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COVID-19 NOTICE:

The June 16, 2021 Village Council Meeting will be conducted physically in Council Chambers at Village Hall, 9401 Corkscrew Palms Circle, with an opportunity for members to participate virtually. The meeting will be broadcasted live via the Village of Estero website link: <https://estero-fl.gov/council/watch-meetings-online/>. Access in Council Chambers will be limited in order to comply with the safety instructions relating to COVID-19. Please see page 4 of this agenda for further information and instructions for public participation.

AGENDA

VILLAGE COUNCIL MEETING

9401 Corkscrew Palms Circle, Estero, Florida

June 16, 2021 9:30 a.m.

Village Council: District 1 – Joanne Ribble; District 2 – Larry Fiesel; District 3 – Jon McLain, Vice Mayor; District 4 – Katy Errington, Mayor; District 5 – James Boesch; District 6 – Jim Ward; District 7 – Jim Wilson

1. CALL TO ORDER

INVOCATION – Pastor Carol Gates Lamb of God Church

PLEDGE OF ALLEGIANCE

ROLL CALL

2. APPROVAL OF AGENDA, ADDITIONS, AND DELETIONS

3. PUBLIC COMMENT ON NON-AGENDA ITEMS

4. CONSENT AGENDA:

(a) May 26, 2021 Council Meeting Minutes

(b) June 2, Council Meeting Minutes

5. CONSIDERATION OF ITEMS DEFERRED FROM CONSENT AGENDA

6. ACTION ITEMS:

(a) Utilities Expansion Program Management Contract

Recommended Action: Approve award of Contract to Woodard & Curran in the amount of \$159,000.

Also approve a contingency fund amount of \$15,900 (an amount equal to 10% of the total project cost) to cover unforeseen circumstances which may occur.

Authorize the Village Manager to execute the contract and any other related ancillary documents on behalf of the Village of Estero Council.

Financial Impact:

Fiscal impact is \$174,900 which included the contract amount of \$159,000 plus a 10% contingency of \$15,900.

The Fiscal Year 2020-2021 budget for Water & Sewer Expansion is \$257,400.

(b) Cloud Server Transition

Recommended Action:

Authority for the Village Manager to execute the attached three letters of engagement, or similarly priced alternatives, and other invoices related to these services.

Financial Impact:

Upfront costs are expected to be \$32,210.00, funded via the “Miscellaneous Contractual Services” account (fund # 001-800-513-5133450). A contingency is requested at \$3,221.00.

Annual costs are expected to be \$34,519.62, as compared to the estimated current annual cost of \$37,232.27 (incurred costs plus estimated annual capital depreciation costs). These new annual expenditures will replace the existing annual expenditures.

7. SECOND READINGS:

(a) Ordinance 2021-04

An Ordinance of the Village Council of the Village of Estero, Florida, Amending the Village Land Development Code to Establish Authority to Appoint Co-Chairpersons to the Planning Zoning and Design Board; Providing A Severability Clause, a General Repealer Clause, and an Effective Date.

Recommended Action: Approve Ordinance 2021-04

Financial Impact: Minor cost associated with advertising the Ordinance for second reading.

(b) Ordinance 2021-08

An Ordinance of the Village Council of the Village of Estero, Florida, Amending the Village Code, Chapter 28 – Roads and Bridges, Article VI – Commercial Use of Rights-Of-Way, Relating to Dangerous Use of Rights-Of-Way; Providing for the Prohibition of Stopping or Standing in a Median that is not a sufficient Pedestrian Refuge; Providing for the Prohibition of Physical Interaction Between a Pedestrian and an Occupant of a Motor Vehicle that is not Legally Parked; Providing for Conflict; Providing for Severability; Providing for Codification; Providing an Effective Date.

Recommended Action: Approve Ordinance 2021-08.

Financial Impact: Minor cost associated with advertisement.

8. **PUBLIC COMMENT ON NON-AGENDA ITEMS**
9. **COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS**
10. **VILLAGE ATTORNEY’S REPORT**
11. **VILLAGE MANAGER’S REPORT**

Adjourn Regular Session and Convene Workshop Items

12. **WORKSHOP ITEMS**
 - (a) TECO Peoples Gas Franchise Agreement
13. **ADJOURNMENT**

COVID-19 INFORMATION AND INSTRUCTIONS

To view and/or participate in the Village Council Meeting, the following options are available:

- 1) View the meeting online, but not participate: You may watch the meeting via the Village of Estero website link: <https://estero-fl.gov/council/watch-meetings-online/>.
- 2) View the meeting online as indicated above and provide public comment prior to the meeting by utilizing the eComment Card on the Village website: <https://estero-fl.gov/ecomment-cards/>. Please fill out all required information. Comments must be received by noon on Tuesday, June 15, 2021 and they will be distributed to the Council but will not be read at the meeting.
- 3) Council Chambers will be open to the public during the meeting, in accordance with social distancing orders. Public who attend in person may speak during scheduled public comment periods. Participants are recommended to wear their own-supplied mask.

For additional information or for special assistance prior to the meeting, please contact Carol Sacco, Village Clerk at, sacco@estero-fl.gov or 239-221-5035.

If you desire to address the Council, please complete a Public Comment Card and return it to the Village Clerk. Citizens desiring to speak must step up to the podium, state their full name and address, and whom he or she represents.

ADA Assistance – Anyone needing special assistance at the Board meeting due to a disability or physical impairment should contact Village Clerk/Executive Assistant, Carol Sacco, 239-221-5035, at least 48 hours prior to the meeting.

Pursuant to Section 286.0105, Florida Statutes: “If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a recording of the proceeding, and that, for such purpose, he or she may need to ensure that a verbatim recording of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.”

Final Action Agenda/Minutes are supplemented by audio and video recordings of the meetings, as well as transcripts. Video recordings of Village Council meetings from June 8, 2016 forward, as well as agendas, staff reports, resolutions, ordinances, and other documents related to the meetings can be viewed online at <https://estero-fl.gov/agendas/> at the corresponding meeting date.

DRAFT

FINAL ACTION AGENDA/MINUTES

VILLAGE SPECIAL COUNCIL MEETING

**Village of Estero Council Chambers
9401 Corkscrew Palms Circle
Estero, FL 33928
May 26, 2021 9:30 a.m.**

1. CALL TO ORDER

INVOCATION: Pastor Mark Goodman Christ Community Church

PLEDGE OF ALLEGIANCE: Mayor Errington.

ROLL CALL: Present: Mayor Katy Errington - District 4, Vice Mayor Jon McLain - District 3, Councilmember Joanne Ribble - District 1, Councilmember Larry Fiesel, via Zoom - District 2, Councilmember Jim Boesch - District 5, Councilmember Jim Ward - District 6. Absent: Councilmember Jim Wilson - District 7.

Also present: Village Manager Steve Sarkozy, Village Land Use Attorney Nancy Stroud, Deputy Village Manager Kyle Coleman, Senior Planner Kathy Eastley, Community Development Director Mary Gibbs, Public Works Director David Willems, Deputy Village Clerk Tammy Duran, and Village Clerk Carol Sacco.

2. APPROVAL OF AGENDA, ADDITIONS, AND DELETIONS

Motion: Motion to permit Councilmember Fiesel to participate remotely in Zoom Presentation and to Excuse Councilmember Wilson from the meeting today.

Motion by: Councilmember Ribble

Seconded by: Councilmember Boesch

Action: Approved to permit Councilmember Fiesel to participate remotely in Zoom Presentation and to excuse Councilmember Wilson from the meeting today.

Vote:

Aye: Councilmembers Boesch, Fiesel, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

Motion: Motion to approve agenda.

Motion by: Councilmember Boesch

Seconded by: Councilmember Fiesel

Action: Approved agenda.

Vote: (Roll Call)

Aye: Councilmembers Boesch, Fiesel, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

3. PUBLIC COMMENT ON NON-AGENDA ITEMS: None.

4. PUBLIC HEARING

(a) First Reading of Ordinance 2021-07 Comprehensive Plan Amendment-School Site

An Ordinance of the Village Council of the Village of Estero, Florida, Adopting an Amendment to the Village of Estero Comprehensive Plan to Amend Policy PSF-1.5.10 and Policy FLU 1.3.7 of the Comprehensive Plan to Clarify Permissible School Locations and to Amend the Future Land Use Map for a 68.5 Acre Property Described in Exhibit "A" from Wetlands and Village Neighborhood 2 to Public Facilities; Providing for Severability; Providing for Conflicts; and Providing an Effective Date.

Staff Presentation/Comments:

Steve Sarkozy, Village Manager

Mary Gibbs, Community Development Director

Presentation/Information by:

Dana Hume, P.E., Johnson Engineering, Inc.

Kathie Ebaugh, Executive Director, Operational Planning & Projects, Lee County School District

David Newlan, Executive Director, Safety, Security & Emergency Management, Lee County School District

Council Questions or Comments:

Councilmembers Boesch, Fiesel, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

The meeting went into recess at 11:10 a.m. and reconvened at 11:21 a.m.

Public Comments:

Ira Bowser, Country Creek
Ron Medek, Country Creek
Joe Miceli, Rookery Pointe
Marybeth Ocean, Copper Oaks
Edward Frantz, Copper Oaks
Daniel Ochs, Copper Oaks

Motion: Motion to approve the first reading of the ordinance and to transmit the Comprehensive Plan Amendment request to the State reviewing agencies with staff's recommended language.

Motion by: Councilmember Boesch

Seconded by: Vice Mayor McLain

Action: Approved the first reading of the ordinance and to transmit the Comprehensive Plan Amendment request to the State reviewing agencies with staff's recommended language.

Vote: (Roll Call)

Aye: Councilmembers Boesch, Fiesel, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

5. PUBLIC COMMENT ON NON-AGENDA ITEMS: None.

6. COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS

Councilmember Fiesel, Vice Mayor McLain, and Mayor Errington.

10. VILLAGE ATTORNEY'S REPORT: None.

11. VILLAGE MANAGER'S REPORT: None.

12. ADJOURNMENT at 11:55 am

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: _____

Carol Sacco, Village Clerk

By: _____

Katy Errington, Mayor

(td/CS)

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DRAFT

FINAL ACTION AGENDA/MINUTES

VILLAGE COUNCIL MEETING

**Village of Estero Council Chambers
9401 Corkscrew Palms Circle
Estero, FL 33928
June 2, 2021 9:30 a.m.**

1. CALL TO ORDER

INVOCATION: Rabbi Mendy Greenberg Chabad of Bonita Springs & Estero

PLEDGE OF ALLEGIANCE: Mayor Errington.

ROLL CALL: Present: Mayor Katy Errington - District 4, Vice Mayor Jon McLain - District 3, Councilmember Joanne Ribble - District 1, Councilmember Larry Fiesel, via Zoom - District 2, Councilmember Jim Boesch - District 5, Councilmember Jim Ward - District 6, and Councilmember Jim Wilson - District 7.

Also present: Village Manager Steve Sarkozy, Village Attorney Burt Saunders, Deputy Village Manager Kyle Coleman, Community Development Director Mary Gibbs, Public Works Director David Willems, Procurement Manager Bob Franceschini, Deputy Village Clerk Tammy Duran, and Village Clerk Carol Sacco.

2. APPROVAL OF AGENDA, ADDITIONS, AND DELETIONS

Motion: Motion to approve agenda with the addition of 7(c) – Letter to Lee County Visitor & Convention Bureau and 7(d) U.S. Army Corps of Engineers.

Motion by: Councilmember Boesch

Seconded by: Councilmember Ribble

Action: Approved agenda with the addition of 7(c) – Letter to Lee County Visitor & Convention Bureau and 7(d) U.S. Army Corps of Engineers.

Vote: (Roll Call)

Aye: Councilmembers Boesch, Fiesel, Ward, Wilson, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

3. **PRESENTATION:** Councilmember Joanne Ribble - Florida League of Cities' Home Rule HERO Award

4. **PUBLIC COMMENT ON NON-AGENDA ITEMS:** None.

5. **CONSENT AGENDA**

(a) May 19, 2021 Council Meeting Minutes

(b) Financial Report April 2021

Motion: Motion to approve the consent agenda.

Motion by: Councilmember Boesch

Seconded by: Vice Mayor McLain

Action: Approved the consent agenda.

Vote: (Roll Call)

Aye: Councilmembers Boesch, Fiesel, Wilson, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

6. **CONSIDERATION OF ITEMS DEFERRED FROM CONSENT AGENDA**

7. **ACTION ITEMS:**

(a) **Via Coconut Point Landscape Design Contract**

Staff Presentation/Comments:

Steve Sarkozy, Village Manager

Burt Saunders, Village Attorney

Council Questions or Comments:

Councilmember Boesch, and Vice Mayor McLain.

Public Comment: None.

Motion: Motion to approve award of Supplemental Task Authorization (STA) – 04 Contract EC 2020-42 to Bruce Howard & Associates under the Village's

Misc. Service Contract CN 2020-01 in the amount of \$60,000, approve award of Supplemental Task Authorization (STA) – 03 Contract EC 2020-67 to RWA Engineering under the Village’s Misc. Service Contract CN 2020-01 in the amount of \$11,700, approve a contingency fund amount of \$7,200 (an amount equal to 10% of the total project cost) to cover unforeseen circumstances which may occur, and authorize the Village Manager to execute the Supplemental Task Authorization and any other related ancillary documents on behalf of the Village of Estero Council.

Motion by: Councilmember Wilson

Seconded by: Councilmember Fiesel

Action: Approved award of Supplemental Task Authorization (STA) – 04 Contract EC 2020-42 to Bruce Howard & Associates under the Village’s Misc. Service Contract CN 2020-01 in the amount of \$60,000, approve award of Supplemental Task Authorization (STA) – 03 Contract EC 2020-67 to RWA Engineering under the Village’s Misc. Service Contract CN 2020-01 in the amount of \$11,700, approve a contingency fund amount of \$7,200 (an amount equal to 10% of the total project cost) to cover unforeseen circumstances which may occur, and authorize the Village Manager to execute the Supplemental Task Authorization and any other related ancillary documents on behalf of the Village of Estero Council.

Vote: (Roll Call)

Aye: Councilmembers Boesch, Fiesel, Wilson, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

(b) Community Development Software Consultant Contract RFI 2020-02 and Resolution 2021-14 Budget Amendment

Resolution 2021-14 of the Village Council of the Village of Estero, Florida, Approving a Budget Amendment for Fiscal Year 2020-2021 to Provide Funding for Consultant Assistance for the Acquisition and Implementation of Community Development Software; and Providing an Effective Date.

Staff Presentation/Comments:

Steve Sarkozy, Village Manager
Mary Gibbs, Community Development Director
Bob Franceschini, Procurement Manager

Council Questions or Comments:

Councilmembers Boesch, Ribble, Wilson, Ward, Vice Mayor McLain, and Mayor Errington.

Public Comment: None.

Motion: Motion to approve the selection of Provia Inc. as the consultant of record under Request for Information No. RFI 2020-02 Community Development Software Consultant and authorize the Village Manager to negotiate and execute a contract on behalf of the Village of Estero Council for a not-to-exceed amount of \$250,000 which covers an approximate time period of 18 months and approve a contingency fund amount of \$25,000 (an amount equal to 10% of the total contract cost) to cover unforeseen circumstances which may occur, and approve Resolution 2021-14.

Motion by: Vice Mayor McLain

Seconded by: Councilmember Ribble

Action: Approved the selection of Provia Inc. as the consultant of record under Request for Information No. RFI 2020-02 Community Development Software Consultant and authorize the Village Manager to negotiate and execute a contract on behalf of the Village of Estero Council for a not-to-exceed amount of \$250,000 which covers an approximate time period of 18 months and approve a contingency fund amount of \$25,000 (an amount equal to 10% of the total contract cost) to cover unforeseen circumstances which may occur, and approve Resolution 2021-14.

Vote: (Roll Call)

Aye: Councilmembers Boesch, Fiesel, Wilson, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

(c) Letter to Lee County Visitor & Convention Bureau

Staff Presentation/Comments:
Steve Sarkozy, Village Manager

Presentation/Information by:
Barry Freedman, The Vines

Council Questions or Comments:
Councilmembers Boesch, Ribble, Ward, Vice Mayor McLain, and Mayor Errington.

Public Comment: None.

Motion: Motion to support The Estero Council of Community Leaders (ECCL) to apply for a grant from the Lee County Visitor & Convention Bureau to form a Taskforce to create a Virtual Visitors Center (Destination Marketing Website).

Motion by: Councilmember Fiesel

Seconded by: Councilmember Boesch

Action: Approved the motion to support The Estero Council of Community Leaders (ECCL) to apply for a grant from the Lee County Visitor & Convention Bureau to form a Taskforce to create a Virtual Visitors Center (Destination Marketing Website).

Vote: (Roll Call)

Aye: Councilmembers Boesch, Fiesel, Wilson, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

(d) U.S. Army Corps of Engineers Letter

Staff Presentation/Comments:

Steve Sarkozy, Village Manager

Council Questions or Comments:

Councilmembers Boesch, Ribble, Ward, Vice Mayor McLain, and Mayor Errington.

Public Comment: None.

Motion: Motion to authorize the Council to sign a letter to U.S. Army Corps of Engineers regarding the blue-green algae and red tide as a result of the discharge from Lake Okeechobee

Motion by: Councilmember Ribble

Seconded by: Vice Mayor McLain

Action: Authorized the Council to sign a letter to U.S. Army Corps of Engineers regarding the blue-green algae and red tide as a result of the discharge from Lake Okeechobee

Vote: (Roll Call)

Aye: Councilmembers Boesch, Fiesel, Wilson, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

8. FIRST READINGS:

(a) Ordinance 2021-04

An Ordinance of the Village Council of the Village of Estero, Florida, Amending the Village Land Development Code to Establish Authority to Appoint Co-Chairpersons to the Planning Zoning and Design Board; Providing A Severability Clause, a General Repealer Clause, and an Effective Date.

