

WORKSHOP ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
December 5, 2018

Agenda Item:

This Workshop item will continue the discussion of background and supportive materials leading up to the “Waiver of Contingencies” action on the Special Village Council meeting of December 12, 2018. No formal actions are requested of the Village Council meeting on December 5.

Description:

Most all of the materials presented at the meeting of November 28 remain current and part of the file leading to the “Waiver of Contingency” or real estate closing process.

Additional (new) information being presented includes the following:

- The draft of the 3-Party Agreement between the Village, the Trust for Public Land and Village Partners (previously referenced as Attachment “H”)
- The Property Survey (previously referenced as Attachment “D”), and
- Capital Bank response to the Village Request for Proposal for the \$20,000,000 loan. (informational only)

The only item that will ultimately require formal Village Council approval is the 3-Party Agreement.

Financial Impacts:

All information directly relates to the acquisition of the *Estero on the River* property.

Attachments:

1. 3-Party Agreement between the Village, the Trust for Public Land and Village Partners.
2. Property Survey map
3. Capital Bank RFP response dated November 14 and revised November 29, 2018.

ATTACHMENT 1

ATTACHMENT H TO NOVEMBER 28, 2018 STAFF REPORT THREE PARTY AGREEMENT

ATTACHMENT "H"

AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 2018, between THE TRUST FOR PUBLIC LAND, a nonprofit California corporation, whose address is 306 N. Monroe St., Tallahassee, FL 32301, ("TPL"), VILLAGE PARTNERS, LLC, a Florida limited partnership, whose address is 6900 Daniels Parkway, Fort Myers, Florida 33912 ("VP") and THE VILLAGE OF ESTERO, whose address is 9401 Corkscrew Palms Circle, Estero, Florida, 33928, ("Estero").

RECITALS

Whereas, TPL has a binding Option Agreement on that certain real property in Lee County, Florida, which property is more particularly described in Exhibit "A" attached hereto and incorporation herein by this reference (hereinafter referred to as the "Property") and is not presently the owner of the Property;

Whereas, the Property comprises Parcels 1, 2 and 3, as shown on the Estero On The River Master Concept Plan and the Estero On The River MPD Resolution ("MPD Resolution"), approved by Lee County Board of County Commissioners on June 4, 2007, as zoning resolution Z-07-021 ("Master Concept Plan");

Whereas, TPL has entered into a Purchase and Sale Agreement ("PSA") with Estero for the sale of the Property;

Whereas, VP is the present owner of the Property and Parcels 4 and 5 shown on the Master Plan;

Whereas, all parties recognize that the MPD Resolution applies to the properties that comprise Parcels 1, 2, 3, 4 and 5 therein;

Whereas, it is the desire of the parties to confirm certain responsibilities regarding the parcels described in the Master Plan in the event that Estero purchase the Property from TPL under the terms and conditions of the PSA;

Now, therefore, in consideration of the covenants contained herein and ten dollars (\$10.00) and other good and valuable consideration, the parties agree as follows:

1. Upon conveyance of the Property from TPL to Estero, Estero and VP agree to the following with respect to Parcels 1-5 of the Master Plan:

- a) VP or its successors, as owner of Parcels 4 and 5, may rely upon the preserve areas within Parcel 3 shown on the Estero on the River Master Concept Plan and the Estero on the River Resolution for the calculation of indigenous open space requirements for Parcels 4 and 5, if those parcels are developed in accordance with the approved Estero on the River Master Concept Plan, or if under a future alternative plan by VP or its successors no more than the same number of acres of preserve land on Parcels 4 and 5 shall be required (1.59 acres for Parcel 4 and .35 acres for Parcel 5).

dedication of the drainage maintenance and all maintenance within the river buffer from US 41 to the railroad bridge as shown on the Master Concept Plan, pursuant to Condition 4, Drainage, of the MPD Resolution.

