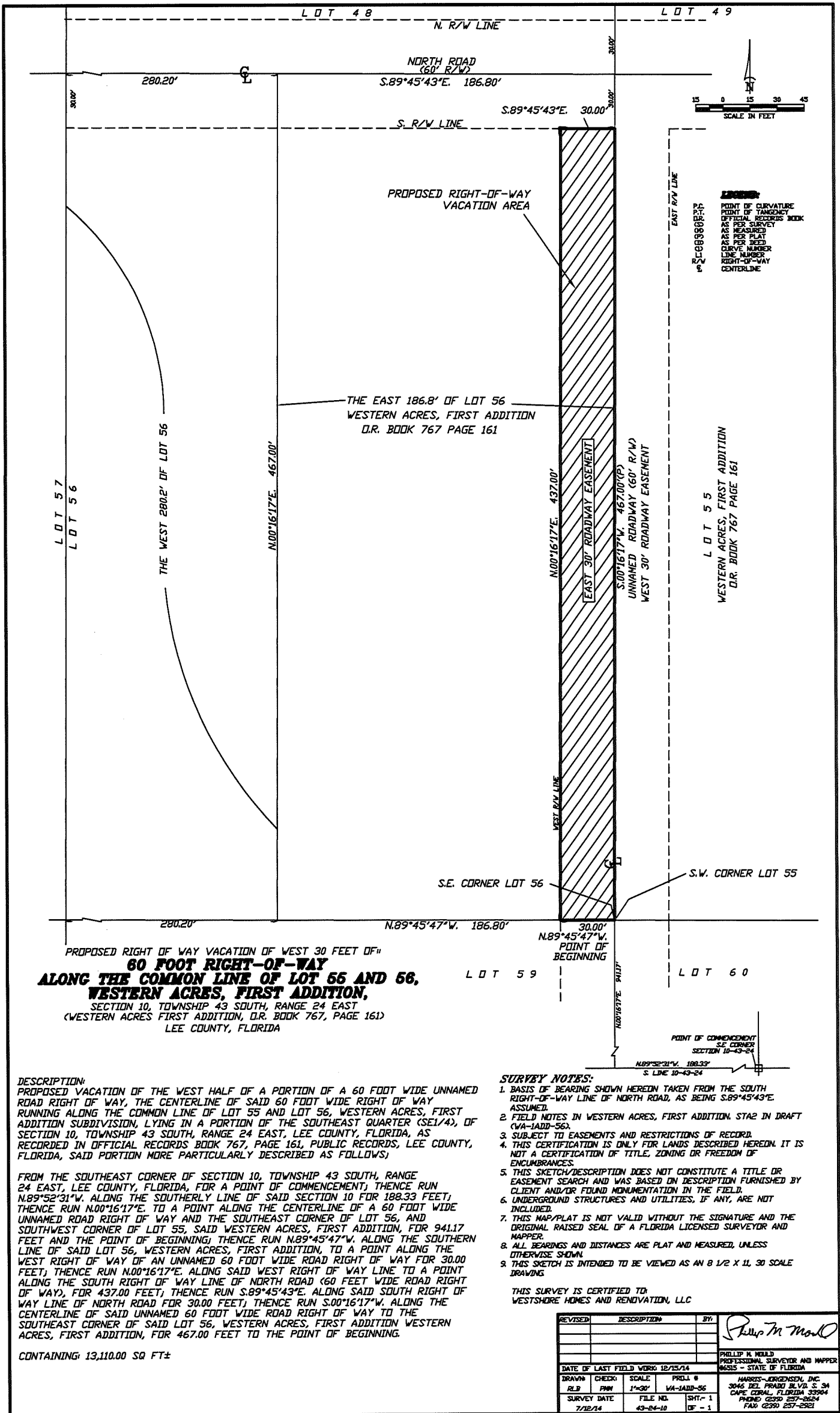
FROM THE SOUTHEAST CORNER OF SECTION 10, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, FOR A POINT OF COMMENCEMENT; THENCE RUN N.89°52'31"W. ALONG THE SOUTHERLY LINE OF SAID SECTION 10 FOR 188.33 FEET; THENCE RUN N.00°16'17"E. TO A POINT ALONG THE CENTERLINE OF A 60 FOOT WIDE UNNAMED ROAD RIGHT OF WAY AND THE SOUTHEAST CORNER OF LOT 56, AND SOUTHWEST CORNER OF LOT 55, SAID WESTERN ACRES, FIRST ADDITION, FOR 941.17 FEET AND THE POINT OF BEGINNING; THENCE RUN N.89°45'47"W. ALONG THE SOUTHERN LINE OF SAID LOT 56, WESTERN ACRES, FIRST ADDITION, TO A POINT ALONG THE WEST RIGHT OF WAY OF AN UNNAMED 60 FOOT WIDE ROAD RIGHT OF WAY FOR 30.00 FEET; THENCE RUN N.00°16'17"E. ALONG SAID WEST RIGHT OF WAY LINE TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF NORTH ROAD (60 FEET WIDE ROAD RIGHT OF WAY), FOR 437.00 FEET; THENCE RUN S.89°45'43"E. ALONG SAID SOUTH RIGHT OF WAY LINE OF NORTH ROAD FOR 30.00 FEET; THENCE RUN S.00°16'17"W. ALONG THE CENTERLINE OF SAID UNNAMED 60 FOOT WIDE ROAD RIGHT OF WAY TO THE SOUTHEAST CORNER OF SAID LOT 56, WESTERN ACRES, FIRST ADDITION WESTERN ACRES, FIRST ADDITION, FOR 467.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 13,110.00 SQ FT±