Staff Presentation/Comments:
Steve Sarkozy, Village Manager

Council Questions or Comments: None.

Public Comment: None.

Motion: Motion to pass first reading of Ordinance 2021-04 and set second reading for June 16, 2021.

Motion by: Councilmember Boesch

Seconded by: Councilmember Ward

Action: Passed first reading of Ordinance 2021-04 and set second reading for June 16, 2021.

Vote: (Roll Call)

Aye: Councilmembers Boesch, Fiesel, Wilson, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

(b) Ordinance 2021-08

An Ordinance of the Village Council of the Village of Estero, Florida, Amending the Village Code, Chapter 28 – Roads and Bridges, Article VI – Commercial Use of Rights-Of-Way, Relating to Dangerous Use of Rights-Of-Way; Providing for the Prohibition of Stopping or Standing in a Median that is not a sufficient Pedestrian Refuge; Providing for the Prohibition of Physical Interaction Between a Pedestrian and an Occupant of a Motor Vehicle that is not Legally Parked; Providing for Conflict; Providing for Severability; Providing for Codification; Providing an Effective Date.

Staff Presentation/Comments:
Steve Sarkozy, Village Manager

Council Questions or Comments: None.

Public Comment: None.

Motion: Motion to pass first reading of Ordinance 2021-08 and set second reading for June 16, 2021.

Motion by: Councilmember Boesch

Seconded by: Councilmember Ward

Action: Passed first reading of Ordinance 2021-08 and set second reading for June 16, 2021.

Vote: (Roll Call)

Aye: Councilmembers Boesch, Fiesel, Wilson, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

Nay:

Abstentions:

9. PUBLIC COMMENT ON NON-AGENDA ITEMS: None.

10. COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS

Councilmembers Fiesel, Wilson, Ward, Ribble, Vice Mayor McLain, and Mayor Errington.

11. VILLAGE ATTORNEY'S REPORT: None.

12. VILLAGE MANAGER'S REPORT: None.

Adjourn Regular Session at 10:37 am and Convene Workshop Items at 10:49 am

13. WORKSHOP ITEMS:

(a) FY 21-22 Budget Introduction

Staff Presentation/Comments:

Steve Sarkozy, Village Manager

Kyle Coleman, Deputy Village Manager

Council Questions or Comments:

Councilmember Boesch.

Public Comment: None.

(b) RFP for State Legislative & Executive Branch Lobbying Services

Staff Presentation/Comments:

Steve Sarkozy, Village Manager
Bob Franceschini, Procurement Manager

Council Questions or Comments:

Councilmember Ribble and Vice Mayor McLain

Public Comment: None.

(c) Cloud Server Transition

Staff Presentation/Comments:

Steve Sarkozy, Village Manager
Kyle Coleman, Deputy Village Manager

Council Questions or Comments:

Councilmembers Boesch, Ward, Fiesel, and Mayor Errington

Public Comment: None.

14. ADJOURNMENT at 11:26 am

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: _____

Carol Sacco, Village Clerk

By: _____

Katy Errington, Mayor

(td/CS)

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
June 16, 2021

Agenda Item:

Utilities Expansion Program Management Contract

Description:

The Village has prioritized protecting the Estero River, and as such, is considering a Utilities Expansion program. To fully understand, consider and execute a Utilities Expansion program, the Village requires the assistance of a program manager.

Following several months of discussions with various contractors, the Village is recommending the selection of Scott Shannon, of Woodard & Curran, to serve as its Program Manager. In this role, Scott would act as an extension of Village Staff, garnering public input, facilitating the Council decision-making process, completing grant applications, implementing assessments (as needed), and overseeing the design and bidding processes. Woodard & Curran, and Scott Shannon in particular, offer a great deal of experience and expertise in completing these tasks, as outlined in the April 21st Village Council workshop session.

This approach mirrors a similar program manager role currently in place for Public Works projects and an upcoming proposal for a software conversion effort. By hiring a program manager via contract, the Village is able to quickly “ramp up” management capacity for specific projects while maintaining the lowest staff level in this region. In so doing, the Village can complete projects without compromising our long-term commitment to “government-lite.”

Action Requested:

Approve award of Contract to Woodard & Curran in the amount of \$159,000.

Also approve a contingency fund amount of \$15,900 (an amount equal to 10% of the total project cost) to cover unforeseen circumstances which may occur.

Authorize the Village Manager to execute the contract and any other related ancillary documents on behalf of the Village of Estero Council.

Financial Impact:

Fiscal impact is \$174,900 which included the contract amount of \$159,000 plus a 10% contingency of \$15,900.

The Fiscal Year 2020-2021 budget for Water & Sewer Expansion is \$257,400.

Attachments:

1. Woodard & Curran Contract
2. Vendor Disclosure Form

Via Electronic Mail

June 9, 2021



Mr. Kyle Coleman
Deputy Village Manager
Village of Estero
9401 Corkscrew Palms Circle
Estero, FL 33928

Re: Utilities Expansion Program Management Proposal

Dear Mr. Coleman:

Woodard & Curran is pleased to provide this proposal for Program Manager services for the Village of Estero's Utilities Expansion Program. We understand the Village has recently completed a Feasibility Study performed by Banks Engineering. The Study identified fifteen (15) areas on septic systems and private mobile home parks relying on packaged wastewater treatment facilities that are relatively close to the Estero River or other drainage ways. The study included the feasibility of extending approximately 60,000 LF of gravity sewer, 10,000 LF of wastewater force mains, twelve wastewater lift stations and 40,000 LF of water main. The total estimated construction cost to provide central sewer and to extend the drinking water system in the identified areas is approximately \$40M.

SCOPE OF GENERAL SERVICES

Woodard & Curran will provide Program Manager services to coordinate and manage the planning, design, and construction process of the utilities expansion project(s) to assure that design, construction, and other related activities are implemented, monitored, maintained, and integrated consistent with the established budget and other objectives on behalf of the Village of Estero. This proposal comprises the services to be provided during the planning and design phases (Phases 1A and 2A) for an initial group of three or four communities that will be chosen from the following through the planning process described herein.

- Broadway West
- Charing Cross
- Sherrill & Leuttich
- Estero Bay Village
- Broadway West & US 41
- Cypress Bend
- Sunny Groves
- Broadway East and US 41
- Sandy Lane & The Groves
- Tanglewood
- Cypress Park
- See See
- River Ranch
- Estero Springs
- Williams West



Planning and design phase services for the remaining communities not part of the initial group will be performed in a subsequent phase of the work (Phases 1B and 2B).

Phase 1A - Planning Phase Services:

Task 1: Planning Program Management

Woodard & Curran's responsibilities will include serving as an extension of Estero's project management staff, working closely with the Village's internal and external support staff to deliver a quality project(s). Woodard & Curran will provide the following:

1. Project Kick Off Meeting to review project, establish goals and timelines.
2. Review existing engineering reports, utility maps and related data available from sources including the Village of Estero, Lee County and Florida Gulf Coast University
3. Suggest project prioritization based on a variety of criteria including criticality, funding opportunities, cost of the project and interest from property owners.
4. Manage the public decision-making process, including stakeholder outreach and Council discussion sessions, to arrive at a project prioritization plan.
5. Review pertinent, existing ordinances and governing documents, provide recommendations to Village Staff, and work with the Village Staff to update ordinance language, as necessary.
6. Review the existing utility rate and fee structure, evaluate impacts of proposed projects on property owners and provide a summary with recommendations to the Village staff.
7. Determine the value of property assessments for the improvements to be made in each community and coordinate with the Village's legal counsel, Lee County Property Appraiser and Tax Collector to manage the assessment process.
8. Serve as the lead to prepare project presentations enabling the Village Staff to convey concise progress updates before the Village Council and public.
9. Attend public meetings, when requested, to deliver or support progress updates and discussions.

Deliverable: Council action that clearly outlines priorities and a general schedule/plan for the program.

Task 2: Financial Initiative Plan

Woodard & Curran will develop a "Financial Initiative Plan" (FIP), which includes overlaying the prioritized utilities expansion projects with funding programs whose drivers match specific elements of the defined projects. The following are examples of agencies that provide financial assistance to municipalities that are seeking to implement these types of projects:

- Green Project Reserve (GPR) – applications accepted on rolling basis
- US Economic Development Administration (USEDA) - applications accepted on rolling basis
- Florida Legislature (LP)
 - Applications are typically accepted in the 1st quarter of the calendar year
 - Results are based upon final budget approval by the Governor – July 1
 - Agreements are typically formalized by September-October
- Federal Earmark (FE)
 - Applications due in April
 - Agreements typically finalized within 60-90 days following final budget approval
- US Department of Agriculture (USDA) - applications accepted on rolling basis
- P3 Initiative Investigation (P3) – ongoing process
- State Revolving Loan Fund (SRF) – applications accepted quarterly
- Water Management District (WMD)



- Cooperative Funding Applications typically open in December with agreements by October of the following year.
- Alternative Water Supply and Conservation Applications – Typically due in 1st quarter with agreements by May/June
- Florida Department of Economic Opportunity – applications accepted on rolling basis

Fact Finding: Collect and evaluate the following data:

- Customer base population and demographics, including Median Household Income (MHI). Given the potential advantage of using MHI statistics specific to the affected communities rather than more general census tract information, this task will include a separate allowance for gathering this information by conducting door-to-door surveys and supplemental communications, as necessary.
- Area Needs Assessment
- Long-term O&M Capacity
- Estero 20-year Capital Improvement Program
- Summary of existing debt and associated debt service
- Preliminary project cost estimate
- Critical pre-construction needs
- Recent 3-year CAFR's
- Current Budgets
- User Rate Ordinances
- Existing inter-governmental agreements (if any)
- Existing Resolution/Ordinance for Developer's
- Current Economic Development Opportunities (if any).

Analysis: This will include an analysis of accessible funding within each program, timelines associated with NOFA's (Notice of Funding Availability), proposed level of effort for application purposes, leverage requirements, and percentage of match required.

The following objectives will be included:

- Funding Summary,
- Opinion of Probable Cost
- Funding Options (Grants vs. Loan)
- Viable Resources
- Administration Requirements
- Alternative Finance Recommendation
- Funding Scenario Spreadsheet
- Schedule

Deliverables: Financial Initiative Plan Summary Technical Memorandum & Council action that demonstrates “buy-in” on a funding plan. Development and submittal of funding applications for up to three grant/loan programs identified in the Financial Initiative Plan.



Task 3: Public Outreach

Woodard & Curran will work with the Village to develop a public outreach plan that:

- Supports the Village with a continuous outreach program.
- Identifies opportunities, effective channels, and frequency of outreach within the community.
- Provide supporting materials based upon plan recommendations.
- The program will include public outreach and education that may take the form of formal and informal public meetings, maintaining lists of stakeholders, educational materials, newspaper articles, surveys, development of frequently asked questions, and establishing and developing a project webpage.
- Attend and assist the Village in various project briefings and presentations before committees, public groups, and staff.
- Scrutinize and vet deliverables prior to public distribution or presentation.
- Discussion and negotiation with stakeholders regarding river frontage restoration efforts.

Deliverable: Public Outreach Plan and completion of public meetings with Council and stakeholders (this will be ongoing throughout the project).

Task 4: RFQ Development, Solicitation, and Selection Services

Woodard & Curran will develop the scope of services for a Request for Qualification of Engineering Services for water and wastewater design services. Woodard & Curran will assist the Village with the review, interview, recommendation, and selection of an engineering consultant to perform the identified Septic-to-Sewer and drinking water system extension project.

Deliverable: Scope of Services for RFQ for Water and Wastewater Engineering Design Services

Task 5: Project Management

Woodard & Curran will provide the following project management items:

- Develop a project management work plan and associated planning for project delivery.
- Prepare and monitor project schedules and budgets.
- Prepare and submit monthly invoices.
- Provide overall project management and coordination with the Village.
- Perform internal quality assurance/quality control procedures for all work products of the task order.

Deliverable: This task is ongoing and embedded into each task and phase of this project.

Phase 2A - Design Phase Services:

Woodard & Curran will serve as the “technical eyes and ears” of the Village to ensure:

- 1) a technically sound design;
- 2) compliance with the consultant(s) contract requirements;
- 3) coordination with other related Village activities/projects; and
- 4) communication of project progress.

The Program Manager’s primary functions during the design phase will include:

1. Serve as an Independent Consultant and Aide to the Village.
2. Oversee and monitor the activities and responsibilities of the Design Engineer to assure the Village that they are fulfilling their contractual obligations.



3. Collaborate with the Design Engineer to confirm the operational needs identified during the previous studies, plans, and conceptual design to put forward a project program maximizing efficiencies and providing a fully functioning wastewater collection and water distribution system.
4. Serve as the lead to finalize an overall project schedule.
5. Review the Construction Cost Estimates and identifying areas of potential savings early in the process (e.g., space planning, selection of materials, lift station mechanicals, etc.) and working directly with the Designer and Cost Estimator to present a peer reviewed total project budget, vetting all soft costs, contingencies, and line items.
6. Coordination of the procurement of other professionals if necessary, to resolve identified issues and reduce project uncertainties.
7. Provide coordination, advice, and assistance to the Village in the development of the final design documents.
8. Lead the evaluation, analysis, and recommendation of other Contractors, investigate references, and make recommendations for award.
9. Provide the Village with written updates on the overall status and progress of the work with particular emphasis in identifying key action items over the forthcoming thirty (30) day period.
10. Coordinate all permitting activities as necessary to allow for approvals to occur in a timely fashion.
11. Evaluate invoices of various project consultants and provide recommendation for payment.

Deliverable: Council approval of design and authorization to move forward to construction. Development of Scope of Services for RFB for construction services and implementation of funding mechanism(s) (grant(s) acceptance, bond approval, assessment completion, etc.).



Schedule

Phase 1A of the Program Manager services (Planning Phase) is expected to commence on or about April 1, 2021 and concluding with the affected parcels being assessed for the cost of the improvements on October 1, 2022, a period of 18 months.

Phase 2A (Design Phase) is expected to commence with the selection of the Design Engineer by September 30, 2021 and continue in parallel with Phase 1A through completion of design by June 1, 2022, a period of eight months.

Based on this schedule, the subsequent construction phase is anticipated to proceed on the following timeline:

- Issue Request for Bids from Construction Contractors – 4th Quarter 2022
- Award Construction Contract and Issue Notice to Proceed – 1st Quarter 2023
- Complete Construction – 2nd Quarter 2024

In addition to the overall coordination required from the Village, this schedule assumes the following actions to be taken by the Village in a timely manner:

- Approval of the overall Program Plan, including decision on which communities will be included in the initial phase, by July 15, 2021.
- Issue RFQ for Design Engineer by July 30, 2021
- Award Design Contract and Issue Notice to Proceed by September 30, 2021
- Develop boundary definition and approve resolution by December 31, 2021

Compensation

The compensation for the above listed Scope of Services shall be a lump sum of \$159,000. This includes a lump sum fee of \$139,000 and a separate allowance of \$20,000 for community MHI surveys that will be performed on an hourly rate, not-to-exceed basis. These fees will not be exceeded without prior approval from the Village. Any additional services that may be requested by the Village will be provided as an amendment to this scope. Woodard & Curran will submit monthly invoices for the services completed during the previous billing period.

The fee to perform the phases described in the Scope of Services is based on the following budget:

| Task | Description | Fee |
|--------------------------------|--|------------------|
| Phase 1A | | |
| 1 | Planning Program Management | \$51,000 |
| 2 | Financial Initiative Plan | \$9,000 |
| | Additional Allowance for Community-Specific MHI Survey | \$20,000* |
| 3 | Public Outreach | \$22,000 |
| 4 | RFQ Development, Solicitation and Selection Services | \$8,000 |
| 5 | Project Management | \$8,000 |
| Phase 1A Subtotal | | \$118,000 |
| Phase 2A Subtotal | | \$41,000 |
| TOTAL (Phase 1A and 2A) | | \$159,000 |

* Community-Specific MHI Survey will be performed on an hourly rate, not-to-exceed basis. All other tasks in the scope will be performed as a lump sum.



ANTICIPATED FUTURE SCOPE ITEMS

The following phases of the project are anticipated to be provided upon completion of Phases 1 and 2A. A separate proposal will be provided for these services, but scope descriptions are provided here for reference.

Phase 1B – Continuation of Planning Phase Services

Woodard & Curran will continue to perform the scope of services described in Phase 1A, to the extent these tasks need to be continued to support the ongoing design and construction of the remaining septic-to-sewer and drinking water system extensions.

Phase 2B - Design Phase Services for the Remaining 12 Areas:

Woodard & Curran and Curran will repeat the scope of services described in Phase 2A, but for the remaining areas identified for septic-to-sewer and drinking water system extensions.

Phase 3: Construction Services

During the construction phase, Woodard & Curran will coordinate with the Contractor and Design Engineer to ensure the Village that:

- 1) construction is completed in accordance with the approved design;
- 2) the Contractor's work complies with contract requirements;
- 3) coordination with other related Village activities/projects; and
- 4) communication of project progress.