- c) The owner of Parcels 4 and 5 will be responsible for dedication of drainage/maintenance easement to the Village, and all maintenance within the river buffer from the railroad bridge to Sandy Lane as shown on the Master Concept Plan, pursuant to Condition 4, Drainage, of the MPD Ordinance.
- d) The owner of Parcels 1, 2 and 3 will be responsible for the maintenance of the preserves within Parcels 1, 2 and 3, as shown on the Master Concept Plan.
- e) The owner of Parcels 4 and 5 will be responsible for the maintenance of the preserves within Parcels 4 and 5, as shown on the Master Concept Plan.
- f) The owner of Parcels 4 and 5 is not responsible for infrastructure improvements (roads, bridges, river walks) or monetary contributions associated with Parcels 1, 2 and 3 as shown on the Master Concept Plan and the MPD Ordinance.
- g) The owner of Parcels 1, 2 and 3 is not responsible for infrastructure improvements (roads, bridges, river walks) or monetary contributions associated with Parcels 4 and 5 as shown on the Master Concept Plan and the MPD Ordinance.
- h) The owner of Parcels 4 and 5 will retain bonus density units for Parcels 4 and 5 as shown on the Estero on the Master Concept Plan and the MPD Resolution, and is not responsible for bonus density units on Parcels 1, 2 or 3. The owner of Parcels 4 and 5 shall provide the required contribution pursuant to Village Ordinance No. 2017-03 for the use of such bonus density units.
- i) The owner of Parcels 4 and 5 shall participate in a joint effort with the Village, including funding its share of the effort applicable to Parcels 4 and 5, to accommodate a "greenway" area along the Estero River from the railroad bridge to Sandy Lane as shown on the Master Concept Plan and pursuant to Condition 6 Green ways, of the MPD Resolution.
- j) The owner of Parcels 4 and 5 shall restore any areas within Parcels 4 and 5 per the Estero on the River Restoration Plan pursuant to Condition 8 Landscape, of the MPD Resolution.
- k) The owner of Parcels 4 and 5 shall delineate a minimum 50 foot wide natural waterway buffer from the railway bridge to Sandy Lane, as shown on the Master Concept Plan and pursuant to Condition 9 Buffer, of the MPD Resolution.
- l) Nothing in this agreement shall prohibit Estero, VP, or their successors from making future application for rezoning of their respective property, and neither Estero, nor VP, nor their successors will withhold permission to file such application. The Village will consider any rezoning in the normal course of business.
- m) Parties reserve the respective mineral and mining rights that attach to the parcels which they own.

2. This Agreement shall be binding not only upon the parties but also upon their respective heirs, personal representatives, assigns and other successors in interest.

3. This Agreement satisfies any obligation any the option agreement between TPL and Village Partners for a verification letter.

4. This Agreement shall not be modified or amended except by an instrument in writing, signed by or on behalf of both parties.

5. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall be deemed an original and which, together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed and sealed by its duly authorized signatory(ies) on the dates set forth below.

SEE FOLLOWING PAGES FOR SIGNATURES

The Trust for Public Land, a
nonprofit California corporation

Witness

By: Peter Fodor
Division Legal Director

Witness

Date: _____

(CORPORATE SEAL)

Village Partners, LLC, a Florida limited liability company

Witness

By: Elizabeth D'Jamoos, Manager

Witness

Date: _____

(CORPORATE SEAL)

VILLAGE OF ESTERO

Witness

Witness

By: _____

Name: _____

Title: _____

Date: _____

Approved as to form and legality

BY: _____

EXHIBIT "A" LEGAL DESCRIPTION

STRAP NUMBERS:

33-46-25-E2-U1926.2390
33-46-25-E2-U1937.2384
33-46-25-E2-U1936.2375
33-46-25-E2-U1936.2400
33-46-25-E2-U1948.2389
28-46-25-E3-U1926.2421
33-46-25-E2-U1935.2408
33-46-25-E2-U1937.2407