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
12/15/2014

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. S. 3A
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921



**PROPOSED RIGHT OF WAY VACATION OF WEST 30 FEET OF
60 FOOT RIGHT-OF-WAY
ALONG THE COMMON LINE OF LOT 55 AND 56,
WESTERN ACRES, FIRST ADDITION,
SECTION 10, TOWNSHIP 43 SOUTH, RANGE 24 EAST
(WESTERN ACRES FIRST ADDITION, D.R. BOOK 767, PAGE 161)
LEE COUNTY, FLORIDA**

DESCRIPTION:
PROPOSED VACATION OF THE WEST HALF OF A PORTION OF A 60 FOOT WIDE UNNAMED ROAD RIGHT OF WAY, THE CENTERLINE OF SAID 60 FOOT WIDE RIGHT OF WAY RUNNING ALONG THE COMMON LINE OF LOT 55 AND LOT 56, WESTERN ACRES, FIRST ADDITION SUBDIVISION, LYING IN A PORTION OF THE SOUTHEAST QUARTER (SE1/4), OF SECTION 10, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, AS RECORDED IN OFFICIAL RECORDS BOOK 767, PAGE 161, PUBLIC RECORDS, LEE COUNTY, FLORIDA, SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF SECTION 10, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, FOR A POINT OF COMMENCEMENT; THENCE RUN N.89°52'31"W. ALONG THE SOUTHERLY LINE OF SAID SECTION 10 FOR 188.33 FEET; THENCE RUN N.00°16'17"E. TO A POINT ALONG THE CENTERLINE OF A 60 FOOT WIDE UNNAMED ROAD RIGHT OF WAY AND THE SOUTHEAST CORNER OF LOT 56, AND SOUTHWEST CORNER OF LOT 55, SAID WESTERN ACRES, FIRST ADDITION, FOR 941.17 FEET AND THE POINT OF BEGINNING; THENCE RUN N.89°45'47"W. ALONG THE SOUTHERN LINE OF SAID LOT 56, WESTERN ACRES, FIRST ADDITION, TO A POINT ALONG THE WEST RIGHT OF WAY OF AN UNNAMED 60 FOOT WIDE ROAD RIGHT OF WAY FOR 30.00 FEET; THENCE RUN N.00°16'17"E. ALONG SAID WEST RIGHT OF WAY LINE TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF NORTH ROAD (60 FEET WIDE ROAD RIGHT OF WAY), FOR 437.00 FEET; THENCE RUN S.89°45'43"E. ALONG SAID SOUTH RIGHT OF WAY LINE OF NORTH ROAD FOR 30.00 FEET; THENCE RUN S.00°16'17"W. ALONG THE CENTERLINE OF SAID UNNAMED 60 FOOT WIDE ROAD RIGHT OF WAY TO THE SOUTHEAST CORNER OF SAID LOT 56, WESTERN ACRES, FIRST ADDITION WESTERN ACRES, FIRST ADDITION, FOR 467.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 13,110.00 SQ FT±

SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH RIGHT-OF-WAY LINE OF NORTH ROAD, AS BEING S.89°45'43"E. ASSUMED.
2. FIELD NOTES IN WESTERN ACRES, FIRST ADDITION, STA2 IN DRAFT (VA-1ADD-56).
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH/DESCRIPTION DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2 X 11, 30 SCALE DRAWING.

THIS SURVEY IS CERTIFIED TO:
WESTSHORE HOMES AND RENOVATION, LLC

REVISED	DESCRIPTION	BY

DATE OF LAST FIELD WORK: 12/15/14

DRAWN R.L.B.	CHECKED P.M.W.	SCALE 1"=30'	PLAT # VA-1ADD-56
SURVEY DATE 7/2/14	FILE NO. 43-24-10	SHT.- 1 OF - 1	

PHILLIP K. HULL
PROFESSIONAL SURVEYOR AND MAPPER
STATE OF FLORIDA

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. S. 34
CAPE CORRAL, FLORIDA 33904
PHONE: (239) 257-2524
FAX: (239) 257-2521

Exhibit "B"



PETITION TO VACATE (AC 13-8)

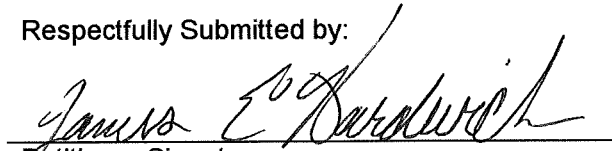
Case Number: _____

Petitioner(s), James E & Virginia S Hardwick requests the Board of County Commissioners of Lee County, Florida, to grant this Petition to Vacate and states as follows:

1. Petitioner(s) mailing address: 1056 SE 20th Ct., Cape Coral, FL 33990
2. In accordance with Florida Statute (F.S.) Chapter 336 and Lee County Administrative Code (LCAC) 13-8, Petitioner desires to vacate, abandon and discontinue the public's interest in the right-of-way or portion of right-of-way legally described in the attached Exhibit "A".
3. A sketch showing the area(s) the Petitioner desires to vacate is attached as Exhibit "B".
4. Notice concerning the intent of this Petition will be provided in accordance with LCAC 13-8.
5. In accordance with letters of review and recommendation provided by the various governmental and utility entities, there is no apparent impediment to granting Petitioner's request.

Wherefore, Petitioner respectfully requests that the Board of County Commissioners adopt a Resolution granting the Petition to Vacate.

Respectfully Submitted by:



Petitioner Signature

James E Hardwick
Printed Name



Petitioner Signature

Virginia S Hardwick
Printed Name

Blue Sheet No. 20150008	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 1/20/2015	Item No. 9:30 AM Public Hearing 2
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TITLE:
Adopt an Ordinance Amending Lee County Ordinance 13-06 collection of impact fees in Lee County

ACTION REQUESTED:
Adopt an Ordinance Amending Ordinance 13-06 to provide a review period for permit applications filed on or before the two-year expiration date provided in Ordinance 13-06, but not issued before the date. The Ordinance will permit applicants to pay the reduced rate if they meet certain criteria set forth in the Ordinance.

FUNDING:
No funding required.