The Program Manager's primary functions during the construction phase will include:

1. Provide, as an advisor and representative of the Village, administrative, management, site inspections, and related services as required to coordinate work of the Contractor, Subcontractor(s), and other consultants to complete the projects in accordance with the Village's objectives for cost, time, and quality.
2. Review and approve the Contractor's and Design Engineer's schedule of values for payment for conformance with the expected scope and schedule of the work.
3. Oversee the activities and responsibilities of the Contractor to assist in maintaining schedules, controlling costs, assuring quality, minimizing disruptions, monitoring compliance with various Contract requirements (including local hiring provisions), and generally assuring that the Project is built according to approved designs, drawings, and other relevant construction contract documents.
4. Prior to the start of construction, convene pre-construction meetings as needed to coordinate and communicate duties and responsibilities to all parties involved. Review and comment on the Contractor's Master Project Construction Schedule
5. Develop and implement control systems for monitoring the project's progress with respect to cost, schedule, and quality for providing early warning of impending problems. Prepare contingency plans for corrective action, and with the Village's approval, implement such plans for corrective action, as required.
6. Schedule and conduct regular construction and progress meetings to discuss such matters as procedures, commissioning work, progress problems, and scheduling. Prepare and distribute the minutes of these meetings to all Parties in a prompt fashion.



7. Update and issue the Master Project Construction Schedule monthly to show current conditions and revisions required by actual experience. Consistent with the Contractors' Construction Schedule, monitor the activities of the Contractors and Consultants on the projects, including activity sequences and duration, allocation of labor and materials, processing of Shop Drawings, Project Data and Samples, and delivery of products requiring long lead time procurement.
8. Expedite and participate in the Village's review of project data, submittals, and samples.
9. Endeavor to obtain satisfactory performance from each of the Contractor(s). Recommend courses of action to the Village when the requirements of the Contract are not being fulfilled, and the nonperforming party will not take satisfactory corrective action.
10. Provide regular monitoring of the construction costs, showing actual costs for activities in progress and estimates for unaccomplished tasks. Identify variances between actual and established costs and advise the Designer and Village if project costs are expected to exceed the respective contract sums.
11. Advise the Village of necessary or desirable changes to the project, assist in negotiation of the Contractor's proposals for these changes, submit recommendations to the Designer and the Village, and, if accepted, prepare or cause the Contractor to prepare change orders for the Designer's approval and the Village's authorization. Establish and implement a change order system monitoring and reporting on job cost events, including approved change orders, pending change orders, and anticipated change orders. Establish a timeline for the change order process that does not interfere with the progress of the work.
12. Develop and implement procedures for the prompt review and processing of Applications for Payment from the Contractor for progress and final payments, including certification requirements by the Designer. Make recommendations to the Village for payment(s).
13. Participate in the implementation of the safety programs of each of the Contractors as required by their Contract documents.
14. Assist in obtaining building permits and special permits for permanent improvements, excluding permits required to be obtained directly by the Contractor(s). Verify that the applicable fees and assessments have been paid. Assist in obtaining approvals from authorities having jurisdiction over the projects.
15. Assist the Village in selecting and retaining the professional services for third party inspections and testing laboratories. Assist the Contractor with the coordination of these services.
16. Make weekly checks of all payroll records provided by the Contractor(s) to ensure that all state wage reporting requirements are fully adhered to.
17. Ensure that proper record keeping of all types, plans, specifications, submittals, schedules, progress photographs, equipment operation manuals, etc., related to the quality and nature of the construction in progress is being maintained on the job site by the Contractor(s) and the Clerk of the Works for review by the Design Engineer and the Village.
18. Coordinate the commissioning work with all parties involved, to ensure that the commissioning activities are being incorporated into the Master Project Schedule.
19. Assist the Village in the selection and/or procurement of building equipment, furnishings and other materials, and coordinate vendor services.
20. At the conclusion of the project, coordinate the assembly of all record / as-built drawings, operation manuals, all other construction related documents and all materials necessary for occupancy and full operation of the facilities.
21. Manage on behalf of the Village the planning and training required for operations and maintenance activities.

Deliverable: Completion of Utilities Expansion Projects (for identified areas).



Woodard & Curran appreciates the opportunity to present this proposal to assist the Village of Estero, and we look forward to working in partnership with you to implement this important initiative. If you have any questions or require any additional information, please feel free to contact me directly.

Sincerely,

WOODARD & CURRAN, INC.

A handwritten signature in blue ink, appearing to read "Scott Shannon".

Scott Shannon, PE

Principal

407.580.1707

sshannon@woodardcurran.com

THIS AGREEMENT, is made and entered into this ____ day of _____ 20__ by and between the Village of Estero, a municipal corporation of the State of Florida, whose address is 9401 Corkscrew Palms Circle #101, Estero, Florida 33928, hereinafter referred to as the “Village”, and Woodard & Curran, Inc. whose address is 210 South Florida Avenue, Suite 220, Lakeland, FL 33801 hereinafter referred to as the “Consultant.”

WITNESSETH

WHEREAS, the Village has determined that it is necessary to retain the Consultant for the purpose of providing General Consulting Services providing Utilities Expansion Program Management Services; and

WHEREAS, the Consultant is qualified, willing and able to provide and perform all such services in accordance with the terms and conditions of this contract and their “Utilities Expansion Program Management Proposal” dated March 24, 2021 attached to this contract as part of Exhibit B; and

WHEREAS, the Consultant’s proposal was reviewed and selected on May 5, 2021 by the Village Council; and

WHEREAS, the Village, has determined that it would be in the best interest of the Village to award a contract to Consultant for the rendering of those services described in the Scope of Services until the work is completed to the satisfaction of the Village.

NOW, THEREFORE, the Village and the Consultant, in consideration of the mutual covenants contained herein, do agree as follows:

ARTICLE 1.

RECITALS & INCORPORATION OF DOCUMENTS

1.1. The above-stated recitals are incorporated by this reference and made part of this Agreement.

1.2 The “Utilities Expansion Program Management Proposal” dated March 24, 2021 consisting of pages 1 through and including 9 attached as part of Exhibit B submitted by Consultant is hereby specifically made part of this Agreement as if same had been set forth at length herein.

1.3 In the event of any conflict between the documents constituting this Agreement, the documents shall be given precedence in the following order:

- 1) This Agreement and any Exhibits or Amendments thereto;
- 2) The Proposal submitted by Consultant.

ARTICLE 2.
CONSULTANT'S SCOPE OF SERVICES

2.1. Consultant agrees to perform all the services and provide all the materials requested and described in the Scope of Work which is attached hereto as Exhibit A and incorporated herein by this reference, which are hereinafter collectively referred to as the "Scope of Services".

2.2. Consultant agrees to provide its services and materials in the times allowed for performance contained in the Scope of Services. The Consultant will make no claims for additional compensation or damages owing to suspensions, delays, or hindrances which arise during the performance of this Agreement. Such suspensions, delays or hindrances may only be compensated for by an extension of time as the Village may decide. However, such extension will not operate as a waiver of any other rights of the Village.

2.3. In the event that Village desires Consultant to perform any additional services related to tasks not specifically contained in the Scope of Services, the Village Manager is authorized to approve such services based on the costs contained in Exhibit B provided the total amounts expended to do not exceed the limitation of paragraph 3.1.

ARTICLE 3.
COMPENSATION AND PAYMENT OF CONSULTANT'S SERVICES

3.1. Village will pay Consultant for those tasks listed in the Scope of Services actually performed by Consultant. The total payment to Consultant will not exceed \$159,000 (plus any contingency which may be approved) for Consultant's services under this Agreement, performed in accordance with the Scope of Services and this Agreement.

3.2. Payment for services rendered by Consultant will be made on a monthly basis for those tasks listed completed in the preceding month. Services completed will be subject to review and approval by the Village Manager or his designee.

3.3 Payment for tasks will be as per Exhibit B attached hereto.

3.4. Consultant must submit all billings for payment of services rendered on a monthly basis to the Village Finance Department (please email all billing invoices to: accountspayable@estero-fl.gov) for processing. Billings will be detailed as to the nature of the services performed and must refer to the specific tasks listed in the Scope of Services that were actually performed by Consultant. When hourly billing is utilized, Consultant must report the number of hours on each task in 6-minute increments (tenths of an hour) in its invoices. Billings must include a summary of any amounts previously billed and any credits for amounts previously paid.

3.5. Consultant acknowledges that each billing must be reviewed and approved by the Village Manager or his designee. Should the Village Manager or his designee, determine that the billing is not commensurate with services performed, work accomplished or hours expended, Consultant must adjust billing accordingly. However, Consultant will be entitled to payment of any portion of a billing not in dispute.

3.6. Village will pay Consultant's monthly billings in accordance with Sections 218.70 through 218.80, Florida Statutes, known as the Local Government Prompt Payment Act.

3.7. It is expressly understood by the Village and the Consultant that funding for any successive fiscal years may be contingent upon appropriation of monies by the Village Council or other entities. In the event that funds are not available or appropriated, the Village reserve the right to terminate the Agreement without penalty or liability. Termination will occur (1) upon notice to the Consultant or automatically (2) on the last day of the then current fiscal year or (3) when the appropriation made for the then-current year or specific appropriation for the services covered by this Agreement is spent, whichever event occurs first.

ARTICLE 4. **CONSULTANT'S RESPONSIBILITIES**

4.1. Consultant will perform or furnish consulting and related services to a level of technical skill, ability, and diligence customarily provided by an experienced professional in their field of expertise when rendering the same services, and in accordance with sound principles and practices generally acknowledged by professionals in their field of expertise, as represented to the Consultant, both orally and in writing, to be possessed by Consultant, all in accordance with the standards contained elsewhere in this Agreement and in accordance with generally accepted standards of professional consulting practice and with the laws, statutes, ordinances, codes, rules and regulations governing Consultant's profession. The same standards of care will be required of any subconsultant or subcontractor engaged by Consultant.

4.2. Consultant will be solely responsible for providing their own business equipment, including any vehicles necessary for the performance of their work, and for paying all expenses incurred while performing the services set forth in this Agreement. Expenses to be borne by Consultant include, but are not limited to, license fees, memberships, and dues; automobile and other travel expenses; meals and entertainment; and any applicable insurance premiums. Consultant will be reimbursed for certain allowable expenses upon submission to the Village, used in connection with the services performed pursuant to this Agreement.

4.3. Consultant will, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the negligent act, error or omission of Consultant or any subconsultant or subcontractor engaged by Consultant for one year after the completion of Consultant's services under this Agreement. The foregoing shall be construed as an independent duty to correct rather than a waiver of the Village's rights under any applicable statute of limitations. Village review of, approval of, acceptance of, or payment for any of Consultant's work product, services, or materials shall not be construed to operate as a waiver of any of the Village's rights under this Agreement, or cause of action Village may have arising out of the performance of this Agreement.

4.4. Consultant will, without additional compensation, correct and revise any minor deficiencies in its work product identified that can be addressed in process, even if the deficiencies would not be deemed to arise from a negligent act, error or omission of

the Consultant. Minor deficiencies include but are not limited to changes in Americans with Disability Act requirements.

4.5. Consultant will be responsible for notifying the Village promptly whenever a delay is anticipated or experienced, including a delay in approval by any governmental agency having jurisdiction over any work task. The Village shall allow the Consultant to extend response times for valid, documented delays. The Village shall be the sole determiner of the validity of the delays.

ARTICLE 5. OWNERSHIP AND USE OF DOCUMENTS

5.1. All documents, data, studies, surveys, analyses, sketches, tracings, specifications, plans, designs, design calculations, details, computations, drawings, maps, models, photographs, reports, and other documents and plans resulting from Consultant's services under this Agreement will become the property of and shall be delivered to the Village without restriction or limitation as to use regardless of the format of the document (paper or electronic). However, any use subsequent to or other than for the specific project for which such items were created, shall be at sole risk of the Village.

5.2. Consultant agrees that any software, computer systems and databases used for providing the documents necessary to this Agreement will be compatible with existing Village software and systems. It is anticipated that any software utilized will be run on windows based PC's and will consist of Microsoft Office 2013 (or newer) and Adobe Acrobat DC (or newer).

ARTICLE 6. VILLAGE'S RESPONSIBILITIES

6.1. The Village will perform the responsibilities contained in this Article 6 in a timely manner so as not to delay the services of Consultant.

6.2. The Village will furnish to Consultant, upon request of Consultant and at Village's expense, all existing studies, reports and other available data pertinent to the services to be performed under this Agreement which are within the Village's possession. However, Consultant will be required to evaluate all materials furnished hereunder using reasonable professional judgment before relying on such materials.

6.3. The Village will provide reasonable access and entry to all public property required by Consultant to perform the services described in this Agreement. All such access and entry shall be provided at the Village's expense. The Village will also use reasonable efforts to obtain permission for reasonable access and entry to any private property required by Consultant to perform the services described in this Agreement.

6.4. The Village will review all documents, plans, or other materials provided by Consultant in a timely manner so as to not delay the process of the Consultant.

ARTICLE 7.
TERM / TERMINATION

7.1. The term of this Agreement will begin on the date and year first written above and shall be continued until superseded by a subsequent Village agreement, the monetary limit in 3.1 is reached, or unless otherwise terminated in accordance herewith.

7.2. The Village will have the right at any time upon thirty (30) calendar days written notice to the Consultant to terminate the services of the Consultant and, in that event, the Consultant must cease work and will deliver to the Village all documents, (including reports, designs, specifications, and all other data) prepared or obtained by the Consultant in connection with its services. The Village will, upon receipt of the aforesaid documents, pay to the Consultant, and the Consultant will accept as full payment for its services, fees for all tasks completed in accordance with Scopes of Services.

7.3. In the event that the Consultant has abandoned performance under this Agreement, then the Village may terminate this Agreement upon three (3) calendar day's written notice to the Consultant indicating its intention to terminate. The written notice will state the evidence indicating the Consultant's abandonment. Payment for services performed prior to the Consultant's abandonment will be as stated in Section 3 above.

ARTICLE 8.
NOTICES

8.1. Any notice required or permitted to be sent herein shall be sent certified mail, return receipt requested to the parties at the addresses listed above to the designated contacts below:

Consultant: Woodard & Curran, Inc.

Village: Steve Sarkozy

8.2. Each party shall immediately notify the other of any changes in address or designated contact.

ARTICLE 9.
ASSIGNMENT

9.1. This Agreement, or any interest herein, will not be assigned, transferred or otherwise encumbered, under any circumstances by Consultant without the prior written consent of the Village. Further, no portion of this Agreement may be performed by subcontractors or subconsultants without written notice to and approval of such action by the Village. The Village and Consultant each binds themselves, their agents, successors, assigns and legal representatives to the other party hereto, their agents, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in this Agreement any obligations incorporated herein.

ARTICLE 10.
EXTENT OF AGREEMENT / SEVERABILITY / MODIFICATION

10.1. This Agreement represents the entire and integrated agreement between the Village and Consultant and supersedes all prior negotiations, representations or agreements, either written or oral.

10.2. In the event any provision of this Agreement be held invalid and unenforceable, the remaining provisions will remain valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition or covenant will not be construed by the other party as a waiver of any subsequent breach.

10.3. No modification, amendment or alteration in the terms or conditions contained herein will be effective unless contained in a written document executed by both parties.

10.4. This is a nonexclusive contract. The Village has the right to enter into contracts with other providers providing similar services.

ARTICLE 11.
GOVERNING LAW / VENUE

11.1. This Agreement shall be governed and construed in accordance with Florida law. In the event any litigation arises between the parties in connection with this Agreement, venue for such litigation shall lie exclusively in Lee County, Florida.

ARTICLE 12.
INDEPENDENT CONTRACTOR STATUS

12.1. Consultant is an independent contractor and is not an employee, servant, agent, partner or joint venturer of the Village.

12.2. Neither the Village nor any of its employees will have any control over the conduct of Consultant or any of Consultant's employees, except as herein set forth, and Consultant expressly warrants not to represent at any time or in any manner that Consultant or any of Consultant's agents, servants or employees are in any manner agents, servants or employees of the Village. It is understood and agreed that Consultant is, and will remain at all times remain, a wholly independent contractor and that Consultant's obligations to the Village are solely as prescribed by this Agreement.

ARTICLE 13.
AUDIT AND RECORDS REQUIREMENTS

13.1. Consultant will maintain books, records, documents, and other evidence directly pertaining to or connected with the services under this Agreement which will be available and accessible at Consultant's local offices for the purpose of inspection, audit, and copying during normal business hours by the Village, or any of its authorized representatives. Such records must be retained for a minimum of five (5) years after

completion of the services. Prior to destruction of any records, the Consultant will notify the Village and deliver to the Village any records the Village requests. Consultant will require all subconsultants and subcontractors to comply with the provisions of this paragraph by insertion of the requirements hereof in a written contract agreement between Consultant and the subconsultant or subcontractor.

13.2 If the records are unavailable locally, it will be the Consultant's responsibility to insure that all required records are provided at the Consultant's expense including payment of travel and maintenance costs incurred by the Village's authorized representatives or designees in accessing records maintained out of the county. The direct costs of copying records, excluding any overhead cost, will be at the Village's expense.

13.3. Consultant must fully cooperate with all public records requests by providing the necessary records to the Village promptly upon notice unless the records are exempt from Section 24 (a) of Article I of the State Constitution and Chapter 119, Florida Statutes. Failure by Consultant to promptly respond to notices requesting records constitutes grounds for unilateral cancellation by the Village at any time, with no recourse available to Consultant. Records may be provided in the form or format in which they are kept including electronic files. Consultant's right to claim an exemption from disclosure will not be deemed failure to comply with this article.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE ESTERO VILLAGE CLERK (CUSTODIAN OF PUBLIC RECORDS) AT 239-221-5035, records@estero-fl.gov, OR VILLAGE HALL, 9401 CORKSCREW PALMS CIRCLE, ESTERO, FL 33928.