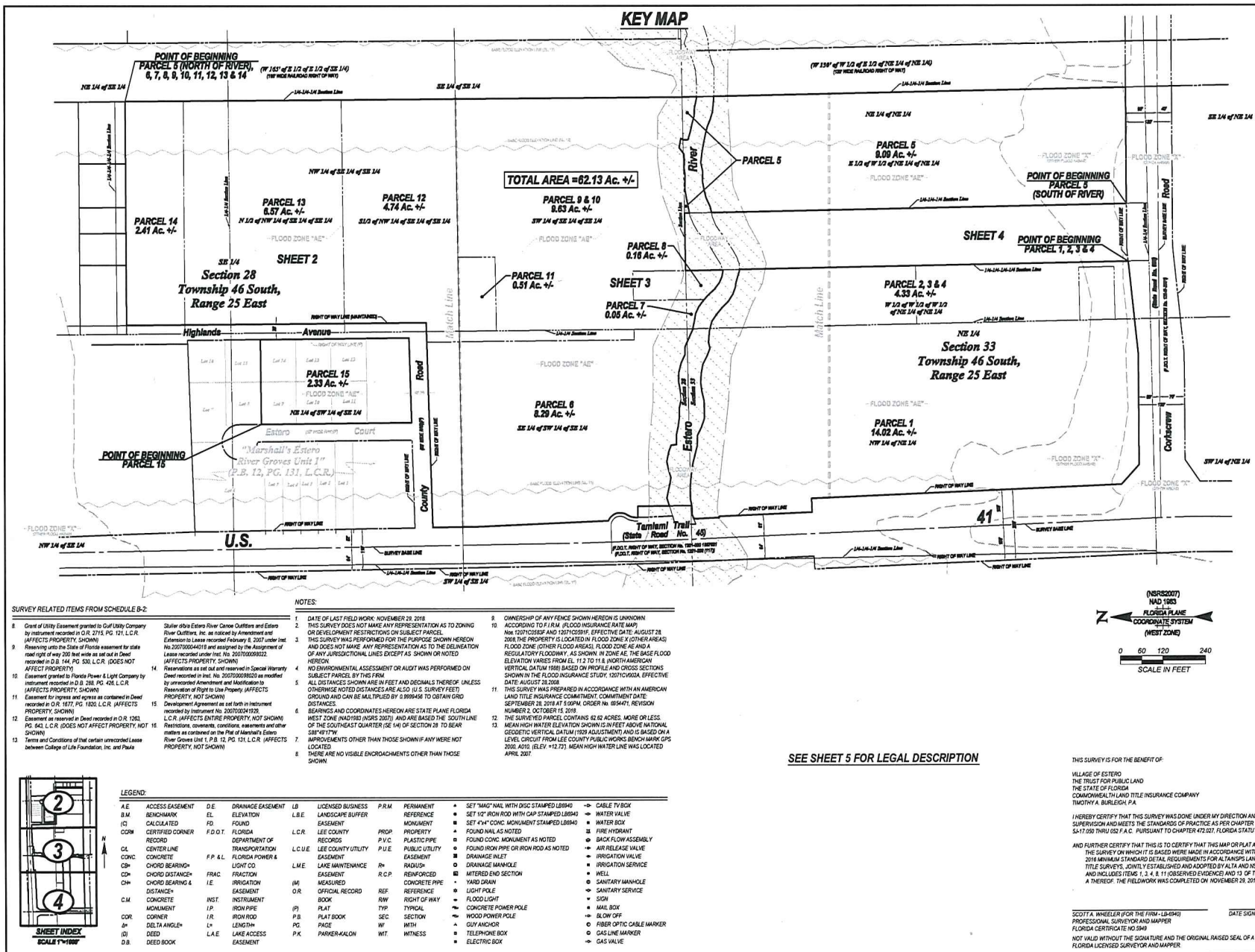
28-46-25-E3-U1944.2419
28-46-25-E3-U1939.2411
28-46-25-E3-U1937.2428
28-46-25-E3-U1944.2435
28-46-25-E3-U1944.2447
28-46-25-E3-U1944.2456
28-46-25-E3-05033.0010



ATTACHMENT 2

ATTACHMENT D TO NOVEMBER 28, 2018 STAFF REPORT PROPERTY SURVEY

ATTACHMENT D



Barraco
and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING
www.barraco.net
2271 MCGREGOR BLVD., SUITE 100
POST OFFICE DRAWER 2800
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3169

**A PARCEL OF LAND IN
SECTIONS 28 AND 33,
TOWNSHIP 46 SOUTH,
RANGE 25 EAST,
VILLAGE OF ESTERO,
LEE COUNTY, FLORIDA**

PROJECT SURVEYOR

SCOTT A. WHEELER, PLS.

