



VILLAGE COUNCIL WORKSHOP Agenda

Village Hall
21500 Three Oaks Parkway,
Estero, FL

Friday, May 15, 2015
1:30 p.m.

Village Council: District 1 – Bill Ribble; District 2 – Howard Levitan, Deputy Mayor; District 3 – Donald Brown; District 4 – Katy Errington; District 5 – Jim Boesch; District 6 – Nick Batos, Mayor; District 7 – Jim Wilson

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **APPROVAL OF AGENDA**
5. **COUNCIL BUSINESS**

The public will have an opportunity to speak during each agenda item. Each individual has one opportunity to speak for three minutes per agenda item.

- (A) DISCUSSION – Ordinance Establishing Purchasing Procedures
(Interim Village Manager)

Attachment Included

- (B) DISCUSSION – Ordinance Regarding Local Communications
Services Tax (Interim Village Manager)

Attachment Included

- (C) DISCUSSION – Ordinance Regarding Non-Exclusive Franchise to Florida Power & Light (Interim Village Manager)

Attachment Included

- (D) DISCUSSION – Ordinance Regarding Non-Exclusive Franchise to People’s Gas System, a Division of Tampa Electric (Interim Village Manager)

Attachment Included

- (E) DISCUSSION – Resolution of Intent for Village of Estero’s Participation in the National Flood Insurance Program (Interim Village Manager)

Attachment Included

- (F) DISCUSSION – Interlocal Agreement with Lee County Regarding Enforcement of Floodplain Management Regulations (Interim Village Manager)

Attachment Included

- (G) DISCUSSION – Ordinance Establishing Uniform Travel and Expense Reimbursement Procedures

Attachment Included

- (H) DISCUSSION – Resolution Establishing Public Records Fees

Attachment Included

- (I) DISCUSSION – Discussion Regarding Citizen Advisory Committees

- (J) DISCUSSION – Village of Estero Employment Policy Manual

7. PUBLIC INPUT OF NON-AGENDA ITEMS

8. COUNCIL / VILLAGE MANAGER COMMUNICATIONS AND FUTURE AGENDA ITEMS

- (A) Interim Village Manager’s Comments.
- (B) Interim Village Attorney’s Comments.

9. ADJOURN

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

ADA Assistance – Anyone needing special assistance at the Council meeting due to a disability or physical impairment, should contact Daphnie Bercher at 239-598-3601, 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.

ORDINANCE NO 15-_____

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA; ESTABLISHING PURCHASING PROCEDURES; DESIGNATING A PURCHASING AGENT; PROVIDING FOR LIMITATIONS ON PURCHASES; PROVIDING FOR COMPETITIVE BIDDING; ESTABLISHING COMPETITIVE BIDDING AND BID OPENING PROCEDURES; PROVIDING FOR AWARDING OF BIDS; PROVIDING FOR WAIVER OF COMPETITIVE BIDDING; PROVIDING FOR EXEMPTIONS FROM COMPETITIVE BIDDING; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE AND IN AN EFFECTIVE DATE.

WHEREAS, the Village Council has determined that purchasing guidelines and procedures are essential elements in the administration of the Village's day to day activities; and

WHEREAS, the Village's Charter requires that contract for public improvements and purchases of supplies, materials, or services shall be awarded or made on the basis of specifications and competitive bids, except in cases where the Village Council specifically determines that it is impractical to do so; and

WHEREAS, the Village Council hereby determines that it is impractical to purchase, through competitive bidding, materials, supplies, equipment, improvements or services for which funds are provided in the budget and for which the total amount to be expended is \$ 10,000 or less;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA AS FOLLOWS;

PURCHASING PROCEDURES

SECTION 1. PURCHASING AGENT.

The Village Manager or his/her designee shall be the chief purchasing agent of the Village. The purchasing agent shall contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department or agency of the Village the purchasing agent shall establish and enforce specifications, inspect or supervise the inspection of all deliveries and have full and complete charge of, and be responsible for, all supplies, materials, and equipment purchased for or belonging to the Village.

SECTION 2. PURCHASING LIMITATIONS; COMPETITIVE BIDDING.

- (A) Purchases less than \$10,000. Purchases of, or contracts for materials, supplies, equipment, improvements or services for which funds are provided in the budget, where the total amount to be expended is not in excess of \$10,000 may be made or entered into by the Village Manager without submittal to the Village Council and without competitive bidding. Single purchases or contracts in excess of \$10,000 shall not be broken down to amounts less than \$10,000 to avoid the requirements of this section.
- (B) Purchases more than \$10,000 but less than \$50,000. Purchases of or contracts for materials, supplies, and equipment, improvements or services for which funds are provided in the budget, where the total amount to be expended is in excess of \$10,000 but which do not exceed \$50,000 may be made or entered into by the Village Manager without submittal to the Village Council, but shall require compliance with the competitive bidding requirements set forth in Section 3 of this Ordinance. Single purchases or contracts in excess of \$10,000 shall not be broken down to amounts less than \$10,000 to avoid the requirements of this section.
- (C) Purchases in excess of \$50,000. The Village Council shall approve all purchases of or contracts for materials, supplies, equipment, public improvements or services where the total amount to be expended is more than \$50,000.
- (D) The Village Manager may not purchase or contract for any item or service which exceeds any budget appropriation until such a time the Village Council amends the budget to increase the appropriation to the applicable level.

SECTION 3. COMPETITIVE BIDDING PROCEDURE.

- (A) Whenever competitive bidding is required by this Ordinance, the Village Manager shall direct that bid proposals which provide specifications for the purchase or contract be prepared.
- (B) The Village Manager shall solicit sealed bids from at least three persons or entities engaged in the business of furnishing such materials, supplies, equipment and public improvements or rendering such services.
- (C) The Village Manager may publish a public invitation to bid.
- (D) Bids shall be awarded to the lowest, most responsive, responsible bidder, as determined by the Village Council and/or the Village Manager as the case may be, subject to the right of the Village to reject any and all bids, to waive any irregularity in the bids or bidding procedures and subject also to the right of the Village to award bids and contracts to bidders other than the low bidder.

SECTION 4. BID OPENING PROCEDURE; AWARDING OF BIDS.

- (A) Sealed bids shall be opened by the Village Manager or his appointed representative and recorded by the Village Manager or his representative on the date and time specified in the bid proposal.
- (B) Whenever required by the bid proposal, all bid bonds, cash, insurance, checks or other security accompanying the bid shall be received and maintained for safekeeping by the Village Manager. The Village Manager shall be responsible for the return of the bid bonds, cash, insurance, checks or other security of unsuccessful bidders.
- (C) Upon completion of the bid opening and reading, all bids received will be deposited with the Village Manager for tabulation and/or recommendation to the Village Council.
- (D) Upon submission of the bid tabulation and recommendation to the Village Manager or Village Council, as the case may be, the Village Manager or the Village Council shall either accept, reject or refer for additional review the bid tabulation and recommendation.

SECTION 5. WAIVER OF COMPETITIVE BIDDING PROCEDURES

The Village Council may, by majority vote, waive the competitive bidding procedures outlined in this ordinance if the Village Council determines that it is impractical to do so.

SECTION 6. GOVERNMENTAL CONTRACTS.

The Village Manager is hereby authorized to enter into bids or contracts entered into by other governmental authorities provided that the governmental authority has followed a competitive bidding procedure leading to the award of the bid or contract in question which is substantially similar to the competitive bidding procedure outlined in this Ordinance.

SECTION 7. EXEMPTIONS FROM COMPETITIVE BIDDING.

The following shall be exempt from the competitive bidding procedures outlined in this ordinance:

- (A) Transactions described in Section 2(A) of this Ordinance.
- (B) Contracts for professional services.
- (C) Other contracts as provided by State Law.

SECTION 8. REPEAL OF CONFLICTING PROVISIONS.

All provisions of the Code of Lee County as made applicable to the Village by Article _____, Section _____ of the Village Charter which are in conflict with this Ordinance are hereby repealed.

SECTION 9. SEVERABILITY.

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of

this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 10. INCLUSION IN THE CODE.

It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Village of Estero Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

SECTION 11. EFFECTIVE DATE.

This Ordinance shall be effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this ____ day of _____, 2015.

PASSED AND ADOPTED on second reading this ____ day of _____, 2015.

Nick Batos, Mayor

ATTEST:

Peter G. Lombardi
Interim Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Burt L. Saunders
Village Attorney

Motion by: _____
Second by: _____

Vote:

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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 15 - _____

AN ORDINANCE OF THE VILLAGE OF ESTERO, OF LEE COUNTY, FLORIDA, ADOPTING A NEW LOCAL COMMUNICATION SERVICES TAX RATE; PROVIDING OF A NEW LOCAL COMMUNICATION SERVICES TAX RATE; PROVIDING FOR ADJUSTMENT OF TAX RATE FOR PERMIT FEES; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, during the 2000 regular Session, the Florida Legislature passed the “Communication Services Tax Simplification Law”, creating Chapter 202, Florida Statutes, and

WHEREAS, Section 202.19, Florida Statutes, authorizes the Village of Estero to adopt a local communication services tax at a rate of up to 5.10%. This maximum rate does not include the add-on of up to .12% for municipalities which choose not to levy permit fees; and

WHEREAS, the Village of Estero is a newly incorporated municipality and has not adopted a conversion rate in accordance with 202.20(1)(b), Florida Statutes; and

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

SECTION ONE. Adoption of Local Communications Services Tax Rate

There is no local communications services tax conversion rate established under Section 202.20(1)(b), Florida Statutes for the Village of Estero. Therefore, the Village seeks to adopt the local communications services tax rate pursuant to 202.19(2)(a), Florida Statutes. The Village of Estero hereby adopts a local communications services tax rate of _____%. This rate is to be effective January 1, 2016.