ARTICLE 14. **INDEMNIFICATION**

14.1. For ten dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, Consultant will pay on behalf of or indemnify and hold harmless the Village, its officials, officers, employees, agents and volunteers from and against any and all claims, actions, damages, fees, fines, penalties, defense costs, including attorneys' fees and court costs (whether such fees and costs are incurred in negotiations, collection of attorneys' fees or at the trial level or on appeal), suits or liabilities, of whatever kind of nature, caused by any negligent or intentional act, error, omission, or default of Consultant or Consultant's officers, employees, agents, servants, volunteers or subcontractors or consultants, if any, caused by the performance or failure to perform under the terms of this Agreement.

14.2 Consultant must carry a commercial liability insurance policy in coverage amounts as determined by the Village Manager and naming the Village of Estero as additional insured.

PURSUANT TO FS 558.0035, EMPLOYEES OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT.

**ARTICLE 15.
EMPLOYEE RESTRICTIONS**

15.1. The Village of Estero will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act (“INA”)]. The Village shall consider employment by any contractor or subconsultant or subcontractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Consultant of the employment provisions contained in Section 274A(e) of the INA will be grounds for termination of this Agreement by the Village.

15.2. If an owner (except a stockholder in a publicly traded corporation) or an employee of the Consultant has been convicted of any offenses requiring registration as a sexual offender or sexual predator, regardless of the location of conviction, the Consultant will ensure that the offender’s or predator’s work on the project is consistent with the terms of their probation and registry requirements.

15.3. The Consultant will incorporate the terms of paragraphs 15.1 and 15.2 into all contracts with any subconsultants or subcontractors.

**ARTICLE 16.
NO CONTINGENT FEES**

16.1. Consultant certifies that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Consultant any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, Village has the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

ARTICLE 17.
TRUTH-IN-NEGOTIATION CERTIFICATE

17.1. If applicable, in accordance with Section 287.055(4), Florida Statutes, signature of this Agreement by Consultant shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which Village determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

(Remainder of Page Left Intentionally Blank)

IN WITNESS WHEREOF, the parties hereto have caused the execution of these premises as of the date and year first above written.

Woodard & Curran, Inc.

WITNESSES:

Signed By: _____

Signed by: _____

Print Name: _____

Print Name: _____

Date: _____

Title: _____

Signed By: _____

Date: _____

Print Name: _____

Date: _____

VILLAGE OF ESTERO

By: _____

Steve Sarkozy, Village Manager

Date: _____

ATTEST:

By: _____

Carol Sacco, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____

Burt Saunders, Village Attorney

Exhibit List:

Exhibit A – Scope of Services

Exhibit B – Pricing Proposal

EXHIBIT A

UTILITIES EXPANSION PROGRAM MANAGEMENT SERVICES

STATEMENT OF WORK

A. PROJECT OVERVIEW

To provide general consulting services as specified herein.

B. SCOPE OF SERVICES

Services shall include, but are not limited to: General Program Manager Consulting Services to coordinate and manage the planning, design, and construction process of the Estero Utilities Expansion project(s).

C. SCHEDULE

As scheduled and requested.

D. COMPENSATION

See Exhibit B.

EXHIBIT B

PRICING PROPOSAL

Total for contract Not to Exceed: \$159,000 – plus any contingency amount which may be approved.

VILLAGE OF ESTERO, FLORIDA
VENDOR DISCLOSURE FORM

Project No.: P233769.00

Project Name: Estero FL Wastewater Project Advisor, Phase I

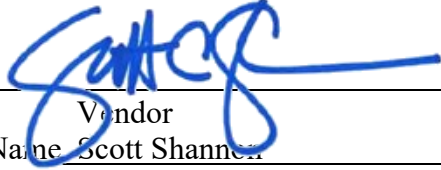
Please check as appropriate:

 I am the sole proprietor/owner. The company is not publicly held.

 X The company is not publicly held.
The names and addresses of the owners having a greater than 5%
interest is attached.

 The company is publicly held.
The names and addresses of the owners having a greater than 5%
interest is attached.

I do hereby certify that to the best of my knowledge and belief certify that the information above and
attached is true and correct.

Signed: 
Vendor
Printed Name Scott Shannon

Company Name: Woodard & Curran, Inc.

Date: April 29, 2021

SCHEDULE OF OFFICERS TO CERTIFICATION OF CORPORATE AUTHORITY

The following is a list of the duly appointed Officers of Woodard & Curran, Inc. and their respective signing authority limits and management positions in the Company:

CHIEF EXECUTIVE OFFICER AND PRESIDENT -up to Fifteen Million Dollars (\$15,000,000)

Alyson B. Watson

EXECUTIVE VICE PRESIDENTS -up to Five Million Dollars (\$5,000,000), or as delegated

Chief Financial Officer

David W. Remick

General Counsel and Corporate Secretary

Rebecca G. Talbert

Strategic Business Unit Leaders

Dirk Applegate

Peter E. Nangeroni

Steven F. Niro

President of Consulting

Joseph C. Barbagallo

Strategic Advisor

Douglas J. McKeown

SENIOR VICE PRESIDENTS - up to One Million Dollars (\$1,000,000), or as delegated

Operations Leaders

Andrew Neal

Paul P. Roux

Jeffery C. Stearns

Patricia A. Thomes

Marc G. Thomas

Gillian J. Wood

Director of Technical Practices

Robert C. Amaral

James Daniel Bryant

Thomas F. Hazlett III

Kathleen Higgins

Mary E. House

Thomas E. Stoughton (in transition)

Business Development Leaders

Brian E. Bzdawka

Christy Kennedy

David R. MacDonald

Joseph Brendan McLaughlin

Jerry G. Sheehan

Senior Area Manager

David W. Dedian

Chief Technologist - SBU

R. Duff Collins

National Practice Leaders

Sergio Bazarevitch

Michael H. Matson

Thomas Richardson

Persephene St. Charles

Adam H. Steinman

Hugh G. Tozer

VICE PRESIDENTS - up to Two Hundred Fifty Thousand Dollars (\$250,000), or as delegated

Senior Client Managers

Glenn T. Almquist
Jennifer L. Anders
Elisha Back
Kevin R. Bethke
Rosemary T. Blacquier
Brent M. Bridges
Kenneth W. Carlson
Anthony C. Catalano
Craig B. Deeney
Susan Ferris
James Graydon
Michael Greenberg
Carol A. Harris
Nicholas A. Hastings
Michael Headd
Michael J. van der Heijden
Scott J. Medeiros
Paul Norian
Patrick F. O'Hara
David Richardson
James J. Rivard
Scott C. Shannon
Barry S. Sheff
Lloyd K. Snyder

Corporate Vice Presidents

Jennifer M. Andrews
Shannon J. Eyer
Kathleen Welter

Corporate Service Directors

Kenneth Danila
Andrew L. Stanhope

Area Managers

Glenn D. Burden
Gregory Frieden
Michael J. Geary
David Kitzmiller
Jason Muche
Michael Pratt
Frederick Rogers
Robert Scott
Michael S. Thompson

Regional Managers

Peter Andromalos
Michael L. Battistelli
Ryker Brown
Denise L. Cameron
Kelly V. Camp
Mesut Cayar
Maggie Connolly
Brian Dietrick
Matthew Elsner
Jeffrey A. Hamel
Kenneth Kohlbrenner
Steven Lauria
Nathan T. McLaughlin
Brian Pile
Matthew J. Valentine
Erica Wolski

Chief Technologist - Practice

Paul A. Dombrowski

Practice Leaders

Kelley C. Begin
John Gregory Booth
Lisa J. Campe
Patrick J. Cyr
Susan E. Guswa
Zachary L. Henderson
Jason R. House
Joseph A. Hurley
Robert S. Little
Catharine M. Rockwell
Bert J. Wesley
David A. White
Daniel Windsor

Senior Technical Leaders

Robin Cort
Leslie Dumas
Jennifer Glynn
M. Scott Goldman
Lucas A. Hellerich
Glenn Hermanson
Xavier Irias
Gisa Ju
Saqib Najmus
Ali Taghavi
Kyle E. Tracy
Anthony Valdivia

Technical Delivery Group Leader

Peter J. Martin

SENIOR PRINCIPALS -up to Two Hundred Fifty Thousand Dollars (\$250,000), or as delegated

James Blanke
Phyllis Brunner
Frank J. Cavaleri
Rebecca A. Corbin
Justin F. deMello
Richard P. Fedder
Andrew J. Fitzpatrick

David G. Krochko
Mark E. Pietrucha
Brian Ravens
Douglas E. Spicuzza
James P. Sturgis
Brent R. Sutter

Randy E. Tome
Miles L. Walker
Donald J. Weeks
James D. Wilson
Daniel M. Wolfram

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
June 16, 2021

Agenda Item:

Cloud Server Transition

Description:

Presently, the Village hosts our data and operations on a local server. We have explored a transition to “the cloud”, in order to address the following goals:

- Improve our Village government’s cybersecurity, to protect our data and operations
- Maximize our workforce’s efficiency and mobility
- Minimize our daily upkeep and infrastructure-based liability and risk

The provided letters of engagement provide a means of executing the transition outlined in the June 2nd, 2021 Village Council workshop session, as well as the annual upkeep. The purpose for each letter of engagement is outlined below.

- Liffort: Office 365 implementation and annual recurring licensing costs
- AvePoint: Office 365/SharePoint backup annual recurring licensing costs
- MCCI: Laserfiche implementation and annual recurring licensing costs

Additionally, the Village will require the services of Calvin, Giordano and Associates (our current IT provider), on an hourly basis, to assist with this implementation. The Village will also use an existing vendor (CDW/SHI/Softchoice) to purchase Microsoft remote desktop client access licenses (CALs) (a one-time cost). We do not expect these upfront, one-time costs to exceed \$15,000 and \$600, respectively.

Cumulative upfront and recurring cost estimates are provided in the “financial impact” section.

Action Requested:

Authority for the Village Manager to execute the attached three letters of engagement, or similarly priced alternatives, and other invoices related to these services.

Financial Impact:

Upfront costs are expected to be \$32,210.00, funded via the “Miscellaneous Contractual Services” account (fund # 001-800-513-5133450). A contingency is requested at \$3,221.00.

Annual costs are expected to be \$34,519.62, as compared to the estimated current annual cost of \$37,232.27 (incurred costs plus estimated annual capital depreciation costs). These new annual expenditures will replace the existing annual expenditures.

Attachments:

1. Cloud Server Transition Presentation (from the June 2nd, 2021 Village Council workshop session)
2. Liftoff Letter of Engagement
3. AvePoint Letter of Engagement
4. MCCI Letter of Engagement



Cloud Server Transition

Kyle Coleman



Agenda

1. What is "the cloud"?
2. Is it mainstream?
3. How would this benefit Estero?
4. Scope
5. Timeline
6. Cost



What is “the cloud”?

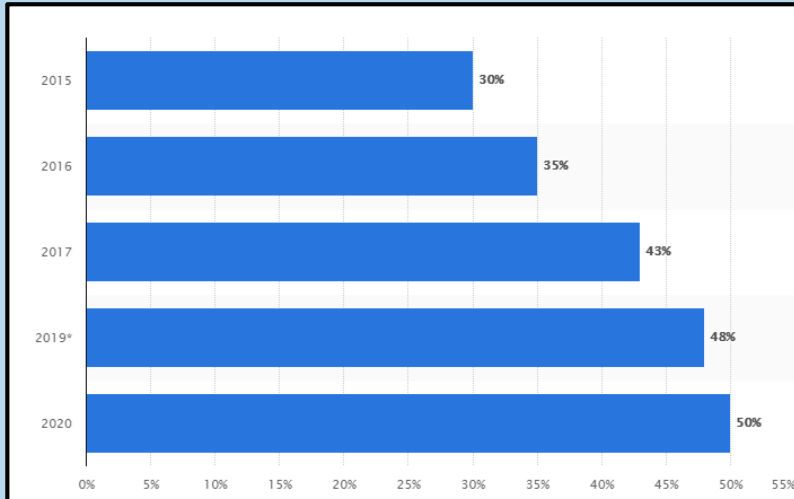
In short, distributed data storage.





Is it mainstream?

Yes, and becoming the dominant business model.



Source: statista.com





How would this benefit Estero?

Four reasons. The first: security.



A strong defense

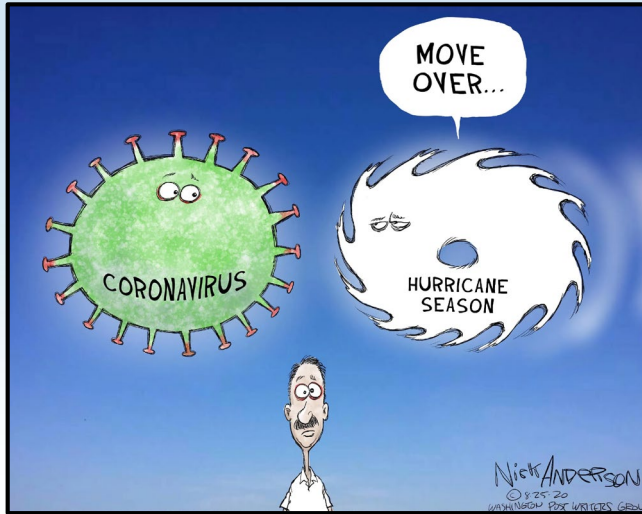


... and a backup plan.



How would this benefit Estero?

Three reasons. The second: accessibility.



When we have to work remotely ... and when we want to.



How would this benefit Estero?

Three reasons. The third: reliability.





How would this benefit Estero?

Four reasons. The fourth: government lite.



we manage via contract here



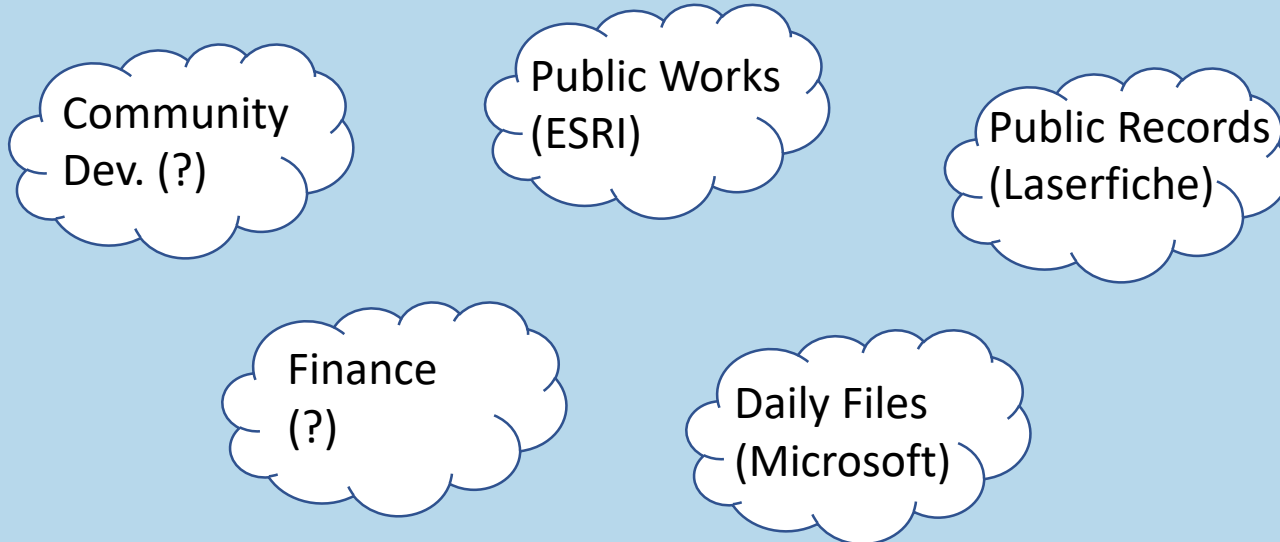
... so why not here, too?





Scope

Ultimately, everything. For now, public works, daily files & records.





Timeline

Full in 18 months, partial in 6 months.

- Community Development: 18 months
- Finance: 18 months (hybrid cloud in 6 months)
- Public Works: 0 months (already mostly cloud based)
- Daily Files: 6 months
- Public Records: 6 months

■ *daily files, records, hybrid finance (Jan. 2022)*

■ *public works (today)*

■ *comm. dev., full finance (Jan. 2023)*

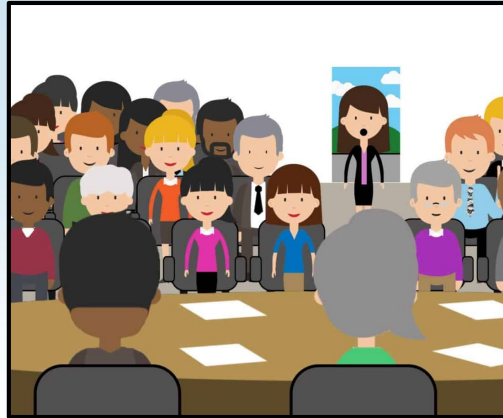


Cost

\$30k upfront, \$3k savings annually, 10 year payoff



daily files



public records



public works



QUESTIONS?