5940

STATE OF FLORIDA

PROFESSIONAL SURVEYOR AND

NOT VALID WITHOUT THE SIGNATURE
AND THE ORIGINAL RAISED SEAL OF A
FLORIDA LICENSED SURVEYOR AND MAPPER

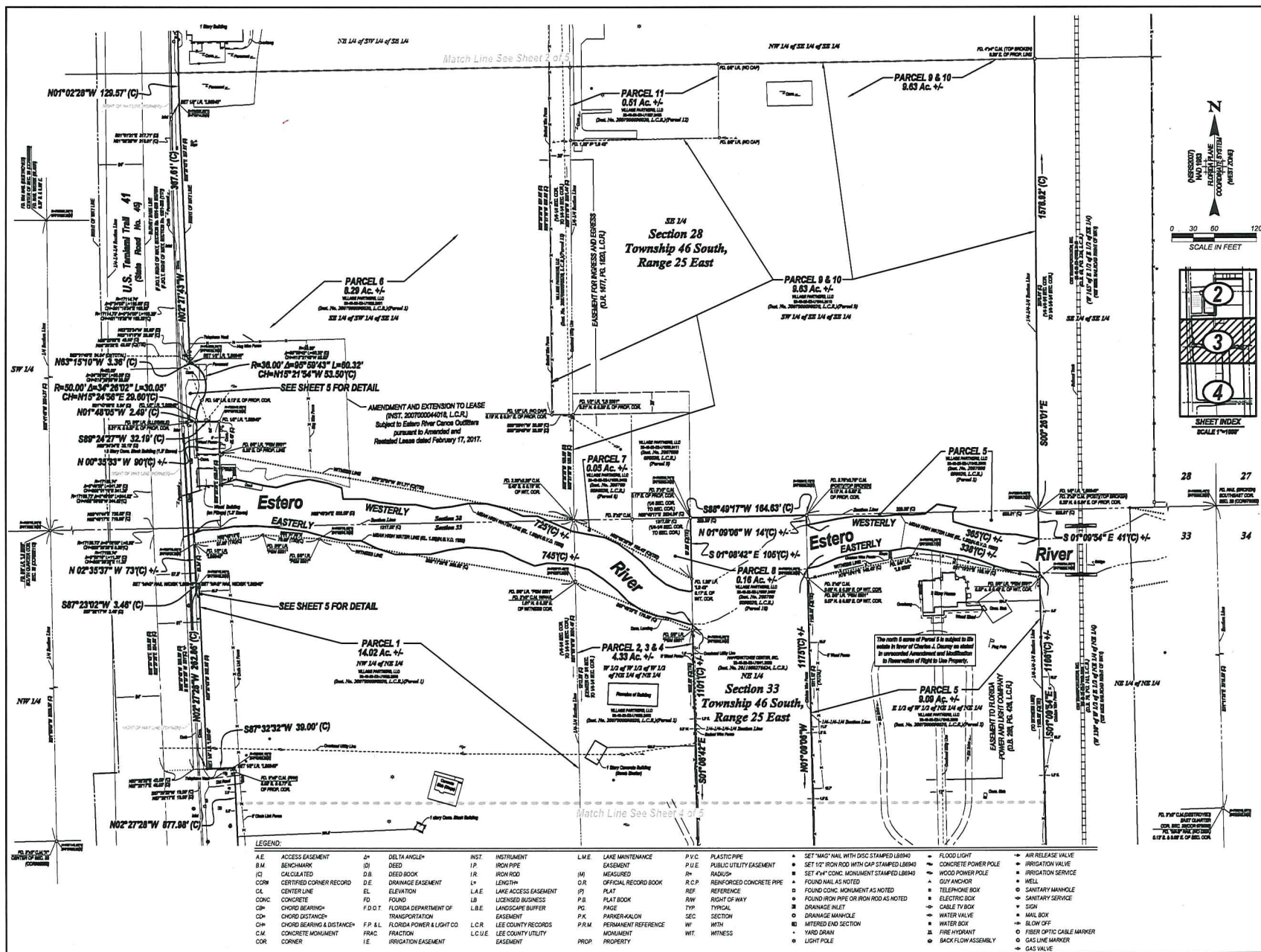
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LAYOUT	1
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PLOT DATE	WED, 11-28-2018 - 5:06 PM
PLOT BY	PETER OLSEN
DRAWING DATA	
SURVEY DATE	11-29-2018
DRAWN BY	P. OLSEN
CHECKED BY	SAW
SCALE	1"=120'
FIELD BOOK	

[illegible]

STRAAT NUMMER
ALTAIRSPRANK

ALTA/NSPS LAND
TITLE SURVEY
(BOUNDARY SURVEY)

PROJECT / FILE NO.	SHEET NUMBER
23725 28-46-25	1 OF 5



Barraco

and Associates, Inc.

CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING

www.barraco.net

2271 MAGNOLIA BLVD., SUITE 100
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3169

FLORIDA CERTIFICATE OF AUTHORIZATION
ENGINEERING 7865 - SURVEYING LB-6940

PREPARED FOR

THE TRUST FOR PUBLIC LAND

308 NORTH MONROE STREET
TALLAHASSEE, FL 32301
PHONE (850) 222-7911
WWW.TPL.ORG

PROJECT DESCRIPTION

A PARCEL OF LAND IN SECTIONS 28 AND 33, TOWNSHIP 46 SOUTH, RANGE 25 EAST, VILLAGE OF ESTERO, LEE COUNTY, FLORIDA

PROJECT SURVEYOR

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL, HANDED SEAL OF A LICENSED SURVEYOR AND MAPPER

FILE NAME: 2375581.DWG
LAYOUT: 3
LOCATION: J:\2375581\DWG\2375581.DWG
PLOT DATE: WED, 11-26-2018, 5:08 PM
PLOT BY: PETER OLSEN
DRAWING DATA
SURVEY DATE: 11-26-2018
DRAWN BY: P. OLSEN
CHECKED BY: SAW
SCALE: 1"=60'
FIELD BOOK

PLAN REVISIONS

NO.	DATE	DESCRIPTION
1	11-26-2018	ISSUED FOR PERMIT

STAMP NUMBERS

NO.	DATE	DESCRIPTION
1	11-26-2018	ISSUED FOR PERMIT

ALTANS/SPS LAND TITLE SURVEY (BOUNDARY SURVEY)

PROJECT / FILE NO.	SHEET NUMBER
23755	3 OF 5

ATTACHMENT 3



November 14, 2018 (Revised 11-29-18)

Village of Estero, Florida
9401 Corkscrew Circle
Estero, FL 33928

Re: RFP for \$20,000,000 Term Loan

Capital Bank, a Division of First Tennessee Bank National Association (the "Lender") is pleased to offer the following credit facilities commitment to Village of Estero, Florida (the "Borrower") subject to the following terms and conditions. The following information is inclusive of the primary terms and conditions of the commitment, but does not necessarily represent all of the terms and conditions (the "Commitment" or the Commitment Letter). The extensions of credit contemplated in this Commitment Letter shall hereinafter be referred to as the "Loan". Conditions or terms that are not covered or made clear below are subject to mutual agreement of all parties.

This Commitment Letter and related documents are the confidential work of the Lender and, as such, represent intellectual property not to be shared with other financial institutions or other third parties without Lender's consent except (a) to your officers, agents and advisors who are directly involved in this matter or (b) as may be compelled in a judicial or administrative proceeding or as otherwise required by law (in which case you agree to inform us promptly).

Capital Bank is a part of First Horizon National Corp (FHN on NYSE) which also operates First Tennessee Bank. First Tennessee just celebrated its 154th birthday and is the 14th oldest national bank charter in the United States. Our geographic territory is the Southeast United States with total assets of just over \$40 billion (See attached Corporate summary).

As a long time Estero resident (since 1992), I am thrilled that the Village has approved the purchase of this conservation land and would be proud to be a part of seeing it to completion with the offer to finance attached.

Sincerely,

Meriem Allgood

Meriem Allgood
Senior Vice President
Commercial Banking

**APPENDIX A
REQUEST FOR PROPOSAL
\$20,000,000
VILLAGE OF ESTERO, FLORIDA
REQUEST FOR PROPOSAL FOR TAXABLE LOAN (NON-REVOLVING)**

PROPOSER: CAPITAL BANK, A DIVISION OF FIRST TENNESSEE BANK, NATIONAL ASSOCIATION.
6435 NAPLES BLVD, NAPLES, FL 34109

CONTACT: MERIEM ALLGOOD
SENIOR VICE PRESIDENT
COMMERCIAL BANKING
MERIEM.ALLGOOD@CAPITALBANK-US.COM
239-552-1018 OFFICE
239-596-4695 FAX

BORROWER: VILLAGE OF ESTERO, FLORIDA

CREDIT FACILITY: NOT TO EXCEED \$20,000,000 TERM LOAN ("TERM LOAN")

PURPOSE: PURCHASE OF 62.2 ACRES OF LAND ADJACENT TO THE ESTERO RIVER

LEGAL EXPENSES: NOT TO EXCEED \$6,000

BANK COUNSEL: CHRISTOPHER M. HINSLEY, ESQUIRE
JONES WALKER LLP
201 SOUTH BISCAYNE BLVD
SUITE 2600
MIAMI, FL 33131
305-679-5700 OFFICE