SECTION TWO. Adjustment of Tax Rate for Permit Fees

The Village of Estero elected not to require and collect permit fees from any provider of communications services that uses or occupies municipal roads or rights-of-way for the provision of communications services, as provided in Section 337.401(3)(c) and (j), Florida Statutes.

It is the intent of the Village of Estero to increase its local communications services tax rate as provided in Section 202.19, Florida Statutes, by an amount equal to .12% effective January 1, 2016 to replace revenue the Village of Estero would otherwise receive from permit fees as authorized by Section 337.401(3)(c) and (j), Florida Statutes. In the aggregate, the new combined Local Communication Services Tax Rate for the Village of Estero will be _____% (example: 5.10% + 0.12% = 5.22%), effective January 1, 2016.

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SECTION THREE. Notice to the Department of Revenue

The Village of Estero directs that notice of the Local Communications Services Tax Rate be provided to the Florida Department of Revenue by September 1, 2015. Form DR-700021, and a copy of this Ordinance must be submitted with the notification.

SECTION FOUR. Severability

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION FIVE. Effective Date

This Ordinance shall take effect immediately upon its passage by the Village of Estero. The imposition and collection of the new combined Local Communications Tax Rate shall commence effective January 1, 2016.

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this _____ day of April, 2015.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: _____
Peter Lombardi
Interim Village Manager/
Custodian of Village Records

By: _____
Nicholas Batos
Mayor

Reviewed for legal sufficiency:

By: _____
Burt Saunders, Esq.
Interim Village Attorney

1 **VILLAGE OF ESTERO, FLORIDA**

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3 **ORDINANCE NO. 15 - _____**

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5 **AN ORDINANCE OF THE VILLAGE OF ESTERO, OF LEE**
6 **COUNTY, FLORIDA, GRANTING FLORIDA POWER &**
7 **LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, A**
8 **NON-EXCLUSIVE ELECTRIC UTILITY FRANCHISE**
9 **IMPOSING VILLAGE WIDE PROVISIONS AND**
10 **CONDITIONS RELATING THERETO; PROVIDING FOR**
11 **MONTHLY PAYMENTS TO THE VILLAGE OF ESTERO;**
12 **PROVIDING; PROVIDING FOR SEVERABILITY;**
13 **PROVIDING AN EFFECTIVE DATE.**

14
15 **WHEREAS,** the City Council of the City of Bonita Springs ("City" or "Grantor")
16 recognizes that the citizens of the City need and desire the benefits of electric service; and

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18 **WHEREAS,** the provision of such service requires substantial investments of capital and
19 other resources in order to construct, maintain and operate facilities essential to the provision of
20 such service in addition to costly administrative functions, and the City does not desire to
21 undertake to provide such services; and

22
23 **WHEREAS,** Florida Power & Light Company ("FPL" or "Grantee") is a public utility
24 which has the demonstrated ability to supply such services; and

25
26 **WHEREAS,** FPL and the City desire to enter into a franchise agreement providing for
27 the payment of fees to the City in exchange for the nonexclusive right and privilege of supplying
28 electricity and other services within the City free of competition from the City, pursuant to
29 certain terms and conditions.

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

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34 **SECTION ONE.** There is hereby granted to Florida Power & Light Company, its
35 successors and assigns (herein called the "Grantee"), for the period of 25 years from the effective
36 date hereof, with one additional five (5) year extension at FPL's sole option the non-exclusive
37 right, privilege and franchise, (herein called "franchise") to construct, operate and maintain in,
38 under, upon, along, over and across the present and future roads, streets, alleys, bridges,
39 easements, rights-of-way and other public places (herein called "public rights-of-way")
40 throughout all of the incorporated areas, as such incorporated areas may be constituted from time
41 to time, of the City of Bonita Springs, Florida, and its successors (herein called the "Grantor"), in
42 accordance with the Grantee's customary practice with respect to construction and maintenance,
43 electric light and power facilities, including, without limitation, conduits, poles, wires,
44 transmission and distribution lines, and all other facilities installed in conjunction with or
45 ancillary to all of the Grantee's operations (herein called "facilities"), for the purpose of

46 supplying electricity and other services to the Grantor and its successors, the inhabitants thereof,
47 and persons beyond the limits thereof.
48

49 **SECTION TWO.** The facilities of the Grantee shall be installed, located or relocated
50 so as to not unreasonably interfere with traffic over the public rights-of-way or with reasonable
51 egress from and ingress to abutting property. To avoid conflicts with traffic, the location or
52 relocation of all facilities shall be made as representatives of the Grantor may prescribe in
53 accordance with the Grantor's reasonable rules and regulations with reference to the placing and
54 maintaining in, under, upon, along, over and across said public rights-of-way; provided,
55 however, that such rules or regulations (a) shall not prohibit the exercise of the Grantee's right to
56 use said public rights-of-way for reasons other than unreasonable interference with motor
57 vehicular traffic, (b) shall not unreasonably interfere with the Grantee's ability to furnish
58 reasonably sufficient, adequate and efficient electric service to all of its customers, and (c) shall
59 not require the relocation of any of the Grantee's facilities installed before or after the effective
60 date hereof in public rights-of-way unless or until widening or otherwise changing the
61 configuration of the paved portion of any public right-of-way used by motor vehicles causes such
62 installed facilities to unreasonably interfere with motor vehicular traffic. Such rules and
63 regulations shall recognize that above-grade facilities of the Grantee installed after the effective
64 date hereof should be installed near the outer boundaries of the public rights-of-way to the extent
65 possible. When any portion of a public right-of-way is excavated by the Grantee in the location
66 or relocation of any of its facilities, the portion of the public right-of-way so excavated shall
67 within a reasonable time be replaced by the Grantee at its expense and in as good condition as it
68 was at the time of such excavation. The Grantor shall not be liable to the Grantee for any cost or
69 expense in connection with any relocation of the Grantee's facilities required under subsection
70 (c) of this Section, except, however, the Grantee shall be entitled to reimbursement of its costs
71 from others and as may be provided by law.
72

73 **SECTION THREE.** The Grantor shall in no way be liable or responsible for any
74 accident or damage that may occur in the construction, operation or maintenance by the Grantee
75 of its facilities hereunder, and the acceptance of this ordinance shall be deemed an agreement on
76 the part of the Grantee to indemnify the Grantor and hold it harmless against any and all liability,
77 loss, cost, damage or expense which may accrue to the Grantor by reason of the negligence,
78 default or misconduct of the Grantee in the construction, operation or maintenance of its
79 facilities hereunder.
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81 **SECTION FOUR.** All rates and rules and regulations established by the Grantee from
82 time to time shall be subject to such regulation as may be provided by law.
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84
85 **SECTION FIVE.**
86

87 (a) As a consideration for this franchise, the Grantee shall pay to the Grantor,
88 commencing sixty (60) days after the effective date of this Ordinance and each month thereafter
89 for the remainder of the term of this franchise, an amount which added to the amount of all
90 licenses, excises, fees, charges and other impositions of any kind whatsoever (except ad valorem
91 property taxes and non-ad valorem tax assessments on property) levied or imposed by the

92 Grantor against the Grantee's property, business or operations and those of its subsidiaries during
93 the Grantee's monthly billing period ending sixty (60) days prior to each such payment will equal
94 three (3%) percent of the Grantee's billed revenues, less actual write-offs, from the sale of
95 electrical energy to residential, commercial and industrial customers within the incorporated
96 areas of the Grantor for the monthly billing period ending sixty (60) days prior to each such
97 payment, and in no event shall payment for the rights and privileges granted herein exceed three
98 (3%) percent of such revenues for any monthly billing period of the Grantee.
99

100 (b) Notwithstanding the above, for the first eighteen months of this franchise, the
101 Grantee shall pay to the Grantor an amount equal to four (4%) percent of the Grantee's billed
102 revenues, as specified in Section 5(a).
103