WHAT ACTION ACCOMPLISHES:
Meets State requirement to hold a public hearing to adopt an Ordinance. The Ordinance provides a six-month review period for permit applications filed on or before the two-year expiration date (March 13, 2015) provided in Ordinance 13-06 (reduction of impact fees to 20%), and permits applicants to pay the reduced rate when their permits are issued after the March 13, 2015 deadline.

MANAGEMENT RECOMMENDATION:
Adopt the draft Ordinance

Requirement/Purpose: (specify)	Request Initiated
<input type="checkbox"/> Statute <input checked="" type="checkbox"/> Ordinance 13-06 <input type="checkbox"/> Admin Code <input type="checkbox"/> Other	Commissioner: Department: COUNTY ATTORNEY Division: No Divisions By: Michael Jacob

Background:
Adopt the Ordinance
Adopt the Ordinance, with revisions
Do not adopt the Ordinance

As the sunset date for Ordinance 13-06 approaches, developers and property owners will move forward with applications for anticipated development to avoid the increase in fees. The County's review and processing of development permits does not occur instantaneously with submittal of an application. Consequently, a developer may submit an application before the March 13, 2015 deadline, which requires review that extends past the deadline.

In past circumstances when impact fees were set to increase, the County utilized a process to accommodate for the necessary review time for increased permits submittals. In order to ensure the

Required Review:					
Richard Wm. Wesch	Anne Henkel	Peter Winton	Peter Winton		
COUNTY ATTORNEY	Budget Analyst	Budget Services	County Manager		

appropriate impact fee rate is applied in an equitable manner, the draft Ordinance creates a process in which impact fees will be applied to development applications submitted near or on the March 13th sunset date. The Ordinance provides the following procedure:

- a. A building permit, mobile home move-on permit, or recreational vehicle park development order application submitted on or before the close of business (4:30pm) on March 13, 2015, must be issued on or before the close of business on Friday, September 11, 2015, in order to realize the current, reduced rate (20%).
- b. A building permit, mobile home move-on permit, or recreational vehicle park development order application submitted on or before the close of business on March 13, 2015, but was not issued by the close of business on Friday, September 11, 2015, shall be assessed impact fees applicable at the actual time of permit issuance.
- c. After the close of business on Friday, September 11, 2015, the Director may accept payment according to the fee schedule in effect prior to March 13, 2015 subject to the following conditions:
 1. The application for the building permit, mobile home move-on permit, or recreational vehicle park development order was properly submitted and sufficient for review on or before March 13, 2015; and,
 2. The sole grounds for accepting payment will be that a governmental action or failure to act in a timely manner caused the issuance of the building permit, mobile home move-on permit, or recreational vehicle park development order to be delayed beyond September 11, 2015; and,
 3. The applicant submits a written request to the Director specifying the reasons for the request; and,
 4. The Director's decision must be in writing and it must set for the governmental action or failure to act that caused the delay in the issuance of the building permit, mobile home move-on permit, or recreational vehicle park development order.
 5. The ability and authority to accept such payments will terminate on September 31, 2015.
 6. The Director's decision to grant or deny a request for payment pursuant to this provision is discretionary and not subject to appeal.

If the Ordinance is not adopted, applicants will be required to pay the impact fee rate due at time the permit is issued, even if the application is submitted prior to the two-year deadline.

Draft Ordinance
FAIS

ORDINANCE NO. _____

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE 13-06 (PERTAINING TO IMPACT FEE COLLECTION RATES FOR ROAD, COMMUNITY PARK, REGIONAL PARK, AND SCHOOL IMPACT FEES) TO AUTHORIZE PAYMENT OF THE LOWER IMPACT FEE RATE (20%) AUTHORIZED UNDER ORDINANCE 13-06 FOR APPLICATIONS FILED, BUT NOT ISSUED, ON OR BEFORE THE TWO-YEAR EXPIRATION DATE PROVIDED IN ORDINANCE 13-06 (MARCH 13, 2015) IF CERTAIN CRITERIA IS SATISFIED; THIS ORDINANCE IS APPLICABLE WITHIN BOTH THE INCORPORATED AND UNINCORPORATED AREAS OF LEE COUNTY AS TO THE COLLECTION OF SCHOOL IMPACT FEES; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING.