QUOTE

as of 4/1/2021

Bill to:

Village of Estero, FL
9401 Corkscrew Palms Circle
Second Floor
Estero, FL 33928

Ship to:

Village of Estero, FL
9401 Corkscrew Palms Circle
Second Floor
Estero, FL 33928

Reseller (Remit To):

LiftOff LLC
Attn: Ron Braatz
1667 Patrice Circle
Crofton, MD 21114

Terms:

Due on Receipt

Payment Options:

ACH Payment (preferred) or check

Quote Description

| G SKU Item Name | Part Number | Term in Months | Price/User/ Month | Licenses | Cost/Year |
|----------------------------|-------------|----------------|-------------------|----------|-------------|
| Office 365 Plan G3 | AAA-11894 | 12 | 20.00 | 45 | \$10,800.00 |
| Exchange Online Plan 1 | 3MS-00001 | 12 | 4.00 | 18 | \$864.00 |
| Exchange Online Archive | 4ES-00001 | 12 | 3.00 | 18 | \$648.00 |
| Azure AD Prem P2 | MQN-00001 | 12 | 8.50 | 2 | \$204.00 |
| LiftOff Licensing Benefits | - | - | - | - | INCLUDED |

Total: \$12,516.00

***LIFTOFF LICENSING BENEFITS:** As a valued licensing customer, LiftOff offers you a range of free, ongoing services to your organization. This includes: Access to our library of Office 365 Admin best practice documents, our library of end-user training videos, AD Connect support including re-installations and troubleshooting, invitations to our Office 365 Security webinars and access to the recordings, limited free consultations on implementation processes like the "Office Deployment Tool", annual Office 365 health check-ups and security check-ups, and support for compliance/retention features including ongoing training to staff that need to conduct compliance retention searches.

Pricing Information:

- All prices are displayed in United States Dollars.
- Product and pricing data are updated frequently and may change without notice.
- Pricing valid for 14 days
- License orders are paid up front, are non-refundable, and are one-year licenses that renew each year.
- License reductions, upgrades, or cancellations may only occur at the annual renewal date.

In order to proceed, send a Purchase Order to rbraatz@liftoffonline.com. Once we have the Purchase Order, we will order the licenses from Microsoft. We will immediately invoice the full amount when we place the order.

Customer Terms for Cloud Services Agreement US Public Sector

This agreement is between **LiftOff LLC** (“we”, “us”, and “our”) and **Village of Estero, FL** (“you” and “your”). It is effective when we accept it. Key terms are defined in § 8.

1. General.

Right to use. You may access and use Office 365, and install and use a Client (if any) included with your Subscription, only as described in this agreement. All other rights are reserved.

Acceptable use. You will use Office 365 only per the AUP. You will not use Office 365 in any way that infringes a third party’s patent, copyright, or trademark or misappropriates its trade secret. You may not reverse engineer, decompile, work around technical limits in, or disassemble Office 365, except if applicable law permits despite this limit. You may not rent, lease, lend, resell, transfer, or host Office 365 to or for third parties.

Compliance. You will comply with all laws and regulations applicable to your use of Office 365. In providing Office 365, we and our Providers will comply with all laws and regulations (including applicable security breach notification law) that generally apply to IT service providers. You will obtain any consents required: (1) to allow you to access, monitor, use, and disclose user data; and (2) for us to provide Office 365. If you are an educational institution, you will obtain any parental consent for end users’ use of Office 365 as required by applicable law.

Customer Data. Customer Data is used only to provide you Office 365. This use may include troubleshooting to prevent, find and fix problems with Office 365’s operation. It may also include improving features for finding and protecting against threats to users. Neither we nor our Providers will derive information from Customer Data for any advertising or other commercial purposes. We will enable you to keep Customer Data separate from consumer services. Customer Data will not be disclosed unless required by law or allowed by this agreement. Your contact information may be provided so that a requestor can contact you. If law requires disclosure, we will use commercially reasonable efforts to notify you, if permitted. Customer Data may be transferred to, and stored and processed in, any country we or our Providers maintain facilities, unless you provision your tenant in the United States, If you do, Microsoft will provide Office 365 from data centers in the United States, and storage of the following customer data at rest will be located in data centers only in the United States: (i) Exchange Online mailbox content (e-mail body, calendar entries, and the content of e-mail attachments), and (ii) SharePoint Online site content and the files stored within that site.

Changes. Office 365 may be changed periodically, after which you may need to agree to new terms. You may be required to run a client software upgrade on devices using Office 365 after a change to maintain full functionality.

Use rights. Use rights specific to Office 365 are posted online at the link to the AUP.

2. Confidentiality and Security.

We and our Providers will (a) maintain appropriate technical and organizational measures, internal controls, and data security routines intended to protect Customer Data against accidental loss or change, unauthorized disclosure or access, or unlawful destruction and (b) not disclose Customer Data, except as required by law or expressly allowed. Neither party will make any public statement about this agreement's terms without the other's prior written consent.

3. Term, Termination, and Suspension.

Term and termination. This agreement will remain in effect for three years subject to your right under applicable law to terminate for convenience.

Customer Data. You may extract Customer Data at any time. If your Subscription expires or terminates, we will keep your Customer Data in a limited account for at least 90 days so you may extract it. We may delete your Customer Data after that.

Regulatory. If a government rule or regulation applies to us or our Providers, but not generally to other businesses, and makes it difficult to operate Office 365 without change, or we or our Providers believe this agreement or Office 365 may conflict with the rule or regulation, we may change Office 365 or terminate the agreement. If we change Office 365 to come into compliance, and you do not like the change, you may terminate.

Suspension. We may suspend use of Office 365: (1) if reasonably needed to prevent unauthorized Customer Data access; (2) if you do not promptly respond under §5 to intellectual property claims; or (3) for non-payment; or (4) if you violate the AUP. A suspension will be in effect only while the condition or need exists and, if under clause (1) or (2), will apply to the minimum extent necessary. We will notify you before we suspend, unless doing so may increase damages. We will notify you at least 30 days before suspending for non-payment. If you do not fully address the reasons for suspension within 60 days after we suspend, we may terminate your Subscription.

4. Limited warranty; disclaimer.

We warrant that Office 365 will meet the SLA terms during the Subscription; your only remedy for breach of warranty is stated in the SLA. *We provide no (and disclaim to the extent permitted by law any) other warranties, express, implied, or statutory, including warranties of merchantability or fitness for a particular purpose.*

5. Duty to protect.

Defense. We or our Providers will defend you against any claims made by an unaffiliated third party that Office 365 infringes its patent, copyright, or trademark or misappropriates its trade secret.

Remedies. If we or our Providers reasonably believe that a claim under §5 may bar your use of Office 365, we or our Providers will seek to: (1) obtain the right for you to keep using it; or (2) modify or replace it with a functional equivalent and notify you to stop use of the prior version. If these options are not commercially

reasonable, we or our Providers may terminate your rights to Office 365 and refund any payments for unused Subscription rights.

Other obligations. To the extent permitted by law, you will (1) notify us promptly of a claim under this §5 and (2) allow us or our Providers to assist in your defense or settlement. You will provide reasonable help to defend. We or our Providers will reimburse you for reasonable out-of-pocket expenses incurred in giving that help and pay the amount of any resulting adverse final judgment (or settlement the protecting party consents to). Neither we nor our Providers will be bound by any settlement to which we do not agree in writing, this § 5 provides the exclusive remedy for these claims.

Limits. The obligations of us and our Providers in this §5 won't apply to a claim or award based on: (1) Customer Data; (2) software not provided by us or our Providers; (3) modifications you make to Office 365, or materials you provide or make available as part of using Office 365; (4) your combination of Office 365 with, or damages based on the value of, a product, data, or business process not provided by us or our Providers; or (5) your use of a Microsoft trademark without their express, written consent, or your use of Office 365 after being notified to stop due to a third-party claim.

6. Limited liability.

Each party's (and our Providers') maximum aggregate liability for any claim related to this agreement is limited to direct damages up to the fees that you paid for Office 365 during the 12 months before the claim arose (or \$5,000.00 if you paid no fees). *Neither party nor our Providers will be liable for lost revenues or indirect, special, incidental, consequential, punitive, or exemplary damages, even if the party knew they were possible.* The limits and exclusions in this §6 apply to the extent permitted by law, but do not apply to (1) obligations under §5; or (2) intellectual property infringement or misappropriation.

7. Agreement mechanics.

You must send notice by regular mail, return receipt requested, to the address on the Portal (effective when delivered). We may email notice to your account administrators (effective when sent). You may not assign this agreement, or any right or duty under it. If part of this agreement is held unenforceable, the rest remains in force. Failure to enforce this agreement is not a waiver. The parties are independent contractors. This agreement does not create an agency, partnership, or joint venture. This agreement is governed by the laws applicable to Customer, without regard to conflict of laws. This agreement (including the SLA and AUP) and our price sheet are the parties' entire agreement on this subject and supersedes any concurrent or prior communications. Agreement terms that require performance, or apply to events that may occur, after termination or expiration will survive, including §5. Office 365 and the Client are subject to U.S. export jurisdiction. You must comply with the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, and end-user, end-use, and destination restrictions. For more information, see <http://www.microsoft.com/exporting/>. Our Providers may deliver Office 365, and the rights granted to us also apply to them.

8. Definitions.

“AUP” means the acceptable use policy at <http://www.microsoftvolumelicensing.com/Downloader.aspx?DocumentId=5502>.

“Client” means device software that we or our Providers provide you with Office 365.

“Customer Data” means all data, including all text, sound, or image files that are provided to us or our Providers by, or on behalf of, you through your use of Office 365.

“Office 365” means (1) Exchange Online, Exchange Online Archiving, SharePoint Online, Lync Online, and Office Web Apps included in Office 365 Enterprise Plans E1, E2, E3, E4, K1, and K2; and Office 365 Government Plans G1, G2, G3, G4, K1, and K2; and (2) Exchange Online Archiving; Exchange Online Protection; Exchange Online Plans 1, 2, Basic, and Kiosk; SharePoint Online Plans 1, 2, and Kiosk; Office Web Apps Plans 1 and 2; and Lync Online Plans 1, 2, and 3.

“Portal” means the Online Services Portal for Office 365 (see <http://www.microsoft.com/online>).

“Providers” means our affiliates, licensors, and suppliers, including Microsoft and its applicable affiliates.

“SLA” means the service level commitments we or our Providers make regarding delivery and performance of Office 365 (see <http://www.microsoft.com/licensing/contracts>).

“Subscription” means an order for a quantity of Office 365.

AvePoint Public Sector, Inc. Phone # 800.661.6588
 2111 Wilson Boulevard, Suite 920 Fax # 201. 884.1258
 Arlington VA 22201 Tax ID: 45-3745573

Sales Quote

| QUOTE PREPARED FOR: (the "Customer") | |
|--------------------------------------|--|
| Company | Village of Estero |
| Address | 9401 Corkscrew Palms Circle Estero, FL 33928 |
| Name | Eric Wells |
| Phone | 954-266-6481 |
| Email | ewells@estero-fl.gov |
| Period of Performance | 3-year subscription for 65 users of Cloud Backup |

| | |
|---------------------|-------------------|
| Quote #: | QUO-121198-H2V1Z5 |
| Date: | 6/4/2021 |
| Valid Until: | 7/30/2021 |

SALES REPRESENTATIVE:

| | |
|--------------|--|
| Name | William Pritchett |
| Phone | 804-380-4193 |
| Email | William.Pritchett@avepoint.com |

| Subscription | | | | | | |
|--|--------------------|--|---------------|------|----------------|-------------------|
| Existing Product | Product Code | Description | Term (Months) | Unit | Price Per Unit | Total Amount |
| Cloud Backup Standard for M365 | AOS_O365_CBU_SD_01 | AvePoint Cloud Backup for Office 365 protects an unlimited amount of content in Office 365 Groups, Teams and more with the most complete, automatic service protection with flexible, granular restore. Subscription per user per year which includes Premier Level Support & unlimited retention for the length of your contract. | 12 | 65 | \$4.00 | \$3,120.00 |
| Yearly Subtotal Subscription | | | | | | \$3,120.00 |
| 3 YEAR SUBSCRIPTION GRAND TOTAL (Excludes all applicable taxes) | | | | | | \$9,360.00 |
| GRAND TOTAL DUE IN YEAR 1 (Excludes all applicable taxes) | | | | | | \$3,120.00 |
| GRAND TOTAL DUE IN YEAR 2 (Excludes all applicable taxes) | | | | | | \$3,120.00 |
| GRAND TOTAL DUE IN YEAR 3 (Excludes all applicable taxes) | | | | | | \$3,120.00 |

**All prices stated are net prices excluding VAT, VAT (if required) will be charged in addition to the invoice value.*

TO PLACE AN ORDER:

Please e-mail or fax this signed Sales Quote directly to your sales representative as per his/her contact information above and reference the appropriate quote number.

Please check one of the following options:

Please invoice me (No Purchase Order). Send invoice to:

Contact Name: _____

Email: _____ Phone #: _____

Please invoice me. Purchase Order No. _____.

(Attach Purchase Order with the signed Sales Quote. Please note that a missing PO may delay delivery of the AvePoint products, support or services contained in this Sales Quote.)

In the event Customer and the AvePoint entity issuing this Sales Quote ("AvePoint") have executed in writing a Master Agreement, Partner Agreement, Statement of Work or similar framework or individual agreement governing the purchase and use of the products, support or services listed in this Sales Quote ("Governing Agreement"), such Governing Agreement shall exclusively apply to the agreed extent.

To the extent that no Governing Agreement applies, all software products and support purchased hereunder are offered only under the terms of the AvePoint Master Software License and Support Agreement; and all professional services purchased hereunder are offered only under the terms of the AvePoint Service Addendum as published at <http://www.avepoint.com/license/license.html> and <http://www.avepoint.com/license/servicesaddendum.html> as amended by AvePoint from time to time.

Under no circumstances will Customer's terms (e.g. as contained or referenced in a purchase order) modify the existing terms or provide additional terms or conditions.

All software shall be made available to Customer electronically. Wire transfer and payment by check are acceptable forms of payment. Further, Visa or MasterCard are accepted for amounts of up to USD \$25,000. The price quoted above applies only to direct purchases from AvePoint and is only valid through the date specified herein.

The undersigned, on behalf of the Customer, hereby agrees that the Customer will be bound by all terms and conditions herein and will pay the quoted amount for the purchase of the listed items in accordance with the terms of this Sales Quote.

FOR AND ON BEHALF OF: Village of Estero

Signature: _____

Name: _____

Title: _____

Date: _____

Estimate

Village of Estero, FL

Issued: February 22, 2021



TABLE OF CONTENTS

- Recommended Solution Overview: Laserfiche** 3
 - Laserfiche Cloud 4
- Laserfiche Cloud Licensing Guide** 5
- Laserfiche Cloud Definitions** 6
- Estimate** 9

RECOMMENDED SOLUTION OVERVIEW: LASERFICHE

MCCi is recommending the Laserfiche solution and MCCi Professional Services for your organization. With capabilities ranging from electronic records management to document routing, electronic forms, and integrations, Laserfiche is a powerful solution that enables the entire enterprise. Please keep in mind some of the features of Laserfiche:

USER-FRIENDLY

Laserfiche is very easy to learn, navigate, and use. With a folder structure similar to Windows Explorer, Laserfiche will seem familiar to your staff, giving them the confidence to begin scanning and retrieving documents almost immediately after installation.

COMPREHENSIVE SECURITY

Laserfiche Comprehensive Security allows you to control and administer the security of your documents. You determine which functions, such as scanning and printing, each staff member may use.

INTELLIGENT SEARCH

The Laserfiche Search Engine is a powerful tool to help users find the documents they need during their day-to-day processes, including full-text search, index search, and document and folder name. The Laserfiche full-text search unlocks the contents of your documents; if you need to find a word or phrase within a document, Laserfiche retrieves it immediately. An easy Google-style toolbar is available for searching as well.



INTEGRATION

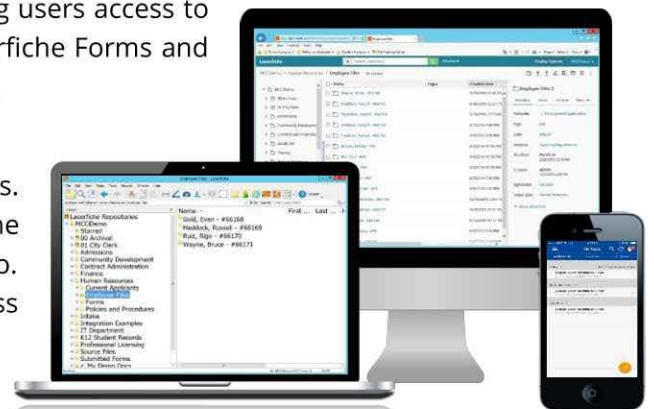
Laserfiche is the central repository for records in your organization and allows you to integrate other main line-of-business solutions easily. Whether you are looking for a way to integrate with a departmental solution, ERP solution, Microsoft Office application or SharePoint, etc., Laserfiche has options available to reduce duplicate data entry and provides seamless access to your records.

E-FORMS & BUSINESS PROCESS AUTOMATION

Laserfiche allows users to capture information while automating and transforming business processes. Users are finding efficiencies by reducing the time processes take and giving users access to information instantaneously through the implementation of Laserfiche Forms and Laserfiche Workflow, resulting in cost savings for the organization.

MOBILITY & WEB TOOLS

Mobile devices are used in organizations for day-to-day operations. Laserfiche has options available to ensure you can access Laserfiche from these devices and perform related actions quickly on the go. There are also options to give your outside citizens/customers access to records through the web to promote transparency and decrease records requests.



LASERFICHE CLOUD

MCCi is recommending the Cloud platform for your organization. Laserfiche Cloud seamlessly combines traditional content services platform (CSP) functionality with powerful business process management, auditing tools, and security.

Unlike purchased perpetual licensing, Laserfiche Cloud lowers your initial licensing costs based on *subscribing* to the rights to use Laserfiche products and services instead of *owning* them. With included functional ranging from records management (DoD 5015.2 certified) to document routing, electronic forms, and batch processing tools, Laserfiche Subscription provides an easy-to-use, cost-effective platform for automating day-to-day business processes.