104 (c) It is further provided that the Grantor shall have the option, subject to the
105 limitations specified below, once each calendar year to increase or reduce the amount to be paid
106 by the Grantee as consideration for this franchise, such option to be exercised by the adoption of
107 an ordinance, a certified copy of which must be delivered to the Grantee no later than 90 days
108 before any such increase or reduction is to become effective. Such ordinance shall provide that
109 the Grantee shall pay to the Grantor, no later than thirty (30) days after the end of the Grantee's
110 first billing period and no later than 30 days after the end of each succeeding monthly billing of
111 the Grantee during the term of this franchise, an amount which when added to the amount of all
112 City licenses, excise fees or charges (except ad valorem property taxes and non-ad valorem
113 special assessments on property) levied or imposed by the Grantor against the Grantee's
114 property, business or operations and those of its subsidiaries during the Grantee's monthly billing
115 period ending thirty (30) days prior to each such payment will equal five (5%) percent (or such
116 lesser percentage as the Grantor may elect) of the Grantee's billed revenues, less actual write-
117 offs, from the sale of electricity to residential, commercial and industrial customers within the
118 incorporated areas of the Grantor for the monthly billing period ending thirty (30) days prior to
119 each such payment, and in no event shall the Grantee's payment for the rights and privileges
120 granted herein exceed five (5%) percent, or such percent of such revenues as specified by the
121 Grantor in the exercise of its option, for any monthly billing period of the Grantee. In no event
122 may the Grantor increase the amount by more than one (1%) percent from the percentage then
123 being collected in any given year. The Grantor shall have the option to reduce the amount to be
124 paid by the Grantee to zero, but in no event shall the Grantor have the option to increase the
125 percentage used to calculate the amount to be paid by the Grantee as consideration for this
126 franchise to any percentage which is greater than five (5%) percent. The Grantor's option
127 hereunder shall be limited solely to the percentage to be used in the calculation of the amount to
128 be paid by the Grantee as consideration for this franchise and as specifically set forth in this
129 subsection, and no other section or provision of this franchise ordinance may be altered,
130 amended or affected by the Grantor without the concurrence of the Grantee. Nothing herein shall
131 require the Grantor to exercise its option hereunder.
132

133 **SECTION SIX.** As a further consideration, during the term of this franchise or any
134 extension thereof, the Grantor agrees: (a) not to engage in the distribution and/or sale, in
135 competition with the Grantee, of electric capacity and/or energy to any ultimate consumer of
136 electric utility service (herein called a "retail customer") or to any electrical distribution system
137 established solely to serve any retail customer formerly served by the Grantee, (b) not to

138 participate in any proceeding or contractual arrangement, the purpose or terms of which would
139 be to obligate the Grantee to transmit and/or distribute, electric capacity and/or energy from any
140 third party(ies) to any other retail customer's facility(ies), and (c) not to seek to have the Grantee
141 transmit and/or distribute electric capacity and/or energy generated by or on behalf of the
142 Grantor at one location to the Grantor's facility(ies) at any other location(s). Nothing specified
143 herein shall prohibit the Grantor from engaging with other utilities or persons in wholesale
144 transactions which are subject to the provisions of the Federal Power Act.
145

146 Nothing herein shall prohibit the Grantor, if permitted by law, (i) from purchasing
147 electric capacity and/or energy from any other person, or (ii) from seeking to have the Grantee
148 transmit and/or distribute to any facility(ies) of the Grantor electric capacity and/or energy
149 purchased by the Grantor from any other person; provided, however, that before the Grantor
150 elects to purchase electric capacity and/or energy from any other person, the Grantor shall notify
151 the Grantee. Such notice shall include a summary of the specific rates, terms and conditions
152 which have been offered by the other person and identify the Grantor's facilities to be served
153 under the offer. The Grantee shall thereafter have sixty (60) days to evaluate the offer and, if the
154 Grantee agrees to meet or beat the other person's offer, the Grantor shall be obligated to continue
155 to purchase from the Grantee electric capacity and/or energy to serve the previously-identified
156 facilities of the Grantor for a term no shorter than that offered by the other person. If the Grantee
157 does not agree to meet or beat the other person's offer, all of the terms and conditions of this
158 franchise shall remain in effect.
159

160 **SECTION SEVEN.** If the Grantor grants a right, privilege or franchise to any other
161 person or otherwise enables any other such person to construct, operate or maintain electric light
162 and power facilities within any part of the incorporated areas of the Grantor in which the Grantee
163 may lawfully serve or compete on terms and conditions which the Grantee determines are more
164 favorable than the terms and conditions contained herein, the Grantee may at any time thereafter
165 terminate this franchise if such terms and conditions are not remedied within the time period
166 provided hereafter. The Grantee shall give the Grantor at least sixty (60) days advance written
167 notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved
168 for the Grantee herein, advise the Grantor of such terms and conditions that it considers more
169 favorable. The Grantor shall then have sixty (60) days in which to correct or otherwise remedy
170 the terms and conditions complained of by the Grantee. If the Grantee determines that such terms
171 or conditions are not remedied by the Grantor within said time period, the Grantee may terminate
172 this agreement by delivering written notice to the Grantor's Clerk and termination shall be
173 effective on the date of delivery of such notice.
174

175
176 **SECTION EIGHT.** If as a direct or indirect consequence of any legislative, regulatory
177 or other action by the United States of America or the State of Florida (or any department,
178 agency, authority, instrumentality or political subdivision of either of them) any person is
179 permitted to provide electric service within the incorporated areas of the Grantor to a customer
180 then being served by the Grantee, or to any new applicant for electric service within any part of
181 the incorporated areas of the Grantor in which the Grantee may lawfully serve, and the Grantee
182 determines that its obligations hereunder, or otherwise resulting from this franchise in respect to
183 rates and service, place it at a competitive disadvantage with respect to such other person, the

184 Grantee may, at any time after the taking of such action, terminate this franchise if such
185 competitive disadvantage is not remedied within the time period provided hereafter. The Grantee
186 shall give the Grantor at least ninety (90) days advance written notice of its intent to terminate.
187 Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise
188 the Grantor of the consequences of such action which resulted in the competitive disadvantage.
189 The Grantor shall then have ninety (90) days in which to correct or otherwise remedy the
190 competitive disadvantage. If such competitive disadvantage is not remedied by the Grantor
191 within said time period, the Grantee may terminate this agreement by delivering written notice to
192 the Grantor's Clerk and termination shall take effect on the date of delivery of such notice.
193

194 **SECTION NINE.** Failure on the part of the Grantee to comply in any substantial
195 respect with any of the provisions of this franchise shall be grounds for forfeiture, but no such
196 forfeiture shall take effect if the reasonableness or propriety thereof is protested by the Grantee
197 until there is final determination (after the expiration or exhaustion of all rights of appeal) by a
198 court of competent jurisdiction that the Grantee has failed to comply in a substantial respect with
199 any of the provisions of this franchise, and the Grantee shall have six months after such final
200 determination to make good the default before a forfeiture shall result with the right in the
201 Grantor at its discretion to grant such additional time to the Grantee for compliance as necessities
202 in the case require.
203

204 **SECTION TEN.** Failure on the part of the Grantor to comply in substantial respect
205 with any of the provisions of this ordinance, including: (a) denying the Grantee use of public
206 rights-of-way for reasons other than unreasonable interference with motor vehicular traffic; (b)
207 imposing conditions for use of public rights-of-way contrary to Florida law or the terms and
208 conditions of this franchise; (c) unreasonable delay in issuing the Grantee a use permit, if any, to
209 construct its facilities in public rights-of-way, shall constitute breach of this franchise and entitle
210 the Grantee to withhold all or part of the payments provided for in Section 5 hereof until such
211 time as a use permit is issued or a court of competent jurisdiction has reached a final
212 determination in the matter. The Grantor recognizes and agrees that nothing in this franchise
213 constitutes or shall be deemed to constitute a waiver of the Grantee's delegated sovereign right of
214 condemnation and that the Grantee, in its sole discretion, may exercise such right.
215

216 **SECTION ELEVEN.** The Grantor may, upon reasonable notice and within ninety
217 (90) days after each anniversary date of this franchise, at the Grantor's expense, examine the
218 records of the Grantee relating to the calculation of the franchise payment for the year preceding
219 such anniversary date. Such examination shall be during normal business hours at the Grantee's
220 office where such records are maintained. Records not prepared by the Grantee in the ordinary
221 course of business may be provided at the Grantor's expense and as the Grantor and the Grantee
222 may agree in writing. Information identifying the Grantee's customers by name or their electric
223 consumption shall not be taken from the Grantee's premises. Such audit shall be impartial and all
224 audit findings, whether they decrease or increase payment to the Grantor, shall be reported to the
225 Grantee. The Grantor's right to examine the records of the Grantee in accordance with this
226 section shall not be conducted by any third party employed by the Grantor whose fee for
227 conducting such audit is contingent on findings of the audit.
228

229 **SECTION TWELVE.** The provisions of this ordinance are interdependent upon
230 one another, and if any of the provisions of this ordinance are found or adjudged to be invalid,
231 illegal, void or of no effect, the entire ordinance shall be null and void and of no force or effect.
232

233 **SECTION THIRTEEN.** As used herein "person" means an individual, a partnership,
234 a corporation, a business trust, a joint stock company, a trust, an incorporated association, a joint
235 venture, a governmental authority or any other entity of whatever nature.
236

237 **SECTION FOURTEEN.** All ordinances and parts of ordinances in conflict herewith
238 are hereby repealed.
239

240 **SECTION FIFTEEN.** As a condition precedent to the taking effect of this
241 ordinance the Grantee shall file its acceptance hereof with the Grantor's Clerk within forty (40)
242 days of adoption of this ordinance. The effective date of this ordinance shall be the date on which
243 Grantee files its acceptance.
244

245 **ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this
246 _____ day of May, 2015.
247

248 Attest:

VILLAGE OF ESTERO, FLORIDA

249
250 By: _____

By: _____

251 Peter Lombardi
252 Interim Village Manager/
253 Custodian of Village Records
254

Nicholas Batos
Mayor

255
256 Reviewed for legal sufficiency:
257

258 By: _____

259 Burt Saunders, Esq.
260 Interim Village Attorney
261

1 VILLAGE OF ESTERO, FLORIDA

2
3 ORDINANCE NO. 15 - _____

4
5 AN ORDINANCE OF THE VILLAGE OF ESTERO, OF LEE
6 COUNTY, FLORIDA, GRANTING TO PEOPLE'S GAS
7 SYSTEM, A DIVISION OF TAMPA ELECTRIC COMPANY,
8 ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE
9 NATURAL GAS FRANCHISE AGREEMENT TO USE THE
10 PUBLIC RIGHTS OF WAY OF THE VILLAGE OF ESTERO,
11 FLORIDA AND PRESCRIBING THE TERMS AND
12 CONDITIONS UNDER WHICH SAID FRANCHISE MAY BE
13 EXERCISED; PROVIDING FOR SEVERABILITY;
14 PROVIDING AN EFFECTIVE DATE.