WHEREAS, Florida Statutes Section 125.01(1)(t) authorizes counties to adopt ordinances necessary for the exercise of its powers; and,

WHEREAS, the Board of County Commissioners (Board) adopted the regulations applicable to the collection of impact fees in Lee County; and,

WHEREAS, on March 12, 2013, the Board, in recognition of the downturn in the U.S. economy, implemented measures to provide temporary relief to the building and construction industry; and,

WHEREAS, on March 12, 2013, the Board adopted Ordinance 13-06, which provided a two year period in which impact fee rate collection for Road, Community Parks, Regional Parks, and School impact fees was reduced to 20%; and

WHEREAS, as the sunset date for Ordinance 13-06 approaches, it is anticipated that permit applications will be filed on or before the March 13, 2015 to avoid the increase in fees; and,

WHEREAS, the Board desires to provide the County time to review and process applications for development permits while providing applicants with the benefit of the reduction provided under Ordinance 13-06; and,

WHEREAS, this ordinance is intended to be effective in unincorporated Lee County as to Roads, Community and Regional Parks Impact Fees. It is intended to apply countywide as to School Impact Fees.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: AMENDMENT TO ORDINANCE 13-06

Sections One and Two of Ordinance Number 13-06 are hereby amended as follows with strike through identifying deleted text and underline identifying new text.

SECTION ONE: REDUCTION OF THE COLLECTION OF DEVELOPMENT IMPACT FEES IN THE UNINCORPORATED AREAS OF THE COUNTY

1. The collection rate for Road, Community Park and Regional Park impact fees set forth in Chapter 2 of the Land Development Code is reduced by 80% for two-years commencing on, Wednesday, March 13, 2013 and ending on Friday, March 13, 2015, without further action by the Board. The reduction to these fees is applicable in unincorporated Lee County only.
2. A building permit, mobile home move-on permit, or recreational vehicle park development order application submitted on or before the close of business (4:30 pm) on March 13, 2015, must be issued on or before the close of business on Friday, September 11, 2015, in order to realize the current, reduced rate (20%).
3. A building permit, mobile home move-on permit, or recreational vehicle park development order application submitted on or before the close of business on March 13, 2015, but was not issued by the close of business on Friday, September 11, 2015, shall be assessed impact fees applicable at the actual time of permit issuance.
4. After the close of business on Friday, September 11, 2015, the Director may accept payment according to the reduced fee schedule rate in effect prior to March 13, 2015 subject to the following conditions:
 - a. The application for the building permit, mobile home move-on permit, or recreational vehicle park development order was properly submitted and sufficient for review on or before March 13, 2015;
 - b. The sole grounds for accepting payment will be that a governmental action or failure to act in a timely manner caused the issuance of the building permit, mobile home move-on permit, or recreational vehicle park development order to be delayed beyond September 11, 2015; and,
 - c. The applicant submits a written request to the Director specifying the reasons for the request.
 - d. The Director's decision must be in writing and set forth the governmental action or failure to act that caused the delay in the issuance of the building permit, mobile home move-on permit, or recreational vehicle park development order.

- e. The ability and authority to accept such payments under subsection 4 will terminate on September 30, 2015.
- f. The Director's decision to grant or deny a request for payment pursuant to subsection 4 is discretionary and not subject to appeal.