The Laserfiche Cloud license introduces a straightforward annual fee including software licenses, hosted storage, technical support, and software updates.

LASERFICHE CLOUD LICENSING GUIDE

To determine which platform/licenses are applicable, please refer to the [Pricing](#) section.

| LASERFICHE PLATFORM ARCHITECTURE | | | |
|---|--|---|--|
| | Starter | Professional | Business |
| App. Servers/Repositories | 1 | 1 | 1 |
| FULL USE ACCESS LICENSES | | | |
| | Starter | Professional | Business |
| Full Named Users | Minimum of 1 | Minimum of 5 | Minimum of 25 |
| 100 GB Storage Per User | Included Additional Storage Available | Included Additional Storage Available | Included Additional Storage Available |
| Audit Trail | Included (Starter) | Included (Starter) Advanced is Add-on Option | Included (Advanced) |
| Direct Share | Included | Included | Included |
| Automated/Encrypted Backups | Included | Included | Included |
| Intrusion Detection | Included | Included | Included |
| Automated Feature and Security Updates | Included | Included | Included |
| Import Agent w/Email Archiving | Included | Included | Included |
| Process Automation | Not Available | Included | Included |
| Connector | Not Available | Included | Included |
| Surveys | Not Available | Included | Included |
| Records Management | Not Available | Add-on Option | Included |
| LIMITED USE ACCESS LICENSES | | | |
| | Starter | Professional | Business |
| Participant Users | Not Available | Add-on Option, Minimum of 10 | Add-on Option, Minimum of 10 |
| Community Users | Not Available | Add-on Option | Add-on Option |
| Education Users | Not Available | Add-on Option | Add-on Option |
| MODULE BASED LICENSES | | | |
| | Starter | Professional | Business |
| Quick Fields Complete with Agent †† | Add-on Option | 10 Installations Included | 10 Installations Included |
| Invoice Smart Capture | Not Available | Add-on Option | Add-on Option |
| Workflow Bots | Not Available | 1 Included with Option to Add-on | 1 Included with Option to Add-on |
| Vault | Add-on Option | Add-on Option | Add-on Option |
| ScanConnect | Add-on Option | Add-on Option | Add-on Option |
| SDK | Not Available | Add-on Option | Included |
| Public Portal (WebLink) † | Not Available | Options: 1,000 Views, Blocks of 10,000 Views | Unlimited Views |
| Forms Portal † | Not Available | Options: 1,000 Submissions, Blocks of 10,000 Submissions | Unlimited Submissions |
| INTEGRATIONS | | | |
| | Starter | Professional | Business |
| Microsoft 365 Integration with Simultaneous Editing | Included | Included | Included |
| Integration with SharePoint | Included | Included | Included |
| Integration with Salesforce, Microsoft Dynamics 365, and Redtail CRMs | Not Available | Included | Included |
| Integration with DocuSign | Add-on Option | Add-on Option | Included |
| Integration with Ellucian Ethos | Not Available | Add-on Option | Add-on Option |
| Integration with LaserApp | Add-on Option | Add-on Option | Add-on Option |
| Laserfiche for Ricoh MFD | Add-on Option | Add-on Option | Add-on Option |
| Certified Integration with SAP ArchiveLink | Add-on Option | Add-on Option | Add-on Option |

† Public Portal and Forms Portal are licensed per Laserfiche Application Server.

†† Quick Fields is licensed per machine.

* A sandbox environment includes 10 users, Laserfiche Directory Server and any additional add-ons purchased, such as portals.

LASERFICHE CLOUD DEFINITIONS

To determine which licenses are applicable, please refer to the [Pricing](#) section. Your specific implementation may not include all features below.

LASERFICHE CLOUD

Laserfiche Cloud is a Software as a Service (SaaS) solution, which provides a central digital repository accessible from anywhere. With Laserfiche cloud you can upload, view, and modify content within a streamlined fully responsive web interface. In addition to the central repository, below are some of the great features that come with Laserfiche Cloud. The Laserfiche Cloud license introduces a straightforward annual fee including software licenses, hosted storage, technical support, and software updates. The licensing option provides a Software as a Service (SaaS) solution hosted on Amazon Web Services. Laserfiche offers three different tiers: Starter, Professional and Business. All Laserfiche Cloud tiers include:

- **100 GB Per User**
- **Web Client:** Enables subscription users to access content through a web browser.
- **Laserfiche Mobile:** An app (Android and Apple) that enables you to capture, upload, and securely access and work with documents inside Laserfiche while on the go.
- **Laserfiche Snapshot:** "Print" electronic documents into your repository as TIFF images with this virtual printer. Laserfiche Snapshot works as though you had printed the document and then scanned it back into Laserfiche but allows you to skip the step of making a physical printed copy.
- **Direct Share:** Allows you to share content from the Laserfiche repository with external users through the Web Client or Mobile App. When you send documents through direct share, the recipient will receive a unique and anonymized URL that they can use to access the files for a limited time. You can add a password and specify the number of days until the URL expires. The sender will receive notifications when the content was viewed, and a repository administrator can see the status of who shared it, with whom, and if/when it was accessed.
- **Audit Trail:** Track activities performed in a Laserfiche repository and generate reports. Auditing helps to show compliance with legal regulations and contributes to the security of the Laserfiche repository.
- **Automated text extraction:** Automatically extract specific text.
- **Import Agent with Email Archive:** A tool for automatically importing files into the Laserfiche repository from a Windows folder, and the Email Archive allows you to automatically archive emails to Laserfiche. Email Archive can extract and assign metadata to the emails saved in Laserfiche, as well as extract and save attachments and the email's distribution list file.
- **Industry-Leading Data Encryption:** For data in transit over public networks, Laserfiche Cloud uses TLS encryption, and AES-256 encryption is utilized for data-at-rest, including backups. Documents are backed up 6x a day with the most recent 3 backups available for a minimum of 14 days.
- **Multi-factor authentication:** Multi-factor authenticated can be enabled for a Laserfiche Cloud user account.
- **Single sign-on:** Laserfiche Cloud supports single sign-on with Active Director Federation Services (AD FS) and Security Assertion Markup Language (SAML).
- **Intrusion Detection:** Laserfiche Cloud utilized host-based intrusion detection systems to reduce the risk of data theft by individuals or organizations attempting to gain unauthorized access.
- **Microsoft Office Integration:** Integration with Microsoft Office® Suite. Allows for direct content import as well as indexing capabilities. As a part of this integration, emails and attachments stored in Outlook can be imported to the repository with a single click and auto indexed with information such as sender, subject, time received, etc.
- **Integration with SharePoint:** The SharePoint Integration (SPI) is built on the power of Laserfiche Web Client, a Section 508-compliant thin client that reduces installation, support, and maintenance requirements. The integration requires an on-premises installation of SharePoint.

LASERFICHE CLOUD PROFESSIONAL

Please refer to the [Pricing](#) section to determine which package was quoted. This functionality provides many tools to automate business processes and reduce manual work:

- **Process Automation:** A unified feature set to digitize and automate business processes. These tasks include moving documents, both extracting and inputting data, setting deadlines, and more.
 - **Business Process Designer:** Diagram business processes through the process modeler, which is based on business process model and notation (BPMN) standards.
 - **Workflows:** Build processes to extract data, route documents, automate activities, assign team and individual tasks, extract data, route documents, and more without requiring code.
 - **Business Processes & Forms:** Forms allow process managers to create and publish web forms with an intuitive forms management system without requiring coding or scripting.
 - Attractive forms can easily be created with preconfigured templates or can be customized with editable fonts, colors, uploaded images, and layouts.
 - Drag-and-drop form elements include fields, check boxes, and radio buttons to collect the exact information needed in the precise format required.
 - Payment collection allows payment to be collected with Braintree and Authorize.Net payment gateways.
 - Automatically apply bulk annotations such as highlights, redactions, strikethroughs, and underlines across documents processed through workflows.
 - Read barcodes on documents as part of automated workflows to better streamline document capture
 - **Starting Events:** Define how and when processes start.
 - **Business Rules:** Easily define and manage business policy logic such as decision tables and formulas, in a centralized place separately from process logic
 - **Data Management:** Define data structures and store data independently of processes to provide a single source of truth for data
 - **Capture Profiles:** Capture document information automatically using profiles.
- **Reporting and Analytics:** Use out-of-the-box reports or create custom reports on process data for insights to make informed decisions
- **Connector:** Provides a no-code means for integrating Laserfiche with line-of-business applications
- **Surveys:** Design custom surveys, polls, or registration forms to automatically collect information and view results without creating processes or designing reports.
- **Quick Fields Complete with Agent:** An advanced automated data capture solution. The complete suite of modules for Quick Fields are included along with Agent that allows scheduled automated processing sessions around the clock, without operator intervention.
- **Workflow Bots:** Use robotic process automation technology to let you easily configure software bots to automate repetitive, routine work between multiple systems.
- **Integrations with CRMs:** Laserfiche Cloud includes integrations with Microsoft Dynamics 365, Salesforce and Redtail CRMs.

LASERFICHE CLOUD PROFESSIONAL ADD-ONS

These items are optional and are only part of the proposed solution if pricing has been included.

- **Additional Storage**
- **Public Portal:** Share documents with people outside the organization, providing read-only access to specific documents without signing in.
 - **Note:** Only one security profile is included.
- **Forms Portal:** Allow non-authenticated users to view and submit public starting forms.
- **Records Management Edition:** Process records and record folders according to a life cycle, through creation, retrieval, storage, and disposition.

- **Participant Users:** For employees in need of read-only repository access and the ability to participate in forms processes. Education Participants are available for educational institutions.
- **Community Users:** For non-employees and non-contractors. Provides read-only repository access and ability to participate in forms processes (i.e. Vendor Management, Residents).
- **Smart Invoice Capture:** Smart capture uses machine learning technology to automatically capture information from any invoice, specifically the invoice date, invoice number, purchase order number and total amount due.
- **Laserfiche Vault:** A solution package that supports financial services firms' compliance with SEC Rule §17a-4 using services and cloud-based features that provide a secure and accurate system of records.
- **SDK:** Access to the same Web Services, API's and libraries for integration with other applications.
- **ScanConnect:** Enables the use of ISIS scanning drivers with Laserfiche scanning.
- **Laserfiche Integration with DocuSign:** Initiate a signing process from within Laserfiche Cloud. Users may select the type of signing process they are initiating and attach documents that need to be a part of that process. Once the signing process completes, documents are imported back into the Laserfiche Repository from DocuSign as new versions of the un-signed document. Information captured during the signing process may be mapped to Laserfiche metadata fields.
- **Certified Integration with SAP ArchiveLink:** Allows you to configure a Laserfiche repository as a content repository in SAP. Archive content from SAP in Laserfiche as well as search, retrieve, update, and delete archived content.
- **Integration with LaserApp:** This is a third-party application that helps Financial Services clients fill out and file forms. Using the Laserfiche integration with Laser App, you can then store those forms in Laserfiche, and extract information from your forms to populate Laserfiche metadata.
- **Laserfiche for Ricoh MFD:** A single integrated solution in which scanning, searching, browsing, and printing from the Laserfiche Server can be performed.
- **Ellucian Banner Integration through Ethos:** The integration support pre-populating registrar forms created in Business Process and updating records in Banner with course or student personal information through Workflow.

ESTIMATE

Client Name: Village of Estero, FL
Estimate Number: 18962
Estimate Type: Platform Change

Quote Date: February 22, 2021

| <i>Product Description:</i> | <i>Qty.</i> | <i>Unit Cost</i> | <i>Annual Total</i> |
|---|-------------|------------------|---------------------|
| <u>EXISTING LASERFICHE SOFTWARE SUPPORT CREDIT</u> | | | |
| <input checked="" type="checkbox"/> Current System Support Credit <i>**The credit amount honored will be determined based on the date of order.</i> | TBD | TBD | TBD |
| Existing Laserfiche Software Support Credit Total | | | TBD |
| <u>LASERFICHE CLOUD ANNUAL SUBSCRIPTION - BASIC</u> | | | |
| <input checked="" type="checkbox"/> Laserfiche Cloud Professional User Subscription (5-49 Users) | 8 | \$871.50 | \$6,972.00 |
| <input checked="" type="checkbox"/> Laserfiche Cloud Quick Fields Complete with Agent Subscription (10-Pack) | 1 | Included | Included |
| <input checked="" type="checkbox"/> Laserfiche Cloud Workflow Bots Subscription | 1 | Included | Included |
| <input checked="" type="checkbox"/> Laserfiche Cloud Public Portal Subscription (Up to 1,000 Views Per Month) | 1 | \$630.00 | \$630.00 |
| <input checked="" type="checkbox"/> Laserfiche Cloud ScanConnect Subscription | 5 | \$105.00 | \$525.00 |
| Laserfiche Annual Recurring Subscription Subtotal | | | \$8,127.00 |
| <u>MCCi ANNUAL SUBSCRIPTION</u> | | | |
| <input checked="" type="checkbox"/> Training Center for Laserfiche (5-9 Users) | 1 | \$925.00 | \$925.00 |
| MCCi Annual Recurring Subscription Subtotal | | | \$925.00 |
| <u>MCCi SUPPLEMENTAL SUPPORT SERVICES SUBSCRIPTION</u> | | | |
| <input checked="" type="checkbox"/> Process Administration Support Services for Laserfiche <i>Client needs are estimated based on the current components provided herein: up to 25 hours that will expire at the end of your renewal term.</i> | 1 | \$4,275.00 | \$4,275.00 |
| MCCi Supplemental Support Services Annual Recurring Subscription Subtotal | | | \$4,275.00 |
| GRAND TOTAL - RECURRING ANNUAL SUPPORT/SUBSCRIPTION | | | \$13,327.00 |

| <i>Service Description:</i> | <i>Qty.</i> | <i>Unit Cost</i> | <i>Total</i> |
|---|-------------|------------------|--------------|
| <u>MCCi SERVICE PACKAGES</u> | | | |
| <input checked="" type="checkbox"/> On-Premises Data Migration to Laserfiche Cloud <i>Client must upgrade to newest version of Laserfiche to utilize the Laserfiche Data Migration Tool.</i> | 1 | \$2,050.00 | \$2,050.00 |

| | | | | |
|-------------------------------------|---|---|------------|-------------------|
| <input checked="" type="checkbox"/> | Implementation Services Package <i>Cost is based on the current components provided herein. MCCi's certified personnel will administer these services to assist Client with implementing the software/subscription components purchased.</i> | 1 | \$2,460.00 | \$2,460.00 |
| | <ul style="list-style-type: none"> • Business Requirments Gathering • Project Management • System Review | | | |
| <input checked="" type="checkbox"/> | Laserfiche Filing Workflow Configuration <i>Up to 15 Document Types.</i> | 1 | \$4,100.00 | \$4,100.00 |
| | Service Packages Subtotal | | | \$8,610.00 |

| | |
|--|-------------------|
| GRAND TOTAL - ONE-TIME SERVICES | \$8,610.00 |
|--|-------------------|

| | |
|--------------------------------------|--------------------|
| TOTAL LASERFICHE PROJECT COST | \$21,937.00 |
|--------------------------------------|--------------------|

NOTE: The information presented in this document is based on the results of MCCi and Client's collaborative preliminary discovery thus far. As planning and discovery continue, the project scope and costs may change to meet the specific needs of the Client. MCCi will present a formal detailed pricing proposal and project scope for approval prior to the start of any project. This is not a formal quote. Additional services will likely need to be included based on required discovery session.

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
June 16, 2021

Agenda Item:

Second reading and public hearing of Ordinance 2021-04 amending the Land Development Code to establish authority to appoint co-chairpersons to the Planning Zoning and Design Board.

Description:

When the Council adopted the Land Development Code on January 27, 2021, one Code section established a Planning Zoning and Design Board. The Council later appointed co-chairs to this Board. A minor amendment to the Code is needed to allow for co-chairs instead of one chairperson.

The Ordinance was reviewed by the Planning Zoning and Design Board on May 11th and recommended for approval.

The Council first reading was held on June 2, 2021.

Action Requested:

Approve Ordinance 2021-04.

Financial Impact:

Minor cost associated with advertising the Ordinance for second reading.

Attachments:

1. Ordinance No. 2021-04

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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2021 - 04

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE
VILLAGE OF ESTERO, FLORIDA, AMENDING THE
VILLAGE LAND DEVELOPMENT CODE TO
ESTABLISH AUTHORITY TO APPOINT
CO-CHAIRPERSONS TO THE PLANNING ZONING
AND DESIGN BOARD; PROVIDING A SEVERABILITY
CLAUSE, A GENERAL REPEALER CLAUSE, AND AN
EFFECTIVE DATE.**

WHEREAS, the Village Council adopted the Village Land Development Code on January 27, 2021 which, among other things, established the Planning Zoning and Design Board (“Board”) in Section 2-302; and

WHEREAS, paragraph 2-302.A.4 provides that the Village Council shall appoint a Board chairperson; and

WHEREAS, the Village has determined it is in the interest of the health, safety and welfare of its citizens to provide an option to appoint co-chairpersons for the Board; and

WHEREAS, the Planning Zoning and Design Board, sitting as the Local Planning Agency, reviewed this Ordinance at a duly noticed public hearing and recommended approval.

NOW, THEREFORE, be it ordained by the Village Council of the Village of Estero, Florida:

Section 1. Amending Section 2-302.A.4.