15
16 NATURAL GAS FRANCHISE AGREEMENT BY, BETWEEN
17 AND AMONG
18 THE VILLAGE OF ESTERO, FLORIDA
19 AND
20 PEOPLES GAS SYSTEM, A DIVISION OF TAMPA ELECTRIC
21 COMPANY
22

23 WHEREAS, the Village Council of the Village of Estero ("Village" or "Grantor")
24 recognizes that the citizens of the Village need and desire the benefits of natural gas; and
25

26 WHEREAS, the provision of such service requires substantial investments of capital and
27 other resources in order to construct, maintain and operate facilities essential to the provision of
28 such service in addition to costly administrative functions, and the Village does not desire to
29 undertake to provide such services; and
30

31 WHEREAS, Peoples Gas System, a division of Tampa Electric Company ("Grantee" or
32 "Company") is a public utility which has the demonstrated ability to supply such services; and
33

34 WHEREAS, Company and the Village desire to enter into a franchise agreement
35 providing for the payment of fees to the Village in exchange for the nonexclusive right and
36 privilege of supplying natural gas and other services within the Village free of competition from
37 the Village, pursuant to certain terms and conditions; and
38

39 WHEREAS, Peoples Gas System and the Village of Estero desire to enter into a
40 franchise agreement for a period of twenty-five (25) years with one additional five (5) year
41 extension at Company's sole option, commencing from the date provided herein; and
42

43 WHEREAS, the Village Council finds that it is in the public interest of its citizens to
44 enter into a new franchise agreement with Peoples Gas System.
45

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

48
49 SECTION ONE: DEFINITIONS.
50

51 For the purposes of this Ordinance, the following terms shall have the meaning given
52 herein.
53

54 A. "Customers" shall mean any person, firm, public or private corporation, or
55 governmental agency served by the Company within the corporate limits of the Village.
56

57 B. "Village" shall mean the Village of Estero, Lee County, Florida, its successor and
58 assigns.
59

60 C. "Company" shall mean Peoples Gas System, a division of Tampa Electric
61 Company, a Florida corporation, its successors and assigns.
62

63 D. "Gas" or "Natural Gas" shall mean natural gas and/or manufactured gas and/or a
64 mixture of gases which is distributed in pipes and measured by meter on the Customer's
65 premise. It shall not mean propane gas or liquefied petroleum gas (commonly referred to
66 as "bottled gas") or any other fuel that is typically delivered by truck and stored in tanks.
67

68 E. "Gross Revenues" shall mean all revenues (as defined by the Florida Public
69 Service Council) received by the Company from any Customer from the sale of Gas.
70

71 F. "Facilities" or "equipment" shall mean pipe, pipe line, tube, main, service, trap,
72 vent, vault, manhole, meter, gauge, regulator, valve, conduit, appliance, attachment,
73 structure or structures, and appurtenances used or useful in the distribution of gas, located
74 or to be located in, upon, along, across, or under the streets or within the public rights of
75 way.
76

77 G. "Franchise" or "Franchise Agreement" shall mean this agreement, as passed and
78 adopted by the Village and accepted by the Company, as provided in Section 19 below.
79

80 H. "FPSC" shall mean the Florida Public Service Commission or any successor
81 agency.
82

83 I. "Distribution System" shall mean any and all transmission pipe lines, main pipe
84 lines and Customer pipe lines, together with all necessary and desirable appurtenances,
85 that are situated within the corporate limits of the Village and are reasonably necessary
86 for the sale, distribution or delivery of Natural Gas for the public and private use of
87 Customers.
88
89
90
91

92 **SECTION TWO. GRANT.**
93

94 The Village hereby grants to the Company the non-exclusive right, privilege, and
95 franchise to lay, erect, construct, operate and maintain in, on or under any and all of the public
96 streets, alleys, highways, waterways, bridges, easements and other public places of the Village,
97 as they now exist or may be hereafter constructed, opened, laid out or extended within the
98 present incorporated limits of the Village, or in such territory as may be hereafter added or
99 annexed to, or consolidated with, the Village, a Distribution System subject to the terms and
100 conditions herein contained.

101
102 **SECTION THREE. TERM.**
103

104 Except as provided in Section 15, the Franchise hereby granted shall be for a period of
105 twenty-five (25) years with one additional five (5) year extension at Company's sole option, from
106 the effective date of this ordinance.

107
108 **SECTION FOUR. ASSIGNMENT.**
109

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

114
115 B. Notwithstanding the foregoing, the Company may lease, assign or
116 otherwise alienate and transfer this Franchise in connection with the lease or sale of the
117 Distribution System or upon its merger and consolidation with, or transfer to, any other
118 corporation engaged in similar business (including any affiliate or subsidiary of the Company),
119 or pledge or mortgage such Franchise in connection with the physical property owned and used
120 by it in the operation of the Distribution System for the purpose of securing payment of monies
121 borrowed by the Company without the express consent of the Village Council of the Village.

122
123 **SECTION FIVE. VILLAGE COVENANT.**
124

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

129
130 **SECTION SIX. USE OF STREETS.**
131

132 The Distribution System shall be erected, placed, or laid in such manner as will,
133 consistent with necessity, least interfere with other public uses of said streets, alleys, avenues,
134 easements, and public rights of way, and said streets shall not be unnecessarily obstructed, and
135 before, except in an emergency situation, the Company makes any excavation or disturbs the
136 surface of any of the streets, alleys, or other public rights of way, it shall make application for a

137 permit to the appropriate Village authority. The Village shall issue, or if applicable deny, permits
138 within ten (10) business days of application by the Company.
139

140 The Company shall, with due diligence and dispatch, place such streets, easements or
141 public rights of way in as good condition and repair as before such excavation or disturbance was
142 made, and in default thereof the Village may make such repairs and charge the reasonable cost
143 thereof to the Company and collect the same from it.
144

145 To the extent consistent with Florida law, the Company hereby agrees to abide by all the
146 rules and regulations and ordinances which the Village has passed or might pass in the future,
147 and further agrees to abide by any established policy which the Village or its duly authorized
148 representative has passed, established, or will establish; provided, however, the Village shall not
149 pass any ordinance or regulation that results in a material change in the rights or obligations of
150 the Company under the Franchise Agreement.
151

152 **SECTION SEVEN. MAINTENANCE.**
153

154 All such components of the Distribution System of the Company located within the
155 Village shall be installed and maintained in accordance with accepted good practice and in
156 accordance with the orders, rules, and regulations of the Florida Public Service Commission or
157 other regulatory body having jurisdiction over the Company.
158

159 Company agrees to provide Village within ten (10) days of filing with the Florida Public
160 Service Commission a copy of any and all reportable Gas Incident Reports for any incident
161 occurring within the incorporated boundaries of the Village of Estero.
162

163 Company will provide Village of Estero with notice of any request going before the
164 Florida Public Service Commission where such notice of request is required to be given to all
165 affected Cities and local governments.
166

167 **SECTION EIGHT. LAYING OF PIPE.**
168

169 All components of the Distribution System shall be laid consistent with all applicable
170 codes, rules, regulations and laws, including, to the extent consistent with all applicable codes,
171 rules, regulations and laws, specifications contained in Village permits.
172

173 **SECTION NINE. CONSTRUCTION WORK.**
174

175 The Village reserves the right to permit to be laid electric conduits, water and gas pipes
176 and lines, cables, sewers, and to do and permit to be done any underground work that may be
177 deemed necessary or proper by the Village or other governmental body having jurisdiction in,
178 across, along, or under any street, alley, public way, easement, place, or other public rights of
179 way. Whenever, by reason of establishing a grade or by reason of changes in the grade of any
180 street, or by reason of the widening, grading, paving, or otherwise improving present or future
181 streets, alleys, or other public rights of way, or in the location or manner of construction of any
182 water pipes, electric conduits, sewers, or other underground structure, it shall be deemed