SECTION TWO: REDUCTION OF THE COLLECTION RATE FOR SCHOOL IMPACT FEES COUNTYWIDE

1. The collection rate for school impact fees set forth in Chapter 2 of the Land Development Code is reduced by 80% countywide for two-years, commencing on, Wednesday, March 13, 2013 and ending on Friday, March 13, 2015, without further action by the Board.
2. A building permit, mobile home move-on permit, or recreational vehicle park development order application submitted on or before the close of business (4:30 pm) on March 13, 2015, must be issued on or before the close of business on Friday, September 11, 2015, in order to realize the current, reduced rate (20%).
3. A building permit, mobile home move-on permit, or recreational vehicle park development order application submitted on or before the close of business on March 13, 2015, but was not issued by the close of business on Friday, September 11, 2015, shall be assessed impact fees applicable at the actual time of permit issuance.
4. After the close of business on Friday, September 11, 2015, the Director may accept payment according to the reduced fee schedule rate in effect prior to March 13, 2015 subject to the following conditions:
 - a. The application for the building permit, mobile home move-on permit, or recreational vehicle park development order was properly submitted and sufficient for review on or before March 13, 2015;
 - b. The sole grounds for accepting payment will be that a governmental action or failure to act in a timely manner caused the issuance of the building permit, mobile home move-on permit, or recreational vehicle park development order to be delayed beyond September 11, 2015; and,
 - c. The applicant submits a written request to the Director specifying the reasons for the request.
 - d. The Director's decision must be in writing and set forth the governmental action or failure to act that caused the delay in the issuance of the building permit, mobile home move-on permit, or

recreational vehicle park development order.

- e. The ability and authority to accept such payments under subsection 4 will terminate on September 30, 2015.
- f. The Director's decision to grant or deny a request for payment pursuant to subsection 4 is discretionary and not subject to appeal.

SECTION TWO: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of other lawfully adopted ordinances or statutes, the most restrictive requirements will apply.

SECTION THREE: SEVERABILITY

If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, it is the Board's intention that such portion will become a separate provision and will not affect the remaining provisions of the ordinance. The Board further declares that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FOUR: CODIFICATION AND SCRIVENER'S ERRORS

The Board intends that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION FIVE: MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION SIX: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner _____ made a motion to adopt the foregoing ordinance. The motion was seconded by Commissioner _____. The vote was as follows:

John E. Manning	_____
Cecil L Pendergrass	_____
Larry Kiker	_____
Brian Hamman	_____
Frank Mann	_____

DONE AND ADOPTED this ____ day of January 2015.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: _____
Deputy Clerk

BY: _____
Brian Hamman, Chairman

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

County Attorney's Office

**LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE**

NAME OF ORDINANCE: Impact Fees Ordinance, Amending Ord. 13-06

I. DESCRIPTION OF ORDINANCE

A. Statement of Purpose

The amendment to the Ordinance will provide a time frame for County review of permit applications submitted on or before the expiration of the two year period provided in Ordinance 13-06.

B. Narrative Summary of Ordinance (Several Sentence Summary)

Clarifies the policy on review of permits and the amount of fees due when the permit is submitted, but not approved, prior to the deadline. The amendment provides that the permittee will be afforded the ability to pay the lower impact fee rate provided under Ordinance 13-06, so long as the permit application is submitted before the expiration of the two year period provided under Ordinance 13-06 and the permit is issued on or before September 11, 2015.

B. Principal Division(s) or Department(s) Affected (List)

Department of Parks and Recreation
Department of Transportation
Department of Public Safety
School District of Lee County

Various Fire Districts

**LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE**

II. Fiscal Impact on County Agencies/County Funds

(This section to be completed by Division of Budget Services)

A. What is estimated Demand? N/A
(Develop Indicators)

B. What is estimated Workload? N/A
(Develop Indicators)

C. What are the estimated costs:

	1ST YEAR \$'s		2ND YEAR \$'s	
	Existing	New	Existing	New
PERSONNEL	N/A		N/A	
FRINGE	N/A		N/A	
OPERATING	N/A		N/A	
CAPITAL OUTLAY	N/A		N/A	
TOTAL	N/A		N/A	

D. List the anticipated revenues to cover costs identified in II.C. above. If a fee is to be charged, answer the following:

1. What is the basis (rationale) for the fee? N/A

2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered? N/A

E. Give a brief narrative analysis of the information contained in II.A. through D. above.

The fiscal impact of the ordinance change is unquantifiable.