The Village Land Development Code is hereby amended as follows:

2-302. Planning Zoning and Design Board

A. Generally

* * *

4. The Chairperson or Co-Chairpersons, as desired by the Village Council, of the PZDB shall be appointed by the Village Council. Members of the PZDB shall annually elect during the first regularly scheduled meeting of each calendar year, a Vice-Chairperson from among its members if Co-Chairpersons were not appointed, and may create and fill other officers as the Board deems needed.

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Section 2. Severability.

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Section 3. Repeal.

All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the Village or any of its officials and in conflict with this Ordinance are hereby repealed to the extent inconsistent herewith.

Section 4. Effective Date.

This Ordinance shall take effect immediately upon adoption at second reading.

PASSED on first reading this ____ day of _____, 2021.

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this ____ day of _____, 2021.

Attest: **VILLAGE OF ESTERO, FLORIDA**

By: _____
Carol Sacco, Village Clerk

By: _____
Katy Errington, Mayor

Reviewed for legal sufficiency:

By: _____
Nancy E. Stroud, Village Land Use Attorney

| Vote: | AYE | NAY |
|----------------------|-------|-------|
| Mayor Errington | _____ | _____ |
| Vice Mayor McLain | _____ | _____ |
| Councilmember Ribble | _____ | _____ |
| Councilmember Fiesel | _____ | _____ |
| Councilmember Boesch | _____ | _____ |
| Councilmember Ward | _____ | _____ |
| Councilmember Wilson | _____ | _____ |

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
June 16, 2021

Agenda Item:

Second Reading for Ordinance 2021-08 Amending the Village Code, Chapter 28 – Roads and Bridges, Article VI – Commercial Use of Rights-Of-Way, Relating to Dangerous Use of Rights-Of-Way.

Description:

This proposed Ordinance comes to the Village Council and the request of the Lee County Sheriff's Office and the action is presented to the Village Council with the endorsement of staff.

We have been advised that, at times, there has been activity on street medians that represents a safety hazard for passing motorists as well as the individuals involved. The Sheriff's Department has requested this Ordinance so that they have the legal basis for controlling any activity in the right-of-way to a safe standard.

The Village relies entirely on the Lee County Sheriff's Office for the provision of Police and other safety services. The costs to Estero are paid entirely from the Lee County Property Tax payments. The Sheriff can only control activities in Estero that comply with Estero ordinances and hence this request. Identical Ordinances are being passed in other communities so that there is a County-wide standard for enforcement.

Please note that some extraneous verbiage unrelated to the purpose of this ordinance has been struck through.

Action Requested:

Approve Ordinance 2021-08.

Financial Impact:

Minor cost associated with advertisement.

Attachments:

1. Ordinance 2021-08

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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2021-08

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, AMENDING THE VILLAGE CODE, CHAPTER 28 – ROADS AND BRIDGES, ARTICLE VI – COMMERCIAL USE OF RIGHTS-OF-WAY, RELATING TO DANGEROUS USE OF RIGHTS-OF-WAY; PROVIDING FOR THE PROHIBITION OF STOPPING OR STANDING IN A MEDIAN THAT IS NOT A SUFFICIENT PEDESTRIAN REFUGE; PROVIDING FOR THE PROHIBITION OF PHYSICAL INTERACTION BETWEEN A PEDESTRIAN AND AN OCCUPANT OF A MOTOR VEHICLE THAT IS NOT LEGALLY PARKED; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

23 **WHEREAS**, the Village Council is the governing body of Village of Estero, Florida;
24 and

25
26 **WHEREAS**, Sections 316.006(2) and 316.008, Florida Statutes, authorizes the Village
27 Council to regulate the use of streets and highways under their jurisdiction; and,
28

29 **WHEREAS**, the primary purpose of public roads and rights-of-way is to enable
30 pedestrians and lawfully permitted vehicles to safely and efficiently move from place to place,
31 facilitate the delivery of goods and services, and provide the general public with convenient
32 access to goods and services; and
33

34 **WHEREAS**, the purpose of this Ordinance is to prohibit activities that interfere with
35 the primary purpose of public roads and rights-of-way by causing distractions to motorists,
36 unsafe pedestrian movement within travel lanes, sudden stoppage or slowdown of traffic,
37 rapidly changing, dangerous traffic movements, increased vehicular accidents and pedestrian
38 and motorist injuries and fatalities; and
39

40 **WHEREAS**, since at least 2016, Lee County has ranked high on the list of
41 metropolitan areas with the most pedestrian fatalities, and the recent 2021 Dangerous By
42 Design study, which utilizes raw data from the National Highway Traffic Safety

43 Administration, identifies Lee County as the 11th most dangerous place for pedestrians in the
44 nation; and

45

46 **WHEREAS**, pursuant to the Article VIII of the Florida Constitution, the Village
47 Charter and Section 166.021, Florida Statutes, the Village Council is authorized to adopt
48 ordinances necessary for the exercise of its powers in for health, safety, and general welfare;
49 and

50

51 **WHEREAS**, the Village Council has determined that it is in the best interests and
52 welfare of the Village of Estero and its residents to enact this Ordinance.

53

54 **NOW, THEREFORE, BE IT ORDAINED** by the Village Council of the Village of
55 Estero, Florida, as follows:

56

57 **Section 1. Recitals Adopted.**

58

59 Each and all of the foregoing recitals are hereby incorporated into this Ordinance as if
60 specifically set forth herein.

61

62 **Section 2. Amending Village Code.**

63

64 The Village Code is hereby amending Chapter 28 – Roads and Bridges. Article VI –
65 Commercial Use of Rights-of-Way, with deletions depicted with ~~strike~~throughs and underlined
66 language as additions below:

67

68 Sec. 28-122. Short title, purpose and territorial scope.

69

70 (a) This article will be known and cited as the Village of Estero ~~Lee County~~
71 ~~Commercial~~ Use of Rights-of-Way Ordinance.

72 (b) It is the purpose of this article that for the protection of public safety, the
73 Village~~Lee County~~ will regulate the ~~commercial~~ use of the rights-of-way on all
74 roads, streets, and highways within the ~~county~~ road system of the Village~~Lee~~
75 ~~County~~. For purposes of this article "~~county~~ road system" shall be defined any
76 portion of the "city street system" or "county road system" pursuant to F.S. §
77 334.03, as may be amended from time to time, which is within the territorial
78 jurisdiction of the Village.

79 ~~(e) County owned roads lying within the municipal boundaries of the City of~~
80 ~~Sanibel shall not be subject to the provisions of this article but shall be regulated~~
81 ~~by that municipality.~~

82

83 Sec. 28-124. Exceptions.

84 The commercial use of the right-of-way of any road, street or highway within the
85 ~~county~~ road system is expressly prohibited, except that the commercial uses listed below may
86 occur in the public rights-of-way, but only in compliance with the requirements and conditions
87 set forth herein:

88 (1) Village~~County~~ permitted or sponsored special events.

89 a. Any portion of a road, street, or highway, including the rights-of-way,
90 within the ~~county~~ road system may be used for an art festival, parade,
91 fair, or other similar special event which is either properly permitted by
92 the Village~~county~~ pursuant to ~~Administrative Code AC 8-1, as may be~~
93 ~~amended~~, or under control of the Village~~county~~ as a Village~~county~~
94 sponsored function.

95 b. The special events exception is not intended to apply to events for which
96 the primary purpose is: solicitation of funds; or, solicitation for sale of
97 goods, property, or services for educational, religious or political
98 purposes. However, such activities may be permitted if they are clearly
99 adjuncts of a properly permitted special event.

100 (2) Newspaper vending racks or machines. Small, standard size newspaper vending
101 racks or machines (as determined by industry standards) may be placed in
102 public rights-of-way only in compliance with the following requirements and
103 conditions:

104 a. Such racks and machines may not be placed in public rights-of-way
105 unless there is a sufficient cleared area between them and the paved or
106 traveled portion of any street or bike path for an automobile to safely
107 park as determined by the Director of Public Works~~Lee County~~
108 ~~Department of Transportation~~, using all applicable Village~~Lee County~~
109 regulations and standards.

110 b. Such racks and machines may not pose any threat to traffic visibility or
111 safety or impede vehicular movements.

112 c. Such racks and machines may not contain any graphics other than an
113 identification of the newspaper being circulated thereby.

114 d. Placement of such racks or machines in the rights-of-way of any road,
115 street or highway within the county road system shall be made only
116 when such placement is made pursuant to, and in compliance with all
117 applicable Village~~Lee County~~ regulations and standards, and is verified
118 as being in such compliance by the Director of ~~the Public Works~~Lee
119 ~~County Department of Transportation~~, or their~~his~~-designee, who shall

120 approve same by the issuance of an appropriate permit or other written
121 acknowledgment.

122 (3) Bus benches with signs. Bus benches approved by a governmental agency shall
123 ~~only be provided by the county.~~

124 (4) Utilities. Placement of utilities in the rights-of-way of any road, street or
125 highway within the ~~county~~ road system shall be made only when such
126 placement is made pursuant to, and in compliance with, all applicable
127 Village Lee County regulations, and is verified as being in such compliance by
128 the Director of Public Works ~~the Lee County Department of Transportation~~, or
129 his designee, and the Director of Public Works ~~the Lee County Department of~~
130 Community Development, or their ~~his~~-designee, who shall approve same by the
131 issuance of an appropriate permit or other written acknowledgment.

132 (5) Commercial loading or unloading. Temporary parking or stopping for the
133 purpose of loading or unloading of merchandise, wares or passengers being
134 received from or delivered to adjacent property is permissible only in the event
135 a loading zone off the right-of-way is not available.

136 ~~(6) Mobile food vendors. Any mobile food vendor who has a valid Lee County~~
137 ~~Local Business Tax Receipt (formerly occupational license) shall be permitted~~
138 ~~to make sales from his/her vehicle while stopped on the right of way to~~
139 ~~occupants of abutting property only, subject to the following conditions:~~

140 a. ~~Hours of operation shall be sunrise till sunset;~~

141 b. ~~No vehicle shall stop on any arterial or collector street, road or highway;~~

142 c. ~~No vehicle shall back up along any street, road or highway except for~~
143 ~~emergency conditions;~~

144 d. ~~When pulling over, all vehicles shall stop as close as safely possible to~~
145 ~~the edge or curb of the street on the right side of the street, road or~~
146 ~~highway;~~

147 e. ~~All vehicles may temporarily stop in the same location. A temporary~~
148 ~~stop shall not exceed the time necessary to sell to immediate purchasers~~
149 ~~and in no event shall a stop exceed fifteen (15) minutes.~~

150 ~~For purposes of this subsection, a mobile food vendor is a person who sells food~~
151 ~~to the public from a vehicle which is self-propelled or otherwise readily~~
152 ~~moveable from place to place and which operates from an approved base~~
153 ~~commissary.~~

- 154 (7) ~~Charitable solicitation drives. Charitable solicitation drives may be conducted~~
155 ~~on or along the right of way of any road, street or highway within the county~~
156 ~~road system under the following conditions:~~
- 157 a. ~~Such drives are conducted by sworn and/or certified law enforcement~~
158 ~~officers or firefighters; or~~
- 159 b. ~~Such drives are conducted by an organization that is qualified under~~
160 ~~Section 501(c)(3) of the Internal Revenue Code and registered under~~
161 ~~F.S. ch. 496, or a person or organization acting on behalf of that~~
162 ~~organization under the following conditions:~~
- 163 1. ~~The organization, or the person or organization acting on behalf~~
164 ~~of the organization, must provide all of the following:~~
- 165 (i) ~~No fewer than fourteen (14) calendar days prior to the~~
166 ~~proposed solicitation, the name and address of the person~~
167 ~~or organization that will perform the solicitation and the~~
168 ~~name and address of the organization that will receive~~
169 ~~funds from the solicitation.~~
- 170 (ii) ~~For review and comment, a plan for the safety of all~~
171 ~~persons participating in the solicitation, as well as the~~
172 ~~motoring public, at the locations where the solicitation~~
173 ~~will take place.~~
- 174 (iii) ~~Specific details of the location or locations of the~~
175 ~~proposed solicitation and the hours during which the~~
176 ~~solicitation activities will occur.~~
- 177 (iv) ~~Proof of commercial general liability insurance against~~
178 ~~claims for bodily injury and property damage occurring~~
179 ~~on streets, roads, or rights of way or arising from the~~
180 ~~solicitor's activities or use of the streets, roads, or rights~~
181 ~~of way by the solicitor or the solicitor's agents,~~
182 ~~contractors, or employees. The insurance shall have a~~
183 ~~limit of not less than one million dollars (\$1,000,000.00)~~
184 ~~per occurrence for the general aggregate. The certificate~~
185 ~~of insurance shall name Lee County as an additional~~
186 ~~insured and shall be filed with Lee County Public~~
187 ~~Resources Division no later than seventy two (72) hours~~
188 ~~before the date of the solicitation.~~

- 222 a. ~~Business entities may only represent itself to the public by signage as~~
223 ~~representing tourism interests if the entity meets the following criteria:~~
- 224 1. ~~The entity is a nonprofit, 501C-6 organization whose mission is~~
225 ~~to promote tourism and economic development for the county;~~
226 ~~and,~~
- 227 2. ~~The administrative offices are located at the address of the~~
228 ~~proposed visitor/information center or you have employed staff~~
229 ~~on site to deal with the business of assisting tourists/visitors;~~
230 ~~and,~~
- 231 3. ~~An area of at least three hundred fifty (350) square feet should~~
232 ~~be designated for tourism/visitor information.~~
- 233 4. ~~Those signs by business entities currently existing as of the date~~
234 ~~of adoption of this article on U.S. 41 at Corkscrew and Coconut~~
235 ~~Road are grand-fathered in and exempt from these requirements~~
236 ~~and criteria.~~
- 237 b. ~~Only business entities meeting the requirements of subsection (78)a.~~
238 ~~(above) are permitted to have such designated signs. In order to request~~
239 ~~approval to install such designated signs within the Village, Lee County~~
240 ~~or the Florida Department of Transportation right of way, business~~
241 ~~entities will:~~
- 242 1. ~~Submit an application through the Village Manager's OfficeLee~~
243 ~~County Department of Public Resources for review and~~
244 ~~authorization to apply for a permit to have the applicable~~
245 ~~agencyLee County Department of Transportation and/or the~~
246 ~~Florida Department of Transportation review the proposed~~
247 ~~fabrication and installation of visitor center designation signs~~
248 ~~within the right of way.~~
- 249 2. ~~Within ninety (90) days following department of public~~
250 ~~resources approval, submit the required right of way permit~~
251 ~~application to the applicable agencyLee County Department of~~
252 ~~Transportation or the Florida Department of Transportation.~~
- 253 3. ~~Within ninety (90) days of approval of the required right of way~~
254 ~~permit, fabricate the visitor center designation signs in~~
255 ~~accordance with Florida Department of Transportation~~
256 ~~minimum standards and specifications, followed by installation~~

257 of the visitor center designation signs in accordance with Florida
258 Department of Transportation standards and specifications.

259 4. ~~Provide perpetual maintenance and replacement of the visitor~~
260 ~~center designation signs in accordance with Florida Department~~
261 ~~of Transportation standards and specifications.~~

262 5. ~~Remove any visitor center designation signs, support, post and~~
263 ~~foundation within the specified time as follows:~~

264 (i) ~~Within fourteen (14) days of the date of written~~
265 ~~notification from the applicable agency Lee County or~~
266 ~~the Florida Department of Transportation requiring~~
267 ~~removal from the right of way, or~~

268 (ii) ~~Within fourteen (14) days of closing or relocating the~~
269 ~~visitor center the visitor center designation signs and~~
270 ~~assembly shall be fully removed from the right of way,~~
271 ~~or~~

272 (iii) ~~Within fourteen (14) days of the business entity or the~~
273 ~~visitor center found to no longer be in full compliance~~
274 ~~with the minimum requirements of subsection (78)a., the~~
275 ~~visitor center designation sign and assembly shall be~~
276 ~~fully removed from the right of way, or~~

277 (iv) ~~Within one (1) business day of verbal or written~~
278 ~~notification that a visitor center designation sign~~
279 ~~represents an immediate hazard to the public, the visitor~~
280 ~~center designation sign and, if needed, the sign assembly~~
281 ~~shall be fully removed from the right of way.~~

282 (9) ~~Pine Island tourist oriented directional signs. Pine Island tourist oriented~~
283 ~~directional signs as set forth in accordance with the Lee County Administrative~~
284 ~~Code.~~

285 (10) ~~Lee County specific services signs. Lee County specific services signs as set~~
286 ~~forth in the Lee County Administrative Code.~~

287 Sec. 28-125. Dangerous Use of Public Rights-Of-Way.

288 (a) Except as provided herein, or as otherwise permitted by law, it is unlawful to
289 make any use of any public rights-of-way in a manner that interferes with the
290 safe and efficient movement of people and property from place to place on a

291 public road or right-of-way. Such prohibited activity includes by way of
292 example and not limitation:

293 1. Stopping, standing or otherwise occupying a median that is not a
294 sufficient pedestrian refuge on an arterial or collector road by a
295 pedestrian when that pedestrian is not in the process of lawfully crossing
296 the road in accordance with applicable traffic and safety laws.

297 i. Stopping, standing, or otherwise occupying a median that is not
298 a sufficient pedestrian refuge through two (2) consecutive
299 opportunities to cross in accordance with applicable traffic and
300 safety laws is prima facie evidence of a violation of this
301 subsection.

302 ii. A “sufficient pedestrian refuge” is defined as a paved or unpaved
303 median separating lanes of traffic that is at least 6 feet wide,
304 measured from the back of curb to back of curb.

305 2. Engaging in any physical interaction between a pedestrian and an
306 occupant of a motor vehicle, including the transfer of any product or
307 material, while the motor vehicle is located on the travelled portion of
308 an arterial or collector road and is not legally parked.