LENDER CREDIT RATING: MOODY'S

- LONG TERM AS OF MAY 2, 2017 - BAA3
- SHORT TERM - NONE
- OUTLOOK - STABLE

FITCH

- LONG TERM AS OF MAY 22, 2018 - BBB-
- SHORT TERM AS OF MAY 22, 2018 - F3
- OUTLOOK - POSITIVE

PARTICIPATING BANKS: NONE

ANNUAL FEES: NONE

UNUSED FEES: NONE

TERM: TEN (10) YEARS

AMORTIZATION: TWENTY (20) YEARS

INTEREST RATE: OPTION A: A FIXED INTEREST RATE EQUAL TO THE TEN (10) YEAR TREASURY RATE YIELD PLUS NINETY FIVE (95) BASIS POINTS. THIS RATE CAN BE LOCKED SEVEN (7) DAYS PRIOR TO CLOSING. INDICATIVE RATE IS CURRENTLY IS 4.01%.

OPTION B: A FIXED INTEREST RATE EQUAL TO THE TEN (10) YEAR TREASURY RATE YIELD PLUS ONE HUNDRED TEN (110) BASIS POINTS. THIS RATE CAN BE LOCKED THIRTY (30) DAYS PRIOR TO CLOSING. INDICATIVE RATE IS CURRENTLY IS 4.16%.

PAYMENTS: INTEREST PAID SEMI-ANNUALLY ON MAY 1 AND NOVEMBER 1 BEGINNING MAY 1, 2019. PRINCIPAL PAID ANNUALLY ON MAY 1 WITH AN AMORTIZED TWENTY (20) YEAR LEVEL DEBT SERVICE BEGINNING MAY 1, 2019.

PREPAYMENT: PRIOR TO MAY 1, 2025 A PREPAYMENT PENALTY OF 50 BASIS POINTS WILL BE CHARGED ON THE AMOUNT OF PRINCIPAL OUTSTANDING ON THAT DATE IF THE LOAN IS PAID IN FULL FROM REFINANCE WITH ANOTHER INSTITUTION OR LENDER.

AFTER MAY 1, 2025, NO PENALTY APPLIED.

EXTRAORDINARY PREPAYMENT: NO PREPAYMENT PENALTY WILL BE APPLIED TO MANDATORY PRINCIPAL REDUCTIONS FROM THE SALE OF SURPLUS LAND (AS DEFINED IN THE RESOLUTION). BORROWER WILL ALSO BE ALLOWED TO MAKE PENALTY FREE PRINCIPAL REDUCTIONS WITH GRANT PROCEEDS OR OTHER AVAILABLE VILLAGE FUNDS. THE REDUCTIONS FROM SURPLUS LAND SALE MUST BE MADE WITHIN THE FOLLOWING INTEREST DUE DATE OF THE SALE AND NO LATER THAN THE INTEREST PAYMENT DUE DATE SIX (6) MONTHS OF THE SALE DATE.

COVENANTS & SECURITY: THE BORROWER COVENANTS TO BUDGET AND APPROPRIATE LEGALLY AVAILABLE NON-AD VALOREM REVENUES TO PAY LOAN DEBT SERVICE. IN ADDITION, AN ANTI-DILUTION TEST WILL BE REQUIRED AT LEAST 1.5X MAXIMUM ANNUAL DEBT SERVICE OF DEBT SECURED BY LEGALLY AVAILABLE NON-AD VALOREM REVENUES, WITH MAXIMUM ANNUAL DEBT SERVICE OF DEBT SECURED BY LEGALLY NON-AD VALOREM REVENUES NOT EXCEEDING 20% OF THE BORROWER'S GOVERNMENTAL FUND.

FINANCIAL REPORTING: THE BORROWER TO PROVIDE AN UNQUALIFIED AUDITED FISCAL YEAR END FINANCIAL STATEMENT WITHIN 270 DAYS OF FISCAL YEAR END ON AN ANNUAL BASIS.

CONDITIONS PRECEDENT: FAVORABLE OPINION OF THE BORROWER'S COUNSEL.

DEPOSITORY: LENDER IS NOT REQUIRING A DEPOSITORY RELATIONSHIP

LENDER'S FEI: #62-0201385

EXPIRATION DATE: THE FACILITY MUST BE CLOSED BY MARCH 1, 2019.