183 necessary by the Village or other governmental body to alter, change, adapt, or conform any
184 portion of the Distribution System of the Company hereto, such alterations, or changes, shall be
185 made by the Company as ordered in writing by the Village or other governing body, without
186 claim for reimbursement. If the Village shall require the Company to adapt or conform any
187 portion of its Distribution System or in any way to alter, relocate or change its property to enable
188 any other person or entity to use said street, alley, easement, highway or public rights-of-way of
189 the Village, as part of its permitting or approval process, the Village shall require the person or
190 entity desiring or occasioning such alteration, relocation or change to reimburse the Company for
191 any loss, cost or expense caused by or arising out of such change, alteration or relocation of any
192 portion of the Company's facilities. The Company further agrees that it will not intentionally
193 interfere with, change, or injure any water pipes, drains, sewers or utility lines of said Bonita
194 Springs Utilities, Inc., ("BSU"), unless it has received specific permission from the Village or
195 BSU or its duly authorized representative, who may not unreasonably withhold permission.
196

197 **SECTION TEN. FRANCHISE FEE.**
198

199 Within thirty (30) days after the close of the first full billing month following the
200 effective date of this Franchise Agreement, and each month thereafter during the term of this
201 Franchise Agreement, the Company, its successors or assigns, shall pay to the Village, or its
202 successors, a sum of money which, when added to the amount of all taxes, licenses, permits, or
203 other impositions levied or assessed by the Village and actually paid by Company, is equal to six
204 percent (6%) of the Company's Gross Revenue, less any adjustments for uncollectible accounts,
205 from the sale and transportation of Natural Gas to Customers within the corporate limits of the
206 Village. The franchise fee payment shall be deemed paid on time if post-marked within thirty
207 (30) days of the close of the preceding billing month.
208

209 **SECTION ELEVEN. FRANCHISE PARTY.**
210

211 If, during the term of this Franchise Agreement, the Village, by franchise agreement or
212 ordinance, allows other gas providers, gas consumers or gas transporters ("Alternate Gas
213 Providers") the right, privilege or franchise to construct, maintain, operate or use gas facilities in,
214 under, upon, over or across the present or future streets, alleys, bridges, easements or other
215 public rights of way of the Village, for the purpose of supplying or delivering Natural Gas to
216 customers located within the corporate limits of the Village or receiving such gas from a person
217 other than the Company within such corporate limits, and imposes a franchise compensation
218 obligation or an equivalent on such Alternate Gas Provider for any customer or class of
219 customers that is less than that imposed with respect to the same Customer or class of Customers
220 under this Franchise Agreement, the franchise compensation rate and/or base to which such rate
221 is applied with respect to the same class of customers shall be reduced under this Franchise
222 Agreement so that the franchise compensation paid hereunder for such Customer class is no
223 greater than the franchise compensation payable by such Alternate Gas Provider under the
224 franchise agreement or ordinance applicable to it, when compared on a dollars-per-therm basis.
225 In the event that the Village determines not to impose any franchise compensation by agreement,
226 ordinance or otherwise on any such Alternate Gas Provider, the Company's obligation to pay a
227 franchise fee under this Franchise Agreement with respect to revenues derived from the

228 provision of service by the Company to the comparable class of customers served by such
229 Alternate Gas Provider thereafter shall be extinguished.

230
231 **SECTION TWELVE. ACCOUNTS AND RECORDS.**

232
233 The Company shall maintain accounting, maintenance, and construction records as
234 prescribed by the FPSC. The Company shall establish and maintain appropriate accounts and
235 records in such detail that revenues within the corporate limits of the Village are consistently
236 declared separately from all other revenues, and such records shall be maintained within the
237 State of Florida, and be open at all reasonable times for inspection by the duly authorized
238 representatives of the Village pursuant to an appropriate confidentiality agreement.

239
240 Upon request by the Village, or its designated representative, the Company shall make
241 available said records within thirty (30) days to the Village for the determination of the accuracy
242 of the Gross Revenues upon which the Company's franchise fee is based. The Company shall
243 maintain its billing records only for the period of time required by the FPSC and any
244 examination conducted after such period shall be confined to the billing records then available.

245
246 No less than thirty (30) days prior to the effective date of a change in the Village limits,
247 whether by addition, annexation, or consolidation, the Village shall deliver to the Company
248 written notice of such occurrence, and include in such notice a description of the affected
249 territory.

250
251 **SECTION THIRTEEN. INSURANCE.**

252
253 During the term of this Franchise, the Company shall file with the Village Clerk and shall
254 keep in full force and effect at all times during the effective period hereof, insurance certificates
255 evidencing a general liability insurance policy or policies or evidence of self-insurance within
256 the corporate limits of the Village, as they currently exist or may exist in the future. Each such
257 policy shall be in the minimum sum of \$1,000,000.00 for injury or death to any one person, and
258 in the minimum sum of \$5,000,000.00 for injury or death to all persons where there is more than
259 one person involved in any one accident, and in the minimum sum of \$1,000,000.00 for damage
260 to property, resulting from any one accident, and each of the said minimum sums shall remain in
261 full force and shall be undiminished during the effective period of this Ordinance.

262
263 Every such insurance policy shall contain a provision whereby every company executing
264 the same shall obligate itself to notify the clerk of the Village, in writing, at least thirty (30) days
265 before any material alteration, modification, or cancellation of such policy is to become
266 effective.

267
268 **SECTION FOURTEEN. INDEMNIFICATION.**

269
270 In consideration of the permissions granted to the Company by this Franchise Agreement,
271 the Company hereby agrees to indemnify and hold harmless the Village, its officers, agents and
272 employees from and against claims, suits, actions, and causes of action, caused by or arising out
273 of and to the extent of the Company's negligent operation of the Distribution System within the

274 Village during the term of this franchise and resulting in personal injury, loss of life or damage to
275 property sustained by any person or entity, through or as a result of the doing of any work herein
276 authorized or the failure to do work herein required, and including all reasonable costs, attorney's
277 fees, expenses and liabilities incurred by the Village in connection with any such claim, suit,
278 action or cause of action including the investigation thereof, and the defense of any action or
279 proceeding brought thereon and any order, judgment or decree which may be entered in any such
280 action or proceeding or as a result thereof, except that neither the Company nor any of its
281 employees, agents, contractor, licensees, or sublessees shall be liable under this section for any
282 claims, suits, actions, damages, expenditures, including attorney's fees, or causes of action
283 arising out of injury, loss of life or damage to persons or property caused by or arising out of the
284 negligence, strict liability, intentional torts, criminal acts, or error of the Village, its officers,
285 agents, or employees. Notwithstanding any provision herein to the contrary, the Company's
286 liability under this Agreement shall be limited to the assets and business of Peoples Gas System,
287 a division of Tampa Electric Company, as if Peoples were incorporated separate and apart from
288 Tampa Electric Company.

289
290 **SECTION FIFTEEN. TERMINATION BY VILLAGE.**

291 Violation by the Company of any of the covenants, terms, and conditions hereof, or
292 default by the Company in observing or carrying into effect any of said covenants, terms and
293 conditions, shall authorize and empower the Village to declare a termination this Franchise
294 Agreement; provided, however, that before such action by the Village shall become operative
295 and effective, the Company shall have been served by the Village with a

296
297 written notice setting forth all matters pertinent to such violation or default, and
298 describing the action of the Council with respect thereto, and the Company shall have had a
299 period of sixty (60) days after service of such notice or, in the event such cure reasonably
300 requires a period of more than sixty (60) days, to present a plan, satisfactory to the Village,
301 acting reasonably, to effect such cure; and provided further that any violation or default resulting
302 from a strike, a lockout, an act of God, or any other cause beyond the control of the Company
303 shall not constitute grounds for termination.

304
305 **SECTION SIXTEEN. CHANGES IN PROVISIONS HEREOF.**

306
307 Changes in the terms and conditions hereof may be made by written agreement between
308 the Village and the Company.

309
310 **SECTION SEVENTEEN. SEVERABILITY; CHANGE IN LAW.**

311
312 (A) If any section, part of a section, paragraph, sentence, or clause of this Ordinance
313 shall be adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect
314 the validity of any other portion hereof, but shall be restricted and limited in its operation and
315 effect to that specific portion hereof involved in the controversy in which such decision shall
316 have been rendered; provided, however, that should elimination of the specific portion of the
317 Franchise Agreement adjudged to be invalid results in significant adverse consequences to a
318 party, then that party may terminate this Franchise Agreement by providing thirty (30) days
319 written notice to the other party.

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

327

328 **SECTION EIGHTEEN. GOVERNING LAW.**

329

330 This franchise shall be governed by the laws of the State of Florida and applicable federal
331 law.

332

333 **SECTION NINETEEN. EFFECTIVE DATE.**

334

335 This Franchise Agreement shall become effective upon its acceptance by the Company,
336 which acceptance must be evidenced in writing within sixty (60) days of the Village's passage
337 and adoption hereof, but in no event earlier than thirty (30) days from adoption of the Ordinance.

338

339 **ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this
340 _____ day of May, 2015.

341

342 Attest:

VILLAGE OF ESTERO, FLORIDA

343

344 By: _____

By: _____

345

Peter Lombardi
Interim Village Manager/
Custodian of Village Records

Nicholas Batos
Mayor

346

347

348

349

350

Reviewed for legal sufficiency:

351

352

By: _____

353

Burt Saunders, Esq.
Interim Village Attorney

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VILLAGE OF ESTERO, FLORIDA

RESOLUTION NO. 15 - _____

A RESOLUTION OF THE VILLAGE OF ESTERO, LEE COUNTY, FLORIDA, REQUIRING THE RECOGNITION AND EVALUATION OF FLOOD OR FLOOD-RELATED HAZARDS IN ALL OFFICIAL ACTIONS RELATING TO LAND USE AND DEVELOPMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, certain areas of the Village of Estero are subject to periodic flooding, or flood-related erosion, causing serious damages to properties within these areas; and

WHEREAS, relief is available in the form of Federally-subsidized flood insurance as authorized by the National Flood Insurance Act of 1968; and

WHEREAS, the Legislature of the State of Florida has in its Statutes Title XII, Chapter 166, the "Municipal Home Rule Powers Act" whereby local governments are empowered to rule on behalf of their citizens to promote the public health, safety, and general welfare of their citizenry; and

WHEREAS, it is the intent of this Council to require the recognition and evaluation of flood or flood-related hazards in all official actions relating to the land use and development, including building construction, repair and remodeling in areas having these hazards;

NOW, THEREFORE, be it resolved by the Village Council of the Village of Estero, Lee County, Florida, hereby:

SECTION ONE. Assures the Department of Homeland Security's Federal Emergency Management Agency (FEMA) that it will enact as necessary, and maintain in force in those areas having flood, or flood-related hazards, adequate land use and control measures with effective enforcement provisions consistent with the Criteria set forth in Parts 59, 60, and 65 of the National Flood Insurance Program Regulations (Title 44 of the Code of Federal Regulations); and

Vests Peter Lombardi, Interim Village Manager, with the responsibility, authority and means to:

(a) Assist FEMA, at its request, in delineation of the limits of the area having special flood, or flood-related hazards,

(b) Provide such information as FEMA may request concerning present uses and occupancy of the floodplain, or flood-related areas,

(c) Cooperate with Federal, State, and local agencies and private firms that undertake to study, survey, map, and identify floodplain, or flood-related areas, and cooperate with

47 neighboring communities with respect to management of adjoining floodplain, and/or flood-
48 related areas in order to prevent aggravation of existing hazards, and
49

50 (d) Upon occurrence, notify FEMA, in writing, whenever the boundaries of the
51 Community have been modified by annexation or the community has otherwise assumed or no
52 longer has authority to adopt and enforce floodplain management regulations for a particular
53 area. In order that all Flood hazard Boundary Maps and Flood Insurance Rate Maps accurately
54 represent the Community's boundaries, include within such notification a copy of a map of the
55 community suitable for reproduction, clearly delineating the new corporate limits or new area for
56 which the community has assumed or relinquished flood plain management regulatory authority.
57

58 Appoints Peter Lombardi, Interim Village Manager, to maintain for public inspection and
59 to furnish upon request for the determination of applicable flood insurance risk premium rates
60 within all areas having special flood hazards identified on a Flood Hazard Boundary Map or
61 Flood Insurance Rate Map, any certificates of flood-proofing, and information on the elevation
62 (in relation to mean sea level) of the level of the lowest floor (including basement) of all new and
63 substantially improved structures, and include whether or not such structures include a basement,
64 and if the structure has been floodproofed; and
65

66 Agrees to take such other official action as may be reasonably necessary to carry out the
67 objectives of the program.
68

69 **SECTION TWO.** This Resolution shall take effect immediately upon adoption.
70

71 **ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this
72 _____ day of _____, 2015.
73

74
75 Attest:

VILLAGE OF ESTERO, FLORIDA

76
77 By: _____
78 Peter Lombardi
79 Interim Village Manager/
80 Custodian of Village Records
81

By: _____
Nicholas Batos
Mayor

82
83 Reviewed for legal sufficiency:

84
85 By: _____
86 Burt Saunders, Esq.
87 Village Attorney

INTERLOCAL AGREEMENT
BETWEEN
LEE COUNTY
a political subdivision of the State of Florida
AND
VILLAGE OF ESTERO, FLORIDA,
a Florida Municipal Corporation

THIS INTER-LOCAL AGREEMENT is made and entered into on this _____ day of _____, by and between the Board of County Commissioners, Lee County, a political subdivision of the State of Florida (hereinafter "COUNTY") and Village of Estero, a municipal corporation of the State of Florida (hereinafter "VILLAGE"), both of which understand and agree as follows:

WHEREAS, COUNTY and VILLAGE have legal authority to perform general government services within their respective jurisdictions; and

WHEREAS, in accordance with Chapters 125, 163, 166, and 553, Florida Statutes, the Parties hereto have the common power and responsibility to adopt, administer, and enforce land development regulations, including floodplain management regulations, and to enforce the Florida Building Code within their jurisdictional limits; and

WHEREAS, the VILLAGE desires and requests the COUNTY to provide services necessary to administer and enforce the floodplain management regulations adopted by the VILLAGE within the corporate limits of the VILLAGE; and

WHEREAS, the COUNTY is willing and able to provide such services subject to the terms and conditions set forth herein; and

WHEREAS, pursuant to Chapter 163, Florida Statutes, the Parties are authorized to enter into Inter-Local agreements;

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the COUNTY and the VILLAGE hereby agree as follows:

1. PURPOSE.

Pursuant to Section 163.01, Florida Statutes, the purpose of this Agreement is to establish the responsibilities of the Parties and procedures whereby COUNTY will provide specified services to administer and enforce the floodplain management regulations of the VILLAGE within the corporate limits of the VILLAGE.

2. ADMINISTRATION AND ENFORCEMENT OF FLOODPLAIN MANAGEMENT REGULATIONS DEFINED.

The Parties agree that the administration and enforcement duties contemplated by this Agreement are those duties that are necessary and appropriate to enforce the floodplain management regulations of the VILLAGE, which are found in Section 2(1) of the Village of Estero, Village Charter involving, in general, the duties of the Floodplain Administrator set forth therein, and other duties that shall generally and naturally stem from the participation of the VILLAGE in the National Flood Insurance Program. Activities required to be performed only by the VILLAGE under the National Flood Insurance Program are not included in this Agreement. The Parties expressly agree that, unless explicitly identified in writing by the VILLAGE, no performance standards other than those which are generally applicable to similar enforcement activities by COUNTY elsewhere outside of the corporate limits of the Town, are intended or should be inferred as a result of this Agreement.

[Explanatory Note: this puts burden on the municipality to identify, in writing, any provisions that vary from the county's, such as freeboard.]

The Parties also expressly agree that COUNTY may elect to enforce the regulations of the VILLAGE using any of the methods established under Chapter *[Instruction: insert appropriate citation for County's regulations]* of the [COUNTY] County Code of Ordinances.

3. REPRESENTATIVES OF THE PARTIES.

The Parties hereby designate the following as their duly authorized representatives responsible for the implementation of this Agreement, including establishment of specific procedures and processes to facilitate the purpose and intent: *[Explanatory Note: this allows the representatives to develop written procedures that identify which party will fulfill or perform specific functions and duties of the floodplain administrator and that may be modified from time to time by the representatives, without requiring formal amendment of the Agreement.]*

LEE COUNTY

VILLAGE OF ESTERO

(County Official, by title)
(Address)

Peter Lombardi, Interim Village Manager
21500 Three Oaks Parkway
Estero, FL 33928

4. DUTIES OF THE VILLAGE, acting through its designed representative shall:

a. Be responsible to the National Flood Insurance Program for administration and enforcement of the floodplain management regulations of the VILLAGE.

b. Upon request by the Florida Division of Emergency Management or the Federal Emergency Management Agency, attend meetings and/or participate in telephonic and electronic communications related to the VILLAGE's participation in the National Flood Insurance

Program, including but not limited to Community Assistance Visits, Community Assistance Contacts, and Community Rating System verification visits, if applicable.

c. In coordination with COUNTY, undertake appropriate actions identified in writing by the Florida Division of Emergency Management or the Federal Emergency Management Agency as necessary to resolve matters related to continued participation in good standing in the National Flood Insurance Program.

d. In coordination with COUNTY, support actions deemed appropriate after events that damage buildings, to determine whether such buildings, if located in special flood hazard areas, have sustained substantial damage as such term is defined in the floodplain management regulations of the VILLAGE.

5. DUTIES OF COUNTY.

COUNTY, acting through its designated representative, shall administer and enforce the floodplain management regulations of the VILLAGE throughout the term of this Agreement, and shall:

a. Maintain records identified in said regulations in a form and manner that allows production of records pertinent to the VILLAGE upon request by the VILLAGE, the Florida Division of Emergency Management, or the Federal Emergency Management Agency.

b. Upon request by the Florida Division of Emergency Management or the Federal Emergency Management Agency, attend meetings and/or participate in telephonic and electronic communications related to the VILLAGE's participation in the National Flood Insurance Program, including but not limited to Community Assistance Visits, Community Assistance Contacts, and Community Rating System verification visits, if applicable.

c. In coordination with the VILLAGE, undertake appropriate actions identified in writing by the Florida Division of Emergency Management or the Federal Emergency Management Agency as necessary to resolve matters related to continued participation in good standing in the National Flood Insurance Program.

d. In coordination with the VILLAGE, undertake actions deemed appropriate after events that damage buildings, to determine whether such buildings, if located in special flood hazard areas, have sustained substantial damage as such term is defined in the floodplain management regulations of the VILLAGE.

6. MODIFICATION.

This Agreement may not be modified unless such modifications are in the form of a written amendment, executed by both Parties.

7. TERMINATION.

[Option A] This Agreement shall remain in effect unless terminated by either party. This Agreement may be terminated by either, without cause and for any reason upon Ninety (90) Days written notice to the other party.]

[Option B] This Agreement shall run for a period of [Instruction: insert time period] from the effective date, and shall be automatically renewed for successive [Instruction: insert time period] unless either party gives the other party written notice of its intent not to renew this Agreement, which notice shall be delivered not less than Ninety (90) days prior to the renewal date.

The Parties further agree that:

a. Upon termination, the Parties shall concur on an appropriate transition that ensures adequate administration and enforcement of the floodplain management regulations of the VILLAGE, with particular attention to the delivery by the COUNTY to the VILLAGE, of all records and data in its possession, regardless of the medium. Costs associated with delivery of records and data to the VILLAGE shall be borne by the party requesting termination.

b. *[Instruction: if reimbursement is provided in #8, include this provision; if not provided in #8, delete this item (b) and modify (a) to be a separate paragraph.]* Termination shall not affect the reimbursement of any cost then owing to the VILLAGE, or which subsequently are owed as a result of enforcement actions concluded following the effective date of termination.

8. REIMBURSEMENT.

[Option A] As compensation for COUNTY's services, COUNTY shall collect and retain all revenues derived from permit and/or inspection fees generated within the VILLAGE; such fees shall not exceed fees charged COUNTY residents for similar services.

[Option B] COUNTY shall invoice the VILLAGE on a *[Instruction: insert time period]* basis for actual services provided to the VILLAGE by COUNTY during the preceding *[insert time period]*. The VILLAGE shall reimburse COUNTY within [time period] of the date of the invoice. The VILLAGE shall be invoiced for fractional portions of an hour in quarter-hour increments to the nearest quarter-hour at the rate set forth herein. *[Instruction: selection of this option requires rates to be established, e.g., for building official, counter clerk, plan reviewer, inspector, etc.]*

9. LIABILITY.

The Parties, their respective elected officials, officers, and employees shall not be deemed to assume any liability for the acts, omissions, or negligence of the other party:

a. The VILLAGE, as a subdivision of the State of Florida and pursuant to Section 768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions or tortuous acts which result in claims or suits against COUNTY and agrees to be fully liable for any damages proximately caused by said acts or omissions.

b. COUNTY, as a subdivision of the State of Florida and pursuant to Section 768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions or tortuous acts which result in claims or suits against the VILLAGE and agrees to be fully liable for any damages proximately caused by said acts or omissions.

Nothing herein is intended to serve as a waiver of sovereign immunity by the VILLAGE or by COUNTY, nothing herein shall be construed to create any indemnification by one party of another, and nothing herein shall be construed as consent by the VILLAGE or COUNTY to be sued by third parties in any matter arising out of this Agreement.

10. CLAIMS.

COUNTY shall notify the VILLAGE in writing, within *[insert time period]* of its receipt or knowledge of any claims or pending claims arising out of the performance of the services rendered hereunder.

11. SEVERABILITY.

If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability, or the occurrence of any event rendering any portion or provision of this Agreement void, shall not be deemed to affect the validity and enforceability of any other parts of the Agreement.

12. ASSIGNMENT.

This Agreement shall be binding on the Parties, their representatives, successors and assigns, and any interest herein shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by either party, without the prior written consent of the Parties; specifically, no duty or responsibility of the Parties shall be assigned or contracted to a third party, whether a public or private entity, unless the Parties first modify this Agreement to set forth the duties of said third party.

13. APPLICABLE LAW.

This Agreement shall be construed, controlled and interpreted according to the laws of the State of Florida. The parties agree that any action relating to this Agreement shall be instituted and prosecuted in the courts of Lee County, Florida, and therefore, each party to this Agreement hereby waives the right to any change of venue.

14. PRIOR AGREEMENTS SUPERSEDED.

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understanding applicable to the matters contained herein, and the Parties agree that there are no commitments that are not contained in this Agreement or the written procedures and processed developed by the representatives of the Parties.

15. ENTIRETY OF AGREEMENT.

This Agreement sets forth the entire agreement between the Parties and that there are no promises or understands other than those stated herein.

16. EXECUTION.

This Agreement shall be executed in triplicate, with each fully executed copy treated as an original.

17. EFFECTIVE DATE.

This Agreement shall become effective upon the filing of fully executed copies with the Clerk of the Circuit Court of Lee County, Florida. A copy of the executed Agreement shall be provided to the Florida Division of Emergency Management.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature: Lee County, Florida through its Board of County Commissioners, signing by and through its authorized Chair, and the Village of Estero, signing by and through its authorized Mayor.

Brian Hamman, Chair
Lee County Commission

Nicholas Batos, Mayor
Village of Estero

1 VILLAGE OF ESTERO, FLORIDA

2
3 ORDINANCE NO. 15 - _____

4
5 AN ORDINANCE OF THE VILLAGE OF ESTERO, OF LEE
6 COUNTY, FLORIDA, ESTABLISHING AND ADOPTING
7 UNIFORM TRAVEL POLICIES AND PROCEDURES;
8 PROVIDING A PROCESS FOR AMENDING TRAVEL
9 POLICIES AND PROCEDURES; PROVIDING FOR
10 SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

11
12 WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida
13 Statutes provide that municipalities shall have the governmental, corporate, and proprietary
14 powers to enable them to conduct municipal government, perform municipal functions, and
15 render municipal services, and may exercise any power for municipal purposes, except when
16 expressly prohibited by law; and

17
18 WHEREAS, the Village of Estero desires to regulate travel policies and procedures for
19 the Village of Estero in order to effectively allocate limited funds available for business related
20 expenses, including training and professional development of elected and appointed officials and
21 employees; and

22
23 WHEREAS, travel policies and procedures provide for the reasonable and prudent
24 payment for and reimbursement of allowable expenditures.

25
26 NOW, THEREFORE, be it ordained by the Village Council of the Village of Estero,
27 Florida:

28
29 SECTION ONE. Adoption of Travel Policies and Procedures

30
31 The document entitled Travel Policies and Procedures as described in the attached
32 Exhibit "A", attached hereto and incorporated herein, is hereby adopted.

33
34 SECTION TWO. Amending Travel Policies and Procedures

35
36 The Village Council may amend, by resolution, the subsistence allowance, as provided in
37 Section 7 of this Ordinance, provided such subsistence allowance is appropriated in the annual
38 budget adopted by Village Council.

39
40 SECTION THREE. Severability

41
42 The provisions of this Ordinance are declared to be severable and if any section,
43 sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or
44 unconstitutional, such decision shall not affect the validity of the remaining sections, sentences,
45 clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent
46 that this Ordinance shall stand notwithstanding the invalidity of any part.

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SECTION FOUR. Effective Date

This Ordinance shall take effect immediately upon adoption

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this
_____ day of May, 2015.

Attest:

By: _____
Peter Lombardi
Interim Village Manager/
Custodian of Village Records

VILLAGE OF ESTERO, FLORIDA

By: _____
Nicholas Batos
Mayor

Reviewed for legal sufficiency:

By: _____
Burt Saunders, Esq.
Interim Village Attorney

EXHIBIT "A"

VILLAGE OF ESTERO, FLORIDA TRAVEL POLICIES AND PROCEDURES

Uniform Travel Policy and Procedures.

Section 1. Purpose

The purpose of the Village of Estero Travel Policy (hereinafter "Travel Policy") is to effectively allocate limited funds available for business related expenses, including training and professional development of elected and appointed officials and employees. This Travel Policy is established to pay for and reimburse all allowable expenditures, while reducing required paperwork to a minimum. Business and travel expenditures, as with other purchases, represent an expenditure of Village funds. Each employee is responsible for assuring that expenditures are prudent and necessary.

Section 2. Definitions

For the purposes of this Travel Policy, the following words shall have the meanings indicated in this Section:

- (1) *Authorized Individual* shall mean a public officer or employee, whether elected or not, who is authorized by the Village Manager to incur travel expenses in the performance of his or her duties, including but not limited to board and committee members performing services on behalf of the Village and persons who are candidates for executive or professional positions.
- (2) *Common Carrier* shall mean a train, bus, commercial airline operating scheduled flights or rental cars of an established rental car firm.
- (3) *Public Employee* shall mean an individual, either elected or appointed, who in the performance of his or her official duties is vested by law with powers of government.

Section 3. Authority to Incur Travel and Business Expenses.

If a member of the Village Council or the Village Manager finds it necessary to incur travel and business expenses, and when the expenses are within the intent of the adopted budget, the expenditures are authorized. All travel and business expenses by public employees must be authorized by the Village Manager.

- a. Traveling expenses shall be limited to those expenses necessarily incurred by the traveler in the performance of duties related to the functions and responsibilities of the Village.
- b. Traveling expenses of prospective employees for the sole purpose of taking merit system or other job placement examinations, interviews, etc. may be authorized by Village Council or the Village Manager.
- c. Business expenses shall apply to those expenditures which are incurred in the performance of a public purpose, including meetings with governmental officials, seminars and training

programs, pickup and delivery of parts and equipment, recruitment of personnel, community promotion, and any other related activities.

Section 4. Funding.

- a. All travel must have prior authorization through the completion of a travel authorization form showing the itinerary, the source of funding and whether or not a travel advance is needed.
- b. Travel advances may be issued to authorized persons or individuals prior to departure on an authorized trip. The cash amount will be based on a schedule commensurate with the known expenses *as* stated in the travel authorization. All travel reservations for a common carrier must be made by the Village Manager or his authorized representative, with the exception of emergencies that occur after 5:00 p.m. and on weekends, or if the return flight has to be changed or cannot be scheduled. If common carrier tickets are necessary, issuance of such tickets shall be made only upon receipt of a travel authorization with proper approval signatures. The authorized traveler receiving a travel advance must keep a record of all travel expenses and report the same. If an authorized travel advance is less than the approved actual expenses, the difference will be paid to the traveler. If the travel advance is greater than the actual or allowed travel expenses, then the difference shall be reimbursed to the Village within 30 days after return of traveler. Payment shall be made to the Finance Department and all receipts forwarded to the Finance Director or designee.

Section 5. Expense Forms and Regulations.

The Village Manager shall provide forms for travel requests, expenses and reimbursements, and mileage allowances, where applicable, and prescribe such regulations as are reasonable and necessary to effectuate the purpose of this policy. The Finance Director, or person otherwise designated, shall cause requests for travel expenses and reimbursements to be verified before payment is made.

For the purpose of reimbursements, the allowance for meals will be based on the following schedule where each period covered must be of three (3) hours duration or longer to be valid:

- (1) Breakfast allowance will be made when travel begins before 6:00 a.m. and extends beyond 8:00 a.m. Lunch allowance will be made when travel begins before 12:00 noon and extends beyond 2:00 p.m.
- (2) Dinner allowance will be made when travel begins before 6:00 p.m. and extends beyond 7:00 p.m., or when travel occurs during night time hours due to special assignment.
- (3) Hotel or accommodations allowances will be made when travel extends overnight and requires lodging not within Lee County at the single occupancy rate. An employee taking a guest will pay any cost differences for double occupancy. Only business phone calls will be paid by the Village. Room service expenses will not be reimbursed by the Village.
- (4) No expenses incurred by employees in Lee County shall be reimbursed unless approved by the Village Manager.

Section 7. Subsistence.

- a. When the period of travel conforms to the schedule of allowances in Section 6, all authorized travelers may be allowed subsistence when traveling to a convention, conference, seminar, activity or on Village-related business which serves a direct public purpose.
- b. Subsistence will consist of the basic travel allowance for meals as listed below and actual hotel or accommodation charges when the period of travel extends overnight:

MEAL	ALLOWANCE
Breakfast	\$ _____
Lunch	\$ _____
Dinner	\$ _____

Actual meal charges may be reimbursed if accompanied by a receipt and justification for incurring the additional cost. Approval to submit receipts in lieu of the above subsistence rates must be approved by the Village Manager in advance of the required travel. Hotel or accommodation charges must be single-occupancy rate and substantiated by receipt. Basic travel allowance for meals shall exclude meals which have been prepaid as a part of registration fees.

- c. Tips and gratuities are included in the basic travel allowance for meals. When actual meal charges are reimbursed, approximately 15% may be added to the meal charges provided the cost is stated on the receipt.

Section 8. Transportation.

- a. All travel must be on a convenient and mainly traveled route. Air travel shall be at the coach fare. If a person travels by an indirect route for his convenience, any extra costs shall be borne by the traveler. Reimbursement for expenses shall be made accordingly upon the presentation of receipts.
- b. If a privately owned vehicle is used for travel, the vehicle owner shall be entitled to a mileage reimbursement at a cents per mile rate equal to the IRS allowable rate then in effect.
- c. Transportation by a common carrier which has not been prepaid and for which the authorized traveler seeks reimbursement, must be substantiated by an official receipt from the common carrier.
- d. Transportation by charter vehicles may be authorized when it is determined to be the most economical method of travel when considering the nature of the business, the number of people making the trip and the most efficient and economical means of travel (considering the time of the traveler, cost of transportation and subsistence required.)

Section 9. Authorized Travel.

- a. Travelers shall not be allowed either mileage or transportation expenses when they are transported gratuitously by another person or when they are transported by another authorized traveler who is entitled to mileage or transportation expense.
- b. Reimbursement for expenditures related to the operation, maintenance, depreciation and ownership of a vehicle shall not be allowed when a privately owned vehicle is used on public business or mileage allowance is paid.
- c. The Village Manager may permit an authorized traveler to regularly, on a monthly basis, use a privately owned vehicle on Village business. In these instances, the traveler must submit a monthly log of the actual miles traveled and a monthly request for reimbursement. Travel occurring outside the county or travel in conjunction with the authorized traveler receiving reimbursement for meals and lodging expense or for travel to and from home shall not be included in the log.

Section 10. Reimbursable Incidental Expenses.

An authorized traveler may be reimbursed for incidental travel expenses incurred during the course of travel. These incidental travel expenses include but are not limited to the following:

1. Taxi, ferry and airport limousine fares.
2. Bridge, road and tunnel tolls.
3. Storage and parking fees.
4. Telephone and facsimile charges relating to Village business.
5. Registration, convention, conference, seminars, or training.

Section 11. Auditing.

A travel expense report of vouchers as developed by the Village Manager shall be submitted to the Finance Director within 30 days after the travel expense. Each approved travel expense report will be audited by the Finance Director or his designee, when received.

Section 12. Fraudulent Claims.

Claims submitted pursuant to this policy shall be signed by the authorized traveler and shall be verified by written declaration that it is true and correct as to every material matter. Any individual who makes or aids in the making of a false or fraudulent claim shall be guilty of a violation against the Village, and upon conviction thereof, shall be punished as provided in the Village's personnel rules and regulations. In addition, any person who receives a travel allowance, advance or reimbursement by means of a false claim, shall be civilly liable for the repayment of the amount into the public fund from which the claim as paid.

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VILLAGE OF ESTERO, FLORIDA

RESOLUTION NO. 15 - _____

**A RESOLUTION OF THE VILLAGE OF ESTERO, LEE
COUNTY, FLORIDA, ESTABLISHING A PUBLIC RECORDS
FEE SCHEDULE; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Florida Statutes Chapter 119.07 (4) establishes certain fees for public records; and

WHEREAS, the Village of Estero receives requests for various types of public records; and

WHEREAS, the Village Council desires to have such costs borne by persons requesting records to the extent allowed by law; and

NOW, THEREFORE, be it resolved by the Village Council of the Village of Estero, Lee County, Florida:

SECTION ONE. The Village Council hereby establishes the fees for public records requests as set forth in Public Records Fee Schedule (Exhibit A) attached and hereby incorporated as a part of this Resolution.

SECTION TWO. This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this _____ day of May, 2015.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: _____

By: _____

Peter Lombardi
Interim Village Manager/
Custodian of Village Records

Nicholas Batos
Mayor

Reviewed for legal sufficiency:

By: _____

Burt Saunders, Esq.
Interim Village Attorney

Exhibit A
VILLAGE OF ESTERO

PUBLIC RECORDS FEE SCHEDULE

In accordance with Chapter 119,07(4), Florida Statutes, the following fees, shall be charged for public records.

The following definitions apply:

"Actual cost of duplication: The cost of the material and supplies used to duplicate the public records, but does not include labor cost or overhead associated with such duplication *F. S. 119.011 (1)*

"Information Technology Resources": Data processing hardware and software and services, communication, supplies, personnel, facility resources, maintenance, and training. *F.S. 119.011 (9)*

"Duplicated Copies": The process of reproducing an image or images from an original to a final substrate through the electrographic, xerographic, laser, or offset process or any combination of these processes, by which an operator can make more than one copy without re-handling the original. *F.S. 119.011 (7) and 283.30 (3)*

"Extensive": Anything in excess of 30 minutes including the time to locate, review for confidential information, retrieve, monitor, inspect, copy and re-file the requested records.

1. Each one-sided copy of each page of not more than 8 1/2 by 14 inches...\$0.15
2. Each two-sided copy of each page of not more than 8 1/2 by 14 inches...\$0.20
3. Public records requests of less than 20 pages per day No Charge
4. All other copiesActual Cost of Duplication
5. Each certified copy of a public record\$1.00
6. Completion of Estoppel Request.....\$25.00
(Estoppels are requests for information, not public records covered by Chapter 119, F.S.)
7. Special Service Charge — If the nature or volume of public records requested to be inspected, examined, or copied is such as to require extensive use of information technology resources, or extensive clerical or supervisory assistance by personnel of the Village, or both, in addition to the actual cost of duplication a special service charge, which shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service based upon the actual labor (the hourly salary and benefits) of the lowest paid employee capable of performing the task.

8. The Special Service Charge under number seven above will not be charged unless the estimated time for fulfilling the request exceeds 30 minutes.
9. The information technology resources charge under the Special Service Charge will be based upon the costs and time involved in fulfilling the request.
10. The Village may also charge for an employee to sit with the requestor during the course of the inspection to safeguard and protect the Village's records from theft, destruction or alteration.
11. The Village may require a deposit in advance for the cost of estimated number of copies, mailing (if requested) and estimated Special Service Charge, where applicable.