309 3. For the purpose of this article, the phrase “public rights-of-way” shall
310 be defined as set forth in Section 334.03(22), Florida Statute, as
311 amended.

312 (b) Nothing in this section shall prohibit the following:

313 1. Law enforcement, fire and rescue, or other government employees or
314 contractors acting within the scope of their lawful authority.

315 2. A person conducting inspection, construction, maintenance, repair,
316 survey, or legally authorized services.

317 3. A person responding to lend aid during an emergency situation.

318 4. Entering or exiting a bus or other public transit system.

319 5. Use of public roads and rights-of-way that have been closed to vehicular
320 traffic for a special event permitting by the appropriate governmental
321 entity.

322 6. Activities expressly authorized pursuant to a utility franchise
323 agreement.

324 Sec. 28-1256. Penalty.

325 Any person who violates this article shall be prosecuted in the same manner as
326 misdemeanors are prosecuted. Upon conviction, a violator shall be punished by a fine not to
327 exceed five hundred dollars (\$500.00) or by imprisonment ~~in the county jail~~ not to exceed sixty
328 (60) days, or by both such fine and imprisonment. This enforcement procedure and penalty for
329 violations of this article is adopted under the express authority of Chapter 162 and F.S. §
330 166.0415-125.69(1), Florida Statutes. This article may be enforced by the Lee County Sherriff.

331 Sec. 28-1267. Civil enforcement.

332 In addition to any criminal penalties which may be imposed pursuant to section 28-
333 1256: Penalty, ~~the Village Lee County~~ shall have recourse to such remedies in law and equity
334 as may be necessary to insure compliance with the provisions of this article, including:

- 335 (1) Injunctive relief to enjoin and restrain any person from violating this article;
336 and
- 337 (2) Prosecution before the Village Special Magistrate~~Lee County Code~~
338 ~~Enforcement Board~~; and
- 339 (3) Any other relief available pursuant to law.

340 Sec. 28-1278. Conflicts of law.

341 Whenever the requirements or provisions of this article are in conflict with the
342 requirements or provisions of any other lawfully adopted ordinance or statute, the most
343 restrictive requirements shall apply.

344 ~~Sec. 28-128. Effective date.~~

345 ~~—————This article will take effect upon its filing with the Office of the Secretary of the Florida~~
346 ~~Department of State.~~

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352 **Section 21. Conflict.**

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All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the Village or any of its officials and in conflict with this Ordinance are hereby repealed to the extent inconsistent herewith.

Section 22. Severability.

In the event that any portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 23. Codification.

The Village Council intends that this Ordinance be made part of the Code of the Laws and Ordinances, of the Village of Estero, Florida; and that the sections of this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-lettered and typographical errors and clarification of ambiguous wording that do not affect the intent can be corrected with the authorization of the Village Manager without the need for a public hearing.

Section 24. Effective Date.

This Ordinance shall take effect immediately upon adoption.

[SIGNATURE PAGES FOLLOWS]

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PASSED on first reading this _____ day of _____ 2021.

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero,
Florida this _____ day of _____, 2021.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: _____
Carol Sacco, Village Clerk

By: _____
Katy Errington, Mayor

Reviewed for legal sufficiency:

By: _____
Burt Saunders, Esq., Village Attorney

| Vote: | AYE | NAY |
|----------------------|-------|-------|
| Mayor Errington | _____ | _____ |
| Vice Mayor McLain | _____ | _____ |
| Councilmember Boesch | _____ | _____ |
| Councilmember Fiesel | _____ | _____ |
| Councilmember Ribble | _____ | _____ |
| Councilmember Ward | _____ | _____ |
| Councilmember Wilson | _____ | _____ |

WORKSHOP ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
June 16, 2021

Agenda Item:

TECO Peoples Gas Franchise Agreement

Description:

Discuss the process for establishing TECO Peoples Gas Franchise Agreement.

Financial Impact:

“TECO will pay to the Village a franchise fee equal to 6 percent of gross revenues for all TECO customers within the Village city limits. There will no costs to the Village.”

Attachments:

1. Standard Natural Gas Franchise Agreement

NATURAL GAS
FRANCHISE AGREEMENT
ORDINANCE NO. _____

AN ORDINANCE GRANTING TO PEOPLES GAS SYSTEM, A DIVISION OF TAMPA ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE NATURAL GAS FRANCHISE AGREEMENT TO USE THE PUBLIC RIGHTS OF WAY OF THE VILLAGE OF ESTERO, FLORIDA, AND PRESCRIBING THE TERMS AND CONDITIONS UNDER WHICH SAID FRANCHISE MAY BE EXERCISED; MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE; AND REPEALING PRIOR ORDINANCE.

WHEREAS, Peoples Gas System and the Village of Estero desire to enter into a franchise agreement for a period of thirty (30) years commencing from the date provided herein; and

WHEREAS, the City Commission finds that it is in the public interest of its citizens to enter into a new franchise agreement with Peoples Gas System.

NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE VILLAGE OF ESTERO, FLORIDA, THAT:

SECTION 1: DEFINITIONS

For the purposes of this Ordinance, the following terms shall have the meaning given herein.

- A. "Customer" shall mean any person served by the Company within the corporate limits of the city
- B. "City" shall mean the Village of Estero, Lee County, Florida, its successor and assigns.
- C. "Company" shall mean Peoples Gas System, a division of Tampa Electric Company, a Florida corporation, its successors and assigns.
- D. "Distribution System" shall mean any and all transmission pipe lines, main pipe lines and service lines, together with all tubes, traps, vents, vaults, manholes, meters, gauges, regulators, valves, conduits, attachments, structures and other

appurtenances, as are used or useful in the sale, distribution, transportation or delivery of Natural Gas and as are situated within the corporate limits of the City.

- E. "Effective Date" shall mean the date this Franchise becomes effective as described in Section 19 below.
- F. "Franchise" or "Franchise Agreement" shall mean this agreement as passed and adopted by the City and accepted by the Company as provided in Section 19 below.
- G. "FPSC" shall mean the Florida Public Service Commission or any successor agency.
- H. "Gross Revenues" shall mean all revenues (as defined by the Florida Public Service Commission) received by the Company from any customer from the sale of Gas.
- I. "Person" shall mean any individual, firm, partnership, estate, corporation, company or other entity, including, but not limited to, any government entity.
- J. "Natural Gas" or "Gas" shall mean natural gas and/or manufactured gas and/or a mixture of gases which is distributed in pipes and measured by meter on the Customer's premises. It shall not mean propane gas or liquefied petroleum gas (commonly referred to as "bottled gas").
- K. "Right-of-way" means any street, road, lane, highway, avenue, boulevard, alley, waterway, bridge, easement, public place, or other right-of-way that is owned by the City.

SECTION 2: GRANT

The City hereby grants to the Company the non-exclusive right, privilege, and franchise to lay, erect, construct, operate and maintain in, on or under any and all Rights-of-way, as they now exist or may be hereafter constructed, opened, laid out or extended within the present incorporated limits of the City, or in such territory as may be hereafter added or annexed to, or consolidated with the City, a Distribution System subject to the terms and conditions herein contained.

SECTION 3: TERM

Except as provided in Section 15, the Franchise hereby granted shall be for a period of thirty (30 years) from the effective date of this ordinance.

SECTION 4: ASSIGNMENT

A. The Franchise hereby granted shall not be leased, assigned or otherwise alienated or disposed of except with the prior express written consent of the City, which shall not be unreasonably withheld or unduly delayed. No assignment shall be allowed without the assignee assuming the terms of the Franchise Agreement with the City.

B. Notwithstanding the foregoing, the Company may, without the consent of the City, lease, assign or otherwise alienate and transfer this Franchise in connection with the lease or sale of the Distribution System or upon its merger or consolidation with, or transfer to, a corporation engaged in similar business (including an affiliate or subsidiary of the Company), or pledge or mortgage of such Franchise in connection with the physical property owned and used by it in the operation of the Distribution System for the purpose of securing payment of monies borrowed by the Company.

SECTION 5: CITY COVENANT

As a further consideration for this Franchise Agreement, the City covenants and agrees that it will not, during the term of this Franchise Agreement or any extension thereof, engage in the business of distributing or selling Natural Gas within the corporate limits of the City, as modified, during the term of this Franchise Agreement.

SECTION 6: USE OF STREETS

The Distribution System shall be erected, placed, or laid in such manner as will, consistent with necessity, least interfere with other public uses of the Rights-of-way, and said Right-of-way shall not be unnecessarily obstructed, and before, except in an emergency situation, the Company

makes any excavation or disturbs the surface of any of the Rights-of-way, it shall make application for a permit to the appropriate City authority. The City shall issue or, if applicable, deny permits within ten (10) business days of application by the Company. In consideration of the franchise fees contemplated in this agreement, the City shall not charge the Company any fees for the issuance of such permits. The Company shall, with due diligence and dispatch, place such Right-of-way in as good a condition as before such excavation or disturbance was made; provided, however, that should the Company fail, within ten (10) days of its receipt of written notice from the City, to restore such Right-of-way, then the City may undertake such restoration (other than any restoration work on the Distribution System) and charge the reasonable cost thereof to the Company.

To the extent consistent with Florida law, the Company hereby agrees to abide by all the rules and regulations and ordinances which the City has passed or might pass in the future, in the exercise of its police power, provided, however, that the City shall not pass any ordinance or regulation that results in a material change the rights or obligations of the Company under the Franchise Agreement.

SECTION 7: MAINTENANCE

All such components of the Distribution System of the Company located within the City shall be installed and maintained in accordance with accepted good practice and in accordance with the orders, rules, and regulations of the Florida Public Service Commission.

SECTION 8: LAYING OF PIPE

All components of the Distribution System shall be laid consistent with all applicable codes, rules, regulations and laws, including, to the extent consistent with all applicable codes, rules, regulations and laws, specifications contained in City permits.

SECTION 9: CONSTRUCTION WORK

The City reserves the right to permit to be laid electric conduits, water and gas pipes and lines, cables, sewers, and to do and permit to be done any underground work that may be deemed necessary or proper by the City in, across, along, or under any Right-of-way. Whenever, by reason of establishing a grade or by reason of changes in the grade of any Right-of-way, or by reason of the widening, grading, paving, or otherwise improving present or future Rights-of-way, or in the location or manner of construction of any water pipes, electric conduits, sewers, or other underground structure located within the Rights-of-way, it shall be deemed necessary by the City to remove, relocate, or disconnect any portion of the Distribution System of the Company hereto for such public purpose, such removal, relocation, or disconnection shall be made by the Company as ordered in writing by the City without claim for reimbursement. If the City shall require the Company to remove, relocate, or disconnect any portion of its Distribution System or in any way to alter the placement or location of the Distribution System to enable any other person to use said Rights-of-way of the City, as part of its permitting or approval process, the City shall require the person desiring or occasioning such removal, relocation, disconnection, or alteration to reimburse the Company for any loss, cost, or expense caused by or arising out of such removal, relocation, disconnection, or alteration of any portion of the Distribution System. The Company further agrees that it will not intentionally interfere with, change, or injure any water pipes, drains, or sewers of said City unless it has received specific permission from the City or its duly authorized representative.

SECTION 10: FRANCHISE FEE

Subject to Section 11 below, within thirty(30) days after the close of the first full billing month following the effective date of this Franchise Agreement, and each month thereafter during

the term of this Franchise Agreement, the Company, its successors, or assigns, shall apply to the City or its successors, a sum of money equal to six percent (6%) of the Company's Gross Revenue, less any adjustments for uncollectable accounts, from the sale of Natural Gas to Customers within the corporate limits of the City. The Franchise fee payment shall be deemed paid on time if post-marked within thirty (30) days of the close of the preceding billing month.

SECTION 11: IDENTIFICATION OF CITY RESIDENTS

No less than thirty (30) days prior to the Effective Date, the City shall deliver to the Company such information (including City limit streets and block numbers) as is needed by the Company to determine which of its customer are located within the City limits. The City shall also provide such information no less than thirty (30) days prior to the effectiveness of any change in said limits, whether by addition, annexation, or consolidation, or upon the Company's request. The Company shall be relieved of any obligation to pay franchise fees to the extent the City has failed to provide information in accordance with this Section 11.

SECTION 12: ACCOUNTS AND RECORDS

The Company shall maintain accounting, maintenance, and construction records as prescribed by the FPSC. The Company shall establish and maintain appropriate accounts and records in such detail that revenues within the corporate limits of the City are consistently declared separately from all other revenues, and such records shall be maintained within the State of Florida. Upon request by the City, or its designated representative, and execution of a confidentiality agreement reasonably satisfactory to the Company, the Company shall make available said records within thirty (30) days to the City for the determination of the accuracy of the Gross Revenues upon which the Company's franchise fee is based. The Company shall maintain its billing records

only for the period of time required by the FPSC and any examination conducted after such period shall be confined to the billing records then available.

SECTION 13: INSURANCE

During the term of this Franchise, the Company shall file with the City Clerk and shall keep in full force and effect at all times during the effective period hereof, insurance certificates evidencing a general liability insurance policy or policies issued by an insurance carrier licensed to do business in the state of Florida or evidence of self-insurance within the corporate limits of the City as they currently exist or may exist in the future. Each such policy shall provide for the minimum sum of \$1,000,000.00 for injury or death to any one person, and for the minimum sum of \$5,000,000.00 for injury or death to all persons where there is more than one person involved in any one incident or accident, and for the minimum sum of \$1,000,000.00 for damage to property, resulting from any one accident, and each of the said minimum sums shall remain in full force and shall be undiminished during the effective period of this Agreement. The coverage requirements set forth in this Section 13 may be satisfied, in whole or in part, with self-insurance.

Company shall notify the Clerk of the City in writing, promptly upon any material alteration, modification, or cancellation of such policy.

SECTION 14: INDEMNIFICATION:

In consideration of the permissions granted to the Company by this Franchise Agreement, the Company hereby agrees to indemnify and hold harmless the City, its officers, agents and employees from and against claims, suits, actions, and causes of action, caused by the Company's negligent operation of the Distribution System within the City during the term of this Franchise and resulting in personal injury, loss of life or damage to property sustained by any person or entity, through or as a result of the doing of any work herein authorized or the failure to do work

herein required, and including all reasonable costs, attorney's fees, expenses, and liabilities incurred by the City in connection with any such claim, suit, or cause of action, including the investigation thereof, and the defense of any action or proceeding brought thereon and any order, judgment or decree which may be entered in any such action or proceeding or as a result thereof; **provided, however,** that neither the Company nor any of its employees, agents, contractor, licensees, or sub lessees shall be liable under this section for any claims, demands, suits, actions, losses, damages, or expenses, including attorney's fees, arising out of the negligence, strict liability, intentional torts, criminal acts, or error of the City, its officers, agents, or employees. The provisions of this section shall survive the expiration or earlier termination of this Franchise Agreement. Notwithstanding any provision herein to the contrary, the Company's liability under this Agreement shall be limited to the assets and business of Peoples Gas System, a division of Tampa Electric Company, as if Peoples were incorporated separate and apart from Tampa Electric Company.

SECTION 15: TERMINATION BY CITY

Violation by the Company of any of the covenants, terms, and conditions hereof, or default by the Company in observing or carrying into effect any of said covenants, terms and conditions, shall authorize and empower the City to declare a termination of this Franchise Agreement; provided, however, that before such action by the City shall become operative and effective, the Company shall have been served by the City with a written notice setting forth all matters pertinent to such violation or default, and describing the action of the City with respect thereto, and the Company shall have had a period of sixty (60) days after service by certified U.S. mail of such notice, or, in the event such cure reasonably requires a period of more than sixty (60) days, then sixty (60) days to present a plan reasonably satisfactory to the City to effect such cure; and

provided further that any violation or default resulting from a strike, a lockout, an act of God, or any other cause beyond the control of the Company shall not constitute grounds for termination.

SECTION 16: CHANGES IN PROVISIONS HEREOF

Changes in the terms and conditions hereof may be made by written agreement between the City and the Company.

SECTION 17: SEVERABILITY; CHANGE IN LAW

(A) If any section, part of a section, paragraph, sentence, or clause of this Agreement shall be adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of any other portion hereof, but shall be restricted and limited in its operation and effect to that specific portion hereof involved in the controversy in which such decision shall have been rendered; provided, however, that should elimination of the specific portion of the Franchise Agreement adjudged to be invalid result in significant adverse consequences to a party, then that party may terminate this Franchise Agreement by providing thirty (30) days written notice to the other party.

(B) Upon the issuance by a court of competent jurisdiction of an order, ruling, or decision, or the enactment or adoption by the Florida Legislature, the City, or any other governmental or regulatory body of a law, rule, regulation, or ordinance, that materially diminishes a municipality's ability to exact franchise fees from a utility, or that effectively does away with the ability of a municipality to grant a franchise altogether, then the Company or City may terminate this Franchise Agreement by providing ninety (90) days written notice to the other party.

SECTION 18: GOVERNING LAW

This Franchise shall be governed by the laws of the State of Florida and applicable federal law.

SECTION 19: EFFECTIVE DATE

This Franchise Agreement shall become effective upon its acceptance by the Company, which acceptance must be evidenced in writing within sixty (60) days of the City's passage and adoption hereof.

PASSED AND CERTIFIED AS TO PASSAGE this _____ day of _____, 202__.

By: _____
Name:
Title: Mayor

ATTEST: _____
Name:
Title: CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

Accepted this _____ day of _____, A.D. 202__

PEOPLES GAS SYSTEM, a division of
Tampa Electric Company

By: _____
Name:
Title:

By: _____
Name:
Title: