



**VILLAGE COUNCIL
REGULAR MEETING
Agenda - FINAL**

**Village Hall
21500 Three Oaks Parkway, Estero, FL
Website: estero-fl.gov**

**Wednesday, September 16, 2015
6:30 p.m.**

Village Council: District 1 – Bill Ribble; District 2 – Howard Levitan, Vice 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. **INVOCATION**

Pastor Nolen Rollins – Legacy Church

4. **ROLL CALL**

5. **APPROVAL OF AGENDA**

6. **CONSENT AGENDA**

(A) Approval of August 10, 2015 Regular Meeting Minutes

(B) Approval of September 3, 2015 Regular Meeting Minutes

7. **COUNCIL BUSINESS**

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

(A) Public Hearing: Resolution No. 2015-58 Adopting the Final Levying of Ad Valorem Taxes for the Village of Estero, Lee County, Florida, for Fiscal Year 2015-2016; and Providing an Effective Date

(B) Public Hearing: Resolution No. 2015-59 Adopting the Final Budget for Fiscal Year 2015-2016; and Providing an Effective Date

- (C) Resolution No. 2015-60 Providing for Negotiation of a Contract with the Top Ranked Village Manager Candidate; and Providing an Effective Date
- (D) Resolution No. 2015-61 Approving the Interlocal Agreement Between the State of Florida, Department of Transportation and the Village of Estero for the Creation of the Metropolitan Planning Organization; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date
- (E) Second Reading and Public Hearing: Ordinance No. 2015-09 Granting to Florida Power & Light Company, Its Successors and Assigns, a Non-Exclusive Electric Franchise, Imposing Provisions and Conditions Relating Thereto, Providing for Monthly Payments to the Village of Estero; and Providing for an Effective Date
- (F) Resolution No. 2015-62 Adopting and Agreeing to Follow the Lee County Comprehensive Emergency Management Plan; and Providing an Effective Date
- (G) Resolution No. 2015-63 Providing for the Adoption of the Local Mitigation Strategy, Prepared by the Local Mitigation Strategy Working Group of Lee County, as the Formal Guide for the Village of Estero Hazard Mitigation Activities; and Providing an Effective Date
- (H) First Reading and Public Hearing: Ordinance No. 2015-11 Repealing Village of Estero Ordinance 2015-08, Adopting Village of Estero Land Development Code Chapter 6 to Adopt Flood Hazard Maps, Designate a Floodplain Administrator, Adopt Procedures and Criteria for Development in Flood Hazard Areas, and for Other Purposes; Adopt Technical Amendments to the Florida Building Code; Provide for Conflicts of Law, Severability, Codification and Scrivener's Errors, Modifications that May Arise from Consideration at Public Hearing and an Effective Date

8. **PUBLIC INPUT OF NON-AGENDA ITEMS**

9. **COUNCIL COMMUNICATIONS / FUTURE AGENDA ITEMS**

10. **VILLAGE MANAGER COMMENTS**

11. **VILLAGE ATTORNEY COMMENTS**

12. **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 Board meeting due to a disability or physical impairment, should contact Peter Lombardi, at 239-390-8000, 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.

VILLAGE COUNCIL REGULAR MEETING OF AUGUST 10, 2015

The Village of Estero Council Regular Meeting was held on this date at the Estero Fire Rescue District Meeting Room, 21500 Three Oaks Parkway, Estero, Florida.

Present: Mayor Nick Batos - District 6, Vice-Mayor Howard Levitan - District 2, Councilmember Bill Ribble, District 1, Councilmember Donald Brown - District 3, Councilmember Katy Errington - District 4, Councilmember Jim Boesch - District 5, and Councilmember Jim Wilson - District 7.

Also present: Village Manager Peter Lombardi, Village Attorney Burt Saunders, Village Clerk Kathy Hall, Village Finance Director Lisa Pace, and Village Community Development Director Mary Gibbs.

1. CALL TO ORDER

Mayor Batos called the meeting to order at 10:00 a.m.

2. PLEDGE OF ALLEGIANCE

Mayor Batos led the Pledge of Allegiance.

3. ROLL CALL

Village Clerk Kathy Hall called the roll; all members were present.

4. APPROVAL OF AGENDA

Councilmember Ribble moved approval of the agenda, seconded by Councilmember Brown, called and carried unanimously.

5. CONSENT AGENDA

- (A) Approval of June 24, 2015 Workshop Minutes**
- (B) Approval of June 26, 2015 Special Meeting Minutes**
- (C) Approval of July 1, 2015 Regular Meeting Minutes**

Councilmember Ribble noted a correction to page 7, paragraph 5, second sentence of the June 24, 2015 minutes. The reference to Brooks Town Center was corrected to Corkscrew Palms building.

Councilmember Brown moved approval of the June 24, 2015 minutes as corrected, June 26, 2015 minutes as presented, and July 1, 2015 minutes as presented, seconded by Councilmember Wilson, called and carried unanimously.

6. COUNCIL BUSINESS

(A) Resolution No. 2015-50 Approving the Interlocal Agreement for Services between the Village of Estero and Lee County; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date

Mayor Batos read the title of Resolution 2015-50, indicated that negotiations finalized last week and everyone felt that an agreement had been reached.

Village Attorney Burt Saunders noted that there were a few technical changes that would need to be made to the agreement.

Councilmember Ribble congratulated the Mayor for his leadership on the negotiations. He questioned whether the County expounded on “Engineering and general traffic analysis and right-of-way permitting (mostly driveways)” listed at the top of page 3 of the agreement, and whether they were going to assist the Village with the traffic analysis. Mayor Batos responded that there was conversation regarding the traffic study but not as it pertained to the Interlocal Agreement.

Councilmember Errington referred to Major Maintenance on page 3 and Natural Resources on page 2 that indicated updates as needed for major maintenance and questioned whether that was when someone felt compelled that they needed to work on one of the rivers or creeks. Mayor Batos responded he understood that those items were reviewed with a combination of the Natural Resources and the South Florida Water Management District; when they determined that the condition was such that the flow of water was impeded, the body of water would need maintenance.

Councilmember Wilson referred to Community Development on page 3 that indicated “These services can be provided to the Village past this date...” and inquired whether that meant they were willing to work with the Village as long as needed. Mayor Batos responded “yes” and added that the Village would have needed to provide a 60 day notice on August 1, 2015 (60 days prior to October 1) if the Council decided to break away Community Development from the County. Councilmember Wilson referred to Transfer Notice on page 4 and inquired whether that was related to Community Development. Mayor Batos responded that it referred to any Municipal Service including Community Development.

Vice Mayor Levitan stated that he believed the zoning and administrative work had already been taken out of the agreement as of the beginning date of October 1, 2015. Mayor Batos responded that Council would still need to provide 60 days’ notice.

Attorney Saunders stated the intention was that Lee County would continue to handle all Community Development issues and when the Village was ready to take it over, 60 days’ notice would be provided to the County; the Village was obligated to continue to work with Lee County until a 60 days’ notice was provided. He noted that there would be a transition period in order to get up to speed on everything. Vice Mayor Levitan added that there was the possibility of duplication of services during the transition period.

Village Manager Lombardi noted a change to the Interlocal Agreement on page 3, Section IV – A., second sentence to read: “Said sum shall be paid in four installments as listed below.”

Mayor Batos called for public input and no one came forward.

Councilmember Ribble moved to adopt Resolution No. 2015-50 and authorize the Village Mayor to execute the agreement with the revision on page 3, seconded by Councilmember Brown, called and carried unanimously.

(B) Resolution No. 2015-52 Approving the Interlocal Agreement between the Village of Estero and Lee County Pertaining to the Collection of Impact Fees; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-52. He stated that the agreement with Lee County was necessary to authorize the payment of collected impact fees by the County Clerk from January 1, 2015 through approximately July 31, 2015; quarterly payments would follow.

Village Manager Lombardi noted changes to the agreement: page 1, the second “Whereas” was revised to include “schools”; page 2, item number 3 was revised to read “The County will collect and remit road, community and regional park impact fees on behalf of the Village at the impact fee rate adopted by the Village”; page 2, item number 4, first sentence was revised to read “The County is entitled to charge and collect an amount up to three percent of impact fees it collects in cash...”; page 3, item number 14, first sentence was revised to read “The County will maintain all records of impact fees collected from permitting activities on development with the Village by reference to the fee payer’s name and address and STRAP number.”

Councilmember Errington inquired whether the Estero Park was considered a regional park or community park. Village Manager Lombardi responded “regional park.”

Regarding page 2, item 3 and page 3, item 15, Councilmember Wilson inquired whether the County would get all of the money and when would it be turned over to the Village. Mayor Batos responded that the County would get all of the money up until this point. Village Manager Lombardi responded that the Village would receive impact fees for roads, regional parks, and community parks. He noted that the first payment would be made five days after the execution of the Interlocal Agreement, retroactively from the first of the year. Mayor Batos added that the County would continue to collect and pay the Village until the Village took over the permitting process. Discussion followed regarding percentages of payments.

Vice Mayor Levitan noted that the Village was required by State law to review justification for the impact fee levels. He noted that the County adopted a new report from Duncan Associates in February. He stated that, with the Interlocal Agreement ready for approval, the Village would need a similar adoption of the findings of the Duncan report update, the basis for the impact fee levels, which was the actual dollars per cost level for each different type of development. He indicated that a proposal for adoption would probably come before the Council in September. Mayor Batos asked that the Village Manager arrange to have this on an upcoming agenda.

Mayor Batos called for public comment and no one came forward.

Councilmember Levitan moved to adopt Resolution No. 2015-52 and authorize the Village Mayor to execute the agreement with the revisions as submitted, seconded by Councilmember Errington, called and carried unanimously.

(C) Resolution No. 2015-51 Approving the Interlocal Agreement between the Village of Estero and the Lee County Property Appraiser for Certain Shared Data and Services; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-51. Village Manager Lombardi explained that this was an Interlocal Agreement that the property appraiser's office had with the City of Cape Coral; the appraiser offered it to the Village. He explained that the property appraiser's office was responsible for the management of the GIS operation (mapping) in Lee County; through the Interlocal Agreement, the property appraiser would make GIS services available to the Village and likewise, if the Village developed a database, the Village would agree to share the database with the property appraiser. He added that there was no cost to the Village and recommended approval of the Interlocal Agreement

Mayor Batos called for public comment and no one came forward.

Councilmember Wilson moved to adopt Resolution No. 2015-51 and authorize the Village Mayor to execute the agreement, seconded by Councilmember Errington, called and carried unanimously.

(D) Florida Power & Light Company Electric Franchise Agreement

Village Manager Lombardi introduced Ms. Charlotte Miller.

Charlotte Miller, Florida Power & Light External Affairs, Southwest Florida contact, introduced Pat Bryan, Florida Power & Light Senior Counsel, and Juliette Roulhac, Regional Affairs Manager. Ms. Miller provided an explanation of franchise basics, stating that it would be a 30 year agreement providing FPL the non-exclusive right to be the electric energy provider and the Village would agree not to generate electric power for sale purposes; in exchange for the non-exclusive right, FPL would collect a monthly franchise fee from the customer electric bills not to exceed 6% of FPL customer revenues. She continued that the franchise fees would be paid to the Village on a monthly basis. Ms. Miller stated that Lee County's franchise was currently set at a rate of 4.5%; there was future flexibility to increase or decrease the franchise fee amount, with a maximum of 6%. She indicated that, based on the past 12 months, 4.5% would provide the Village with an annual revenue of approximately \$791,000, and noted that there was a large percentage of seasonal residents.

Discussion followed regarding solar products, the length of the franchise agreement, seasonal residency, planting trees in the right-of-way, tree roots affecting underground lines, and the franchise ordinance hearing process. Village Manager Lombardi stated that the hearings would be held on September 3 and 16, the franchise agreement would be effective October 1, 2015, the first check would be received by the Village on January 1, 2016, with monthly payments thereafter. Consensus was for the franchise rate to continue at 4.5%.

Mayor Batos called for public comment and no one came forward.

(E) Review the Qualifications and Rank the Respondents to RFQ #2015-01 for General Planning Services for the Village's Community Development Department

Resolution No. 2015-49 Approving the Qualifications and Ranking of Firms for RFQ 2015-01 for General Planning Services; Authorizing the Village Manager to Negotiate Terms; and Providing an Effective Date

Village Manager Lombardi stated that four submittals were received by the deadline: CH2M; Calvin, Giordano & Associates, Inc.; LaRue Planning & Management Services, Inc.; and Turrell, Hall & Associates, Inc. Mr. Lombardi indicated that he and Community Development Director Mary Gibbs reviewed the proposals and determined that CH2M and Calvin, Giordano & Associates Inc. met the requirements of the RFQ; both of the firms were highly qualified and their recommendation to Council was to select Calvin, Giordano & Associates, Inc. due to their extensive list of clients that they currently serve. Brief discussion followed.

Mayor Batos invited comments from all four firms. The following representatives came forward and provided information: Jim LaRue, LaRue Planning & Management Services, Inc; Jay Sweet, CH2M; and Shelly Eichner, Calvin, Giordano & Associates, Inc. A representative from Turrell, Hall and Associates was not in attendance.

Mayor Batos called for public comment and no one came forward.

Vice Mayor Levitan moved to approve Resolution No. 2015-49 approving the qualifications and ranking of firms for RFQ 2015-01 for general planning services and authorizing the Village Manager to negotiate terms, seconded by Councilmember Boesch. Discussion ensued. Councilmember Boesch withdrew his second and Councilmember Ribble seconded the motion. Discussion followed regarding whether a team should be involved in the negotiating process; staff's ranking of the firms; and the qualities of each firm. Consensus was to revise sections of the resolution to indicate authorizing authority to a team consisting of the Village Manager and Vice Mayor.

Mayor Batos called for public comment and no one came forward. A vote on the motion approving Resolution No. 2015-49 as revised was called and carried unanimously.

(F) Resolution No. 2015-48 To Appoint the Audit Selection Committee for the Request for Proposals for Financial Audit Services (RFP 2015-02); and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-48. Village Manager Lombardi explained that the purpose of the resolution was to appoint an audit selection committee; his recommendation for committee members were the Village Manager, Finance Director, and resident and retired CPA Bob Lienesch. He further explained that the committee would review the RFP and, if satisfactory, the RFP would be advertised.

Mayor Batos called for public comment and no one came forward.

Councilmember Ribble moved to adopt Resolution No. 2015-48, seconded by Councilmember Brown, called and carried unanimously.

Brief discussion followed regarding the timeline.

(G) Final Plat Approvals:

(1) Resolution No. 2015-44 Approving the Oaks of Estero Plat; and Providing an Effective Date

Village Attorney Saunders read the title of Resolution No. 2015-44 and explained that the resolutions were routine approvals for plats of existing developments; there were no issues associated with the plats. Community Development Director Mary Gibbs stated that this was the final step in the approval process; there were legal and technical requirements to make certain that bonds and sureties were in place. Vice Mayor Levitan provided further explanation of the requirements that Attorney Derek Rooney reviewed, in particular the methods for cost sharing for roads, water, sewer, etc., and inquired who reviewed the homeowner association agreements from a fairness standpoint and scope of issues that may come up. Community Development Director Gibbs provided an explanation. Councilmember Boesch addressed concern regarding sidewalks and inquired whether the plats required sidewalks. Ms. Gibbs responded that it depended on the language in the land development code. Discussion followed. Vice Mayor Levitan added that these plats dealt with internal sidewalks and the land development code now had a provision requiring sidewalks external to the communities along the right-of-way. Brief discussion ensued.

Village Attorney Saunders noted that these were technical reviews and explained the process undertaken by Lee County and the attorney's office. He added that legal review included making certain there was nothing inconsistent with approved development orders and homeowner's association documents. He stated that this was not the stage to make changes. Vice Mayor Levitan stated that plat approvals may not need to come to the Council for formal approval and suggested that staff enter this on their list of items that Council ultimately may want to change and adopt Lee County's process; once plats went through legal and staff review, the Mayor would sign off. Mayor Batos said that for at least the time being, the plat approvals could have been put on the consent agenda. Brief discussion followed along with an inquiry regarding a sidewalk issue related to this plat.

Public Comment:

Alexis Crespo, Waldrop Engineering, stated that the existing sidewalk was not ADA compliant; as part of the construction plans, the sidewalk was relocated and upgraded to be fully ADA compliant. She added that they have also worked with the neighbors on a replanting plan to correct issues where old sidewalk had been removed.

Councilmember Brown moved to adopt Resolution No. 2015-44, seconded by Councilmember Errington, called and carried unanimously.

(2) Resolution 2015-45 Approving the Autumn Leaves Re-Plat; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-45.

Councilmember Wilson moved to adopt Resolution 2015-45, seconded by Councilmember Ribble, called and carried unanimously.

(3) Resolution 2015-47 Approving the University Highland Tract 3 Re-Plat; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-47.

Vice Mayor Levitan inquired whether there was a sidewalk running along the new road in the subdivision.

David Hurst, Peninsula Engineering, responded that there were sidewalks on both sides of the roadway.

Mayor Batos called for public comment and no one came forward.

Councilmember Errington moved to adopt Resolution No. 2015-47, seconded by Vice Mayor Levitan, called and carried unanimously.

7. PUBLIC INPUT ON NON-AGENDA ITEMS

Mayor Batos called for public input on any issue.

Jay Sweet, CH2M, conveyed appreciation for Vice Mayor Levitan's comments related to the Respondents to RFQ #2015-01 for General Planning Services for the Village's Community Development Department.

8. COUNCIL COMMUNICATIONS AND FUTURE AGENDA ITEMS

Councilmember Ribble provided an update regarding negotiations on the Corkscrew Palms building. He indicated that the Council chambers may be larger than originally expected and the installation of a generator for the building was being reviewed.

Councilmember Brown conveyed appreciation to everyone for well wishes and cards.

Councilmember Errington reported that she had a conversation with Village Manager Lombardi regarding providing a link on the Village website to the Lee County Library website, which had been accomplished. She provided a brief report regarding the latest Estero Historic Preservation Citizens Committee meeting and reported on the first Southwest Regional Planning Council meeting that she attended. She alerted Council regarding an online survey that would be available soon.

Councilmember Boesch provided a brief report regarding the Metropolitan Planning Organization meeting that he attended.

Councilmember Wilson spoke to an email sent by Village Manager Lombardi to the Council that indicated over 70 applications had been received for the permanent Village Manager position. Mr. Lombardi also indicated in the email that he had decided not to file an application and, if it were the wish of Council, he would remain on the job until appointment of a new Village Manager and allow for a seamless transition. Councilmember Wilson stated that he hoped Mr. Lombardi would stay and work to be certain that there was a transfer of knowledge to the new Village Manager. He suggested that a retirement bonus be determined based on his performance between now and when Mr. Lombardi completed his service with the Village.

Village Attorney Saunders cautioned that there was a State statute that limited the amount of compensation to be paid for services that had already been provided; he stated that a copy of the statute would be made available to the Council. Councilmember Ribble believed the bonus was an excellent suggestion and would like Mr. Lombardi to remain available until completion of the real estate development transaction. Brief discussion followed along with remarks of appreciation for Mr. Lombardi.

Mayor Batos stated that the Interlocal Agreement negotiation team went through a long process, there were many ups and downs, neither party got everything they wanted, and there were compromises involved. He conveyed appreciation for everyone's work and hoped that this was the first step in a long and healthy relationship between the County and the Village.

9. VILLAGE MANAGER COMMENTS

Village Manager Lombardi reported there were two additional Interlocal Agreements to wrap up, road/transportation and solid waste franchise fee. Vice Mayor Levitan noted that the two Interlocal Agreements with the Fire Districts were still outstanding. Mayor Batos inquired whether it would be advantageous to receive information from the other five cities regarding the solid waste franchise fee Interlocal Agreement as well their arrangements related to roads. Mr. Lombardi responded that he would request the information. Brief discussion followed.

Mr. Lombardi referred to the budget report for July 31, 2015 and noted that the report included a revenue estimate for impact fees of \$695,700 and the anticipated project fund balance of \$1,226,170 by the end of this year.

10. VILLAGE ATTORNEY COMMENTS

Village Attorney Burt Saunders reported: he received documentation from the Sheriff's Department related to a false alarm ordinance; he spoke with Peter Winton regarding the solid waste franchise agreement and the issue was to make certain that whatever formula was used for the Village was the same formula used elsewhere; and he was working on the master transportation agreement.

11. ADJOURN

Councilmember Brown moved to adjourn the meeting, seconded by Councilmember Errington, called and carried unanimously. Mayor Batos adjourned the meeting at 11:38 a.m.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: _____

By: _____

Kathy Hall, MMC
Village Clerk

Nicholas Batos
Mayor

VILLAGE COUNCIL REGULAR MEETING OF SEPTEMBER 3, 2015

The Village of Estero Council Regular Meeting was held on this date at the Estero Fire Rescue District Meeting Room, 21500 Three Oaks Parkway, Estero, Florida.

Present: Mayor Nick Batos - District 6, Vice-Mayor Howard Levitan - District 2, Councilmember Bill Ribble, District 1, Councilmember Donald Brown - District 3, Councilmember Katy Errington - District 4, Councilmember Jim Boesch - District 5, and Councilmember Jim Wilson - District 7.

Also present: Village Manager Peter Lombardi, Village Attorney Burt Saunders, Finance Director Lisa Pace, Community Development Director Mary Gibbs, and Village Clerk Kathy Hall.

1. CALL TO ORDER

Mayor Batos called the meeting to order at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE

Mayor Batos led the Pledge of Allegiance.

3. INVOCATION

The Invocation was offered by Rabbi Greenberg from Chabad of Bonita Springs and Estero.

4. ROLL CALL

Village Clerk Kathy Hall called the roll; all members were present.

5. PROCLAMATIONS AND EXPRESSIONS OF APPRECIATION

(A) Labor Day – The proclamation recognizing Labor Day was read by Councilmember Errington.

Councilmember Wilson moved approval of the proclamation, seconded by Councilmember Errington, called and carried unanimously.

6. APPROVAL OF AGENDA

Councilmember Ribble moved approval of the agenda, seconded by Councilmember Brown, called and carried unanimously.

7. CONSENT AGENDA

(A) Approval of July 10, 2015 Workshop Minutes

(B) Approval of July 15, 2015 Regular Meeting Minutes

(C) Approval of July 22, 2015 Workshop Minutes

Councilmember Ribble moved approval of the Consent Agenda, seconded by Councilmember Brown, called and carried unanimously.

8. COUNCIL BUSINESS

(A) Public Hearing: Resolution No. 2015-53 Adopting the Tentative Levying of Ad Valorem Taxes for the Village of Estero, Lee County, Florida, for Fiscal Year 2015-2016; Establishing the Date, Time and Place for a Final Hearing to Adopt the Final Ad Valorem Taxes for Fiscal Year 2015-2016; and Providing an Effective Date

Resolution No. 2015-53 was read in entirety by Village Manager Lombardi.

The public hearing was opened at 6:38 p.m.; Mayor Batos called for public comment and no one came forward.

Mayor Batos called for Council comments or questions related to Resolution 2015-53 and there were none.

Councilmember Wilson moved to adopt Resolution No. 2015-53, seconded by Councilmember Errington, called and carried unanimously through roll call vote.

(B) Public Hearing: Resolution No. 2015-54 Adopting the Tentative Budget for Fiscal Year 2015-2016; and Providing an Effective Date

Resolution No. 2015-54 was read in entirety by Village Manager Lombardi.

The public hearing was opened at 6:40 p.m.

Mayor Batos provided an explanation of the process.

Councilmember Errington inquired whether the \$30,000 Corkscrew Transportation Planning line item title could be revised to read: Corkscrew/Estero Parkway/US 41north to The Vines. Discussion ensued; consensus was to leave the line item name as is.

Mayor Batos called for public comment and no one came forward.

Councilmember Errington made a motion to change the line item title. The motion died for lack of a second.

Councilmember Errington made a proposal for an additional expenditure of \$17,850 to hire a deputy from the Lee County Sheriff's Office to be in attendance at Council regular and workshop meetings. She noted that a majority of local entities have a deputy in attendance at their meetings. Discussion ensued regarding whether to include Planning and Zoning Board and Design Review Board meetings.

Councilmember Errington moved to add an additional expenditure of \$17,850 to hire a deputy from the Lee County Sheriff's Office to be in attendance at meetings for Council, regular and workshops, Planning and Zoning Board, and Design Review Board; seconded by Councilmember Brown.

Mayor Batos called for public comment.

Public Comments:

Roy Hyman, Shadow Wood resident, addressed concern regarding spending funds for this purpose since Estero was a safe community.

A roll call vote on the motion followed resulting in Councilmembers Ribble, Brown, Errington, Wilson, Vice Mayor Levitan, and Mayor Batos voting aye, Councilmember Boesch voting nay. The motion carried.

Councilmember Errington requested that an amount be specified in the budget indicating that the Village was attempting to perform a study regarding bike and walk paths, due to the high interest within the community. Discussion followed regarding the capital program process, which would begin September 23; FGCU staff and students would be providing a presentation regarding existing bike paths and roads, etc., as well as what was needed to be included in recommendations. Mayor Batos believed that it was appropriate to ask for funding as Council went through the capital program process. Councilmember Ribble believed Council should continue with a focused approach. Vice Mayor Levitan stated that the plan was to go through and address all of the needs of the Village.

Mayor Batos called for public comment and no one came forward.

Mayor Batos asked for a motion on the item; however, a motion was not offered.

Councilmember Boesch proposed that the Village hire a deputy from Lee County Sheriff's Department to work 1 shift, 365 days per year, to address patrol, speed limits, and traffic. Discussion ensued regarding the duties of the deputy; possibility of meeting with the Sheriff's Department to determine what their concept of problems and issues in Estero were and then deciding whether additional help was needed from them prior to making a commitment; requesting that the Sheriff monitor and record the traffic patterns on concerned roads. Mayor Batos indicated that he had spoken with Sheriff Mike Scott and that "smart carts" have been positioned on Corkscrew Road, Three Oaks Parkway, and Estero Parkway. He added that if there were speeding problems in certain areas, the Sheriff was committed to work with the Council within the level of service that the Village already paid for; if at some point Council was not satisfied with the results, Council could consider expending additional public funds to help reduce a problem if it was found. Brief discussion followed.

Mayor Batos called for public comment on this topic and no one came forward.

Councilmember Boesch withdrew the proposal. Brief discussion followed regarding making budget changes during the year.

Councilmember Ribble believed that some of the traffic issues were a result of sand and stone trucks and inquired whether anyone had approached the company to ask cooperation from the carriers.

Village Manger Lombardi went through the changes in the budget. Page 1, Total Revenues, from \$10,960,020 to \$10,620,020; Total Expenditures from \$6,418,650 to \$6,568,650; the new general fund expenditure total was \$6,586,500 as a result of tonight's \$17,850 amendment.

Mayor Batos called for public comment on the budget.

Roy Hyman, Shadow Wood resident, addressed concern regarding budgeted salaries, retirement contributions, health insurance, county taxes, and the ability to speak about the items in the budget. Responses to Mr. Hyman's concerns were offered by Vice Mayor Levitan and Mayor Batos.

Councilmember Errington moved to adopt Resolution No. 2015-54, adopting the tentative budget for fiscal year 2015-2016, with the modification of the additional expense for the security at the meetings for Council, regular and workshops, Planning and Zoning Board, and Design Review Board, seconded by Councilmember Brown, called and carried unanimously through roll call vote.

(C) Colin Baenziger & Associates – Presentation of Village Manager Finalist List to Council with Interview Schedule

Mr. Baenziger provided background information on the Village Manager recruitment process. He stated that there were 80 applicants; a list of 6 finalists were presented to the Council. He spoke to the concern raised that a number of the candidates had annual salaries over \$200,000 and whether the Village would have to pay that amount. He indicated the Village would not have to pay that amount, as the advertised salary range was \$135,000 to \$175,000; the candidates were aware of the salary range and would not be looking for more than the top of the range. Mr. Baenziger added that the average annual City Manager salary for Florida cities between 20,000 and 30,000 population was approximately \$150,000. Discussion ensued regarding interview questions, lack of Florida experience for some of the candidates, and high salaries.

Mayor Batos called for public comment and no one came forward.

Mr. Baenziger explained the process going forward; a public reception would be held for the Village Manager finalists on Thursday, September 10, 2015, 6:00 p.m. until 8:00 p.m. at the Estero Fire Rescue District Meeting Room and interviews would be conducted on Friday, September 11, 2015, beginning at 9:00 a.m. Mr. Baenziger noted that each candidate would be asked to provide a written response to the four interview questions that were suggested to be asked of everyone, and that they would be provided to the Councilmembers prior to interviews.

Discussion followed regarding the Village paying the expenses for the candidates to attend the interviews; paying for lodging Wednesday through Friday and airfare or mileage; and reserving rooms for all candidates in the same hotel. Consensus was for the Village to pay the expenses and for Mr. Lombardi to make the arrangements.

Village Attorney Saunders provided guidance for the Council while in attendance at the public reception and a reminder to be cognizant of the Sunshine laws.

Public Comment:

Bobbie Nelson inquired whether the Village would be paying for the candidates' spouses' travel expense; whether the Village would be paying for moving expense; and whether a contract had been written. Mayor Batos responded that the Council was not inviting spouses to attend at this point; he believed that moving expense would be discussed during negotiations; and a contract had not been written.

Brief discussion followed regarding Councilmembers inviting their spouses to the reception.

(D) First Reading and Public Hearing: Ordinance No. 2015-09 Granting to Florida Power & Light Company, Its Successors and Assigns, a Non-Exclusive Electric Franchise, Imposing Provisions and Conditions Relating Thereto, Providing for Monthly Payments to the Village of Estero; and Providing for an Effective Date

The title of Ordinance No. 2015-09 was read by Mayor Batos and the public hearing was opened.

Village Manager Lombardi explained that the community had been paying an FPL franchise fee of 4.5% to Lee County; under Ordinance 2015-09 the franchise fee would be paid to the Village. He added that the 2015-2016 budget estimated revenues in the amount of \$636,000. Mayor Batos stated that the franchise fee would remain the same as it had been in the past; no increase in the percentage.

Councilmember Errington shared some positive information regarding Florida Power & Light that she gathered. Discussion followed regarding franchise fee revenue accruing as of October 1 and the Village would receive the first check in January 2016.

Mayor Batos called for public comment and no one came forward.

Councilmember Wilson moved to approve the first reading of Ordinance 2015-09, seconded by Councilmember Errington, called and carried unanimously through a roll call vote.

Village Manager Lombardi noted that second reading and hearing were scheduled for the September 16, 2015 Council meeting.

(E) Resolution No. 2015-55 Approving a Contract with Calvin, Giordano & Associates, Inc., to Provide Community Development Services to the Village of Estero; Authorizing the Village Mayor to Execute the Agreement; Authorizing the Village Manager to Expend Funds on Behalf of the Village; and Providing an Effective Date

Mayor Batos explained that Resolution No. 2015-55 would be rescheduled for the September 16, 2015 Council meeting.

Vice Mayor Levitan presented information regarding the Community Development Department contract with Calvin, Giordano & Associates, which included: Goals for the Contract; Community Development Structure; Administration; Planning and Zoning; Development Services; Code Compliance; Information Technology Services; Building Department Services; Fee Based Applications; Cost Recovery System; Building Permit/Inspection Fees; On-Site Personnel Costs; How to Analyze Fixed Fees; Issues Left to Do; and Approval Schedule.

Discussion followed regarding an inquiry from Councilmember Ribble whether having an in-house Community Development Department had been researched, noting that the Village Community Development Director was well-experienced and the possibility of lower cost than contracting with a consultant. Vice Mayor Levitan responded that over time the decision may be to go forward with an in-house department; however, he believed that starting a department from scratch would be difficult.

Mayor Batos called for public comment and no one came forward.

(F) Resolution No. 2015-56 Approving the Proposal Submitted by Sterling Design Group for Architectural Services for Village Hall Offices; Authorizing the Village Mayor to Execute the Agreement; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-56.

Councilmember Ribble provided an update on the building located at 9401 Corkscrew Palms Blvd. and explained that, as part of the process, Joe McHarris had prepared preliminary drawings and the Village would need to hire a certified architect through Sterling Design Group, which was part of the McHarris Group.

Village Attorney Saunders noted that, in reviewing the contract, there was relatively new language required by State statute that would need to be included.

Councilmember Ribble added that, upon adoption of the resolution, drawings could get started, and would be a 60-day process. He noted that the lease for the building should be included in the agenda for the September 16, 2015 Council meeting.

Following comments from Village Attorney Saunders, brief discussion ensued regarding the total construction cost of the project being below the \$325,000 threshold, which authorized the Council to enter into the contract without going through the competitive negotiation process.

Mayor Batos called for public comment and no one came forward.

The resolution title was re-read by Village Manager Lombardi.

Vice Mayor Levitan moved to adopt Resolution No. 2015-56, seconded by Councilmember Errington, called and carried unanimously.

(G) Resolution No. 2015-57 Accepting Audit Selection Committee Recommendation; Authorizing the Village Mayor to Execute Contract; and Providing an Effective Date

Mayor Batos read the title of Resolution No. 2015-57.

Village Manager Lombardi provided an explanation of the resolution and stated that one bid was received as a result of the RFP; the audit selection committee evaluated the proposal provided by the qualified firm and recommended award by the Village Council to CliftonLarsonAllen LLP for a period of three fiscal years. He added that an engagement letter would follow, for Village Attorney review and execution by the Mayor.

Mayor Batos called for public comment and no one came forward.

Councilmember Brown moved to adopt Resolution No. 2015-57, seconded by Councilmember Ribble, called and carried unanimously.

9. PUBLIC INPUT ON NON-AGENDA ITEMS

Phil Douglas, Lighthouse Bay - Brooks resident, requested that Council take a position to publicly recommend that there be absolutely no fracking in the DR/GR.

Don Eslick, ECCL, spoke to a motion that was unanimously approved by the ECCL members present at the August 28, 2015 meeting related to including a list of civic, recreational and arts, and entertainment assets in the section of the Village Center south of Corkscrew Road and expanded public, bike, and pedestrian access to the Estero River, improved integration of the Koreshan State Site and the Boomer/future State park property with the historic and river access properties in the Old Estero area north of the Estero River into an expanded Village Center north of Corkscrew Road.

Fire Chief Scott Vanderbrook invited the Council to view a live fire demonstration in the parking lot at 1:30 p.m. on September 15, 2015. He also noted that the Board would be holding a public hearing at 2:00 p.m. on the fire sprinkler ordinance.

10. COUNCIL COMMUNICATIONS AND FUTURE AGENDA ITEMS

Councilmember Ribble reported that five offices have been located at The Brooks Executive Suites for Community Development Department temporary offices.

Vice Mayor Levitan expressed appreciation to all staff involved in the budget process.

Councilmember Brown echoed the Vice Mayor's comments, conveyed gratitude for the Vice Mayor's work on the Community Development Department, and spoke to the Estero Walmart grand opening ceremony.

Councilmember Errington agreed with Mr. Eslick's comments regarding the areas that he mentioned. She also expressed gratitude to everybody.

Councilmember Boesch reported that he had been working with the Apple representative to address computer issues.

Mayor Batos announced that the September 11, 2015 Workshop was cancelled and rescheduled for September 17, 2015. He also noted that FDOT changed the speed limit to 50 mph on US 41 from Corkscrew Road south to the Lee County line; they were still analyzing data from Corkscrew Road going north. He also announced that on Saturday, September 5, 2015, he would be presenting a proclamation to Estero High School in honor of Coach Sommer.

11. VILLAGE MANAGER COMMENTS

Village Manager Peter Lombardi reported that, going forward, all minutes of Council, Planning and Zoning Board, and Design Review Board would be in abbreviated format; it was not necessary for the minutes to be as verbatim as they had been due to the availability of the recordings of the meetings.

12. VILLAGE ATTORNEY COMMENTS

Village Attorney Burt Saunders reported that, according to State and FEMA representatives, the Council would need to approve, by resolution, Lee County’s Local Mitigation Strategy (LMS) and Comprehensive Emergency Management Plan (CEMP). He stated that both resolutions were planned for the September 16, 2015 Council meeting.

Mr. Saunders also reported that he was informed that the Village should have its own floodplain management even though the Village previously adopted the Lee County version; first reading/public hearing would be held at the September 16, 2015 Council meeting and the second reading would need to occur on September 23, 2015. He noted that the Special Magistrate ordinance first reading/public hearing would be held at the September 16, 2015 Council meeting, with second reading/hearing on September 23, 2015. Discussion followed regarding the process allowing for a regular meeting and workshop on September 23, 2015.

Councilmember Errington requested to be excused for the October 9, 2015 Council workshop. The request was accepted.

13. ADJOURN

A motion to adjourn was called and carried unanimously. Mayor Batos adjourned the meeting at 8:50 p.m.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: _____

By: _____

Kathy Hall, MMC
Village Clerk

Nicholas Batos
Mayor

1 **VILLAGE OF ESTERO, FLORIDA**

2
3 **RESOLUTION NO. 2015 - 58**

4
5 **A RESOLUTION OF THE VILLAGE OF ESTERO, LEE**
6 **COUNTY, FLORIDA, ADOPTING THE FINAL**
7 **LEVYING OF AD VALOREM TAXES FOR THE**
8 **VILLAGE OF ESTERO, LEE COUNTY, FLORIDA, FOR**
9 **FISCAL YEAR 2015-2016; AND PROVIDING AN**
10 **EFFECTIVE DATE.**

11
12 **WHEREAS**, the Village of Estero, Lee County, Florida, on September 16, 2015,
13 adopted Fiscal Year Final Millage Rate following a public hearing as required by Florida
14 Statutes 200.065; and

15
16 **WHEREAS**, the Village of Estero, Lee County, Florida, held public hearings as
17 required by Florida Statutes 200.065; and

18
19 **WHEREAS**, the gross taxable value for operating purposes not exempt from taxation
20 within the Village of Estero, Lee County, Florida has been certified by the Lee County Property
21 Appraiser to the Village of Estero as \$5,699,812,482;

22
23 **NOW, THEREFORE**, be it resolved by the Village Council of the Village of Estero,
24 Florida:

25
26 **Section 1.** The fiscal year 2015-2016 final ad valorem operating millage rate for
27 tax (calendar) year 2015 is hereby adopted at 0.8398 mills and the levy of an annual tax for
28 said year is finally made. As this is the initial year of assessing a millage rate, the rolled-back
29 rate will not be calculated.

30
31 **Section 2.** A public meeting and hearing was held to consider and adopt the final
32 millage rate for fiscal year 2015-2016 as follows:

33

<u>Date</u>	<u>Time</u>	<u>Place</u>
September 16, 2015	6:30 P.M.	Estero Fire Rescue Administrative Bldg. 21500 Three Oaks Parkway Estero, Florida 33928

34
35
36
37
38
39

40 **Section 3.** This resolution shall take effect immediately upon adoption.
41
42
43
44
45
46

47 **ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this
48 16th day of September, 2015.

49

50

51 Attest:

VILLAGE OF ESTERO, FLORIDA

52

53

54 By: _____
55 Kathy Hall, MMC, Village Clerk

By: _____
Nicholas Batos, Mayor

56

57

58 Reviewed for legal sufficiency:

59

60

61 By: _____
62 Burt Saunders, Esq., Village Attorney

1 **VILLAGE OF ESTERO, FLORIDA**

2
3 **RESOLUTION NO. 2015 - 59**

4
5 **A RESOLUTION OF THE VILLAGE OF ESTERO, LEE**
6 **COUNTY, FLORIDA, ADOPTING THE FINAL BUDGET**
7 **FOR FISCAL YEAR 2015-2016; AND PROVIDING AN**
8 **EFFECTIVE DATE**
9

10 **WHEREAS**, the Village of Estero, Lee County, Florida, held public hearings as
11 required by Florida Statute 200.065; and
12

13 **WHEREAS**, the Village of Estero, Lee County, Florida, set forth the appropriations
14 and revenue estimate for the Budget for Fiscal Year 2015-2016 as follows:
15

16 Total General Fund Expenditures \$6,586,500
17

18 **NOW, THEREFORE**, be it resolved by the Village Council of the Village of Estero,
19 Florida:
20

21 **Section 1.** The fiscal year 2015-2016 final budget is hereby adopted.
22

23 **Section 2.** This resolution shall take effect immediately upon adoption.
24

25 **ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this
26 16th day of September, 2015.
27

28
29 Attest:

VILLAGE OF ESTERO, FLORIDA

30
31
32 By: _____
33 Kathy Hall, MMC, Village Clerk

By: _____
Nicholas Batos, Mayor

34
35
36 Reviewed for legal sufficiency:
37

38
39 By: _____
40 Burt Saunders, Esq., Village Attorney

Village of Estero, Florida

Annual Operating Budget Fiscal Year 2015-2016



Mayor

Nick Batos, District 6

Vice Mayor

Howard Levitan, District 2

Village Council

Bill Ribble, District 1

Donald Brown, District 3

Katy Errington, District 4

Jim Boesch, District 5

Jim Wilson, District 7

Administrative Personnel

Peter G. Lombardi, Village Manager

Burt Saunders, Village Attorney

Kathleen Hall, Village Clerk

Lisa G. Pace, CPA, Finance Director

Mary Gibbs, Director of Community Development

The Village of Estero, Florida was incorporated December 31, 2014.

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Village Council



District 6: Nick Batos, Mayor

Phone (239) 292-2909

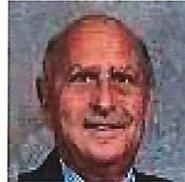
Email: batos@estero-fl.gov



District 1: Bill Ribble

Phone: (239) 292-0665

Email: ribble@estero-fl.gov



District 2: Howard Levitan, Vice-Mayor

Phone: (239) 292-1061

Email: levitan@estero-fl.gov



District 3: Donald Brown

Phone: (239) 292-1119

Email: brown@estero-fl.gov



District 4: Katy Errington

Phone: (239) 292-1237

Email: errington@estero-fl.gov



District 5: Jim Boesch

Phone: (239) 292-1715

Email: boesch@estero-fl.gov



District 7: Jim Wilson

Phone: (239) 292-2978

Email: wilson@estero-fl.gov



September 16, 2015

Honorable Mayor and Village Council,

Following the swearing in of the first Village Council during the inaugural meeting of March 17, 2015, council began the process of governing; approved Resolutions ratifying the purchase of liability insurance, assumed operation of the Village's first website, appointed an Interim Village Manager, Village Attorney, and Finance Director, designated a depository for financial operations, approved a letter of credit for necessary operating funds, approved a lease for temporary municipal offices, approved an initial public meeting schedule, and established initial purchasing guidelines. It began the process to adopt ordinances to establish a Planning and Zoning Board and Design Review Board, rescind the County restriction against communication with the boards, and repeal the County ordinance relating to lobbyist activities and reporting. And thus, the Village of Estero progressed from an idea to a movement into a living and breathing local government.

Our government-light organization has grown to 5 full-time professionals who handle the day-to-day business of operating a local government and providing assistance to the Village Council and 2 advisory citizen boards.

While municipal fiscal years begin October 1, and end September 30, Estero's 2015 Fiscal Year began on March 17, and will last only 6.5 months. Following 3 months of operation, we are projecting a reserve of \$1,226,170.

I am pleased to provide you with my recommended Fiscal Year 2016 Annual Budget in compliance with Section 8 (2)(3) of the Village Charter. I recommend setting the ad valorem millage rate at 0.8398, the same as 2015. Adhering to the commitment to maintain a government-light, citizen involved village, the budget affords the resources to establish a solid foundation to provide the highest quality municipal services.

Having been in operation for only 3 months, we have not had the luxury to evaluate past financial conditions. We have researched all the state, county, and local revenue sources available to the Village. After several weeks of negotiations with County officials, we have determined what local services have been provided prior to incorporation and what it will cost to continue those services. The Village and Lee County will soon enter into an Interlocal Agreement for the continuance of those services at an agreed upon cost.



Budget Message
September 16, 2015
Page 2

The proposed budget is balanced and sufficient to meet this year's operating needs. The 2016 Operating Budget consists of total General Fund revenues of \$10,520,020 which when added to the 2015 projected reserves of \$1,096,170 total \$11,616,190 in available funds. Proposed General Fund expenditures are \$6,586,500, leaving a projected fund balance on September 30, 2016, of \$5,029,690.

Revenues include \$5,011,000 in taxes, \$843,000 from the local option gas tax, \$636,000 from franchise fees, \$827,600 from impact fees, \$3,189,000 from intergovernmental revenue, \$10,000 from fines and forfeitures, and \$3,420 interest income.

Expenditures include \$793,400 for Personal Services, \$5,068,100 for operating expenditures, \$575,000 for capital outlay, and \$150,000 in debt service.

The projected Fund Balance of \$5,029,690 provides for \$1,636,390 in Unrestricted Reserves, \$835,600 Restricted Reserves for Road Capital Projects, \$557,700 Restricted Reserves for Park Capital Projects, and \$2,000,000 for Emergency Reserves.

We will carefully monitor revenue and expenditures during the year and bring the Council recommendations for changes to the approved budget as necessary.

I would like to thank the Village Council for giving me the opportunity to work alongside you to get your mission underway. I especially want to express my sincere appreciation to our Finance Director, Lisa Pace, for the many hours she has spent at my side managing the day-to-day financial operations, obtaining revenue estimates from County and State officials, and preparing the Village Budget. I am proud of the progress we have made in a very short period of time and the efforts of a small but extremely efficient management team. And for those who have volunteered their time, opinions and recommendations, thank you.

A handwritten signature in blue ink, appearing to read 'Peter G. Lombardi', is written over a light blue circular stamp.

Peter G. Lombardi
Interim Village Manager

Village of Estero
Budget Calendar
 Fiscal Year 2015-2016

Date	Responsibility	Action Required
June 1, 2015	Lee County Property Appraiser	Estimate of Taxable Value
June 24, 2015	Village Manager Finance Director	Village Manager's Proposed Budget is submitted to the Village Council
July 1, 2016	Lee County Property Appraiser	Certification of Taxable Value is Finalized, DR420.
July 10, 2015 and July 22, 2015	Village Council Village Manager Finance Director	Budget Workshops
July 15, 2015	Village Council Village Manager	Adopt Resolution setting proposed Millage Rate for 2015 and setting public hearing dates (TRIM Notice)
July 17, 2015	Village Manager	Notify the Property Appraiser of Proposed Millage Rate
August 24, 2015	Lee County Property Appraiser	Notice of Proposed Tax Bill and Public Hearing dates to homeowners (TRIM notice)
September 3, 2105 at 6:30pm	Village Council Village Manager	First Public Hearing on Tentative Budget and Ad Valorem Tax Rate
September 16, 2015 at 6:30pm	Village Council Village Manager	Final Public Hearing to Adopt Budget and Ad Valorem Tax Rate
September 19, 2015	Village Manager	Deadline for returning final Millage Rate to Property Appraiser and Tax Collector
October 16, 2015	Village Manager	Certify compliance with Florida Statute Chapter 200 to the Florida Department of Revenue



*Village of Estero
Fiscal Year 2015-2016
Summary of Budget Changes*

Revenue Changes:

	Total Revenues September 3, 2015 draft	\$ 10,620,020
Page 4	Impact Fee Collections-Decreased for 8/31/15 Lee County Collections Report	\$ (100,000)
<i>General Fund Revenue Total</i>		<i>(100,000)</i>
Total Revenues September 16, 2015 draft		<u>\$ 10,520,020</u>

Expenditure Changes:

	Total Expenditures September 3, 2015 draft	\$ 6,568,650
Page 16	Law Enforcement-Lee County	\$ 17,850
<i>General Fund Expenditure Total</i>		<i>17,850</i>
Total Expenditures September 16, 2015 draft		<u>\$ 6,586,500</u>
<i>Net Change in General Fund</i>		<u>\$ (117,850)</u>

Village of Estero
Fiscal Year 2015-2016
General Fund Budget

The following schedule represents a summary of Revenues by Category:

	Budget 6 Months 2014-2015	Estimated 6 Months 2014-2015	Manager Recommend 12 Months 2015-2016	Council Adopted 12 Months 2015-2016
Ad Valorem Tax	\$ -	\$ -	\$ 4,465,000	\$ 4,550,000
Gas Tax	-	-	750,000	843,000
Franchise Fees	-	-	1,043,000	636,000
Communication Svcs Tax	-	-	690,700	446,000
Other Taxes	-	-	15,000	15,000
State Shared Revenue	245,340	245,340	492,500	591,000
1/2 Cent Sales Tax	756,980	756,980	2,270,900	2,573,000
Other Intergovernmental Revenue	-	12,500	25,000	25,000
Fines and Forfeitures	-	-	10,000	10,000
Impact Fees	-	565,700	927,600	827,600
Investment Earnings	-	-	3,420	3,420
<i>Total Revenues</i>	<u>1,002,320</u>	<u>1,580,520</u>	<u>10,693,120</u>	<u>10,520,020</u>
Proceeds from Debt	-	150,000	-	-
Estimated prior year surplus	-	-	1,837,710	1,096,170
Total Sources of Funds	<u>\$ 1,002,320</u>	<u>\$ 1,730,520</u>	<u>\$ 12,530,830</u>	<u>\$ 11,616,190</u>

The following schedule represents a summary of Expenditures by Cost Center :

	Budget 6 Months 2014-2015	Estimated 6 Months 2014-2015	Manager Recommend 12 Months 2015-2016	Council Adopted 12 Months 2015-2016
Village Council	\$ 20,630	\$ 27,380	\$ 75,510	\$ 75,510
Village Manager	161,810	104,920	374,780	408,350
Village Attorney	240,000	152,690	480,000	480,000
Village Clerk	36,560	38,950	201,780	122,950
Finance	58,780	60,550	162,830	162,830
Community Development	120,000	111,030	1,014,770	1,217,140
Animal Control	-	-	194,140	193,720
Public Works				
Physical Environment/Natural Resources	-	13,150	266,200	288,750
Transportation	-	-	2,445,300	2,503,800
Information Technologies	-	6,230	71,940	71,940
Law Enforcement	-	-	-	17,850
General Governmental Operations	<u>306,250</u>	<u>119,450</u>	<u>779,710</u>	<u>893,660</u>
Operating Expenditures	944,030	634,350	6,066,960	6,436,500
Debt Service	-	-	150,000	150,000
<i>Total Expenditures</i>	<u>944,030</u>	<u>634,350</u>	<u>6,216,960</u>	<u>6,586,500</u>
Projected Fund Balance	58,290	1,096,170	6,313,870	5,029,690
Total Uses of Funds	<u>\$ 1,002,320</u>	<u>\$ 1,730,520</u>	<u>\$ 12,530,830</u>	<u>\$ 11,616,190</u>

Village of Estero
Fiscal Year 2015-2016
Budget Summary

	General Fund	Special Revenue	Capital Projects	Total Governmental Funds
Prior Year Surplus	\$ 1,096,170	\$ -	\$ -	\$ 1,096,170
Revenues				
Ad Valorem Tax	4,550,000	-	-	4,550,000
Gas Tax	843,000	-	-	843,000
Franchise Fees	636,000	-	-	636,000
Communication Services Tax	446,000	-	-	446,000
Other Taxes	15,000	-	-	15,000
Intergovernmental Revenues	3,189,000	-	-	3,189,000
Fines and Forfeitures	10,000	-	-	10,000
Impact Fees	827,600	-	-	827,600
Investment Earnings	3,420	-	-	3,420
Total Revenues	<u>10,520,020</u>	<u>-</u>	<u>-</u>	<u>10,520,020</u>
Other Financing Sources				
Transfers from Other Funds	-	-	-	-
<i>Total Revenues & Other Financing Sources</i>	<u>10,520,020</u>	<u>-</u>	<u>-</u>	<u>10,520,020</u>
Total Sources of Funds	<u>\$ 11,616,190</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 11,616,190</u>
Expenditures				
General Government	\$ 3,432,380	\$ -	\$ -	\$ 3,432,380
Public Safety	17,850	-	-	17,850
Physical Environment	288,750	-	-	288,750
Transportation	2,503,800	-	-	2,503,800
Human Services	193,720	-	-	193,720
Debt Service	150,000	-	-	150,000
Total Expenditures	<u>6,586,500</u>	<u>-</u>	<u>-</u>	<u>6,586,500</u>
Other Financing Uses				
Transfers to Other Funds	-	-	-	-
<i>Total Expenditures & Other Financing Uses</i>	<u>6,586,500</u>	<u>-</u>	<u>-</u>	<u>6,586,500</u>
Fund Balances				
Unrestricted	1,636,390	-	-	1,636,390
Restricted for Road Capital Projects	835,600	-	-	835,600
Restricted for Park Capital Projects	557,700	-	-	557,700
Emergency Reserves	2,000,000	-	-	2,000,000
<i>Total Fund Balance</i>	<u>5,029,690</u>	<u>-</u>	<u>-</u>	<u>5,029,690</u>
Total Use of Funds	<u>\$ 11,616,190</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 11,616,190</u>

Village of Estero
Fiscal Year 2015-2016
General Fund Revenue Summary

Fund <i>General Fund</i>		Budget	Estimated	Manager	Council
Transaction/ Object #	Account Description	6 Months 2014-2015	6 Months 2014-2015	Recommended 12 Months 2015-2016	Adopted 12 Months 2015-2016
3110000	Ad Valorem Taxes ¹	-	-	4,465,000	4,550,000
3152000	Local Communication Services Tax ²	-	-	690,700	446,000
3160000	Lee County Business Tax - Estero Portion	-	-	15,000	15,000
	Taxes Total	-	-	5,170,700	5,011,000
3124100	Local Option Gas Tax	-	-	427,500	486,000
3124200	Local Option Gas Tax-5 Cent	-	-	322,500	357,000
	Gas Tax Total	-	-	750,000	843,000
3231000	Franchise Fees-FPL Electric ³	-	-	1,000,000	593,000
3237000	Franchise Fees-Solid Waste ⁴	-	-	43,000	43,000
	Franchise Fees Total	-	-	1,043,000	636,000
3243X00	Road Impact Fees ⁵	-	338,300	560,400	497,300
3246X00	Community Park Impact Fees ⁵	-	120,100	193,200	174,100
3246X01	Regional Park Impact Fees ⁵	-	107,300	174,000	156,200
	Impact Fees Total	-	565,700	927,600	827,600
3220000	Building Permits ⁶	-	-	-	-
	Licenses & Permits Total	-	-	-	-
3351200	Shared Revenue-Sales Tax Portion	184,000	184,000	369,400	451,000
3351201	Shared Revenue-Fuel Tax Portion	61,340	61,340	123,100	140,000
3351400	Mobile Home Licenses	-	5,000	10,000	10,000
3351500	Alcohol Beverage Licenses	-	7,500	15,000	15,000
3351800	Half-cent Sales Tax	756,980	756,980	2,270,900	2,573,000
	Intergovernmental Total	1,002,320	1,014,820	2,788,400	3,189,000
3490000	Animal Control Fees ⁶	-	-	-	-
3419000	Development/Zoning Review ⁶	-	-	-	-
	Charges for Service Total	-	-	-	-
3590000	Fine and Forfeitures ⁷	-	-	10,000	10,000
	Fines & Forfeitures Total	-	-	10,000	10,000
3611000	Interest Income	-	-	3,420	3,420
	Interest Income Total	-	-	3,420	3,420
Total General Fund Revenues		\$ 1,002,320	\$ 1,580,520	\$ 10,693,120	\$ 10,520,020

¹ Property Taxable Value as of July 1, 2015, \$5,699,812,482, with millage rate of 0.8398 consistent with Lee County's prior year unincorporated tax rate budgeted at a 95% collection rate.

² Assumes collection per Estero Ordinance 15-07, with 3.61% tax rate effective January 1, 2016. The January collections will be received in March; therefore, only seven (7) months of collections have been budgeted.

³ Assumes an October 1, 2015 effective date for Franchise Agreement negotiated with FPL and estimate provided by FPL. Initial remittance will be in January, 2016 which will result in 9 months of collections.

⁴ Assumes an October 1, 2015 effective date for Franchise Agreement negotiated with Lee County Solid Waste.

⁵ Budget estimates are based upon Lee County collections from January 1 to August 31, 2015. Lee County collections rates were at 20% from January 1 to March 13 and 100% thereafter.

⁶ Assumes revenues collected and retained by Lee County for continuation of Village services provided for in an Interlocal Agreement.

⁷ Revenues are derived from court fines and traffic citations within the Village of Estero.

Village of Estero
Fiscal Year 2015-2016
General Fund Expenditure Summary

<i>Fund General Fund</i>	Budget 6 Months <u>2014-2015</u>	Estimated 6 Months <u>2014-2015</u>	Manager Recommended 12 Months <u>2015-2016</u>	Council Adopted 12 Months <u>2015-2016</u>
Personal Services	\$ 277,780	\$ 198,500	\$ 759,830	\$ 793,400
Operating Expenditures	491,250	370,850	4,832,130	5,068,100
Capital Outlay	175,000	65,000	475,000	575,000
	-	-	-	-
<i>Total Operating Expenditures</i>	<i>944,030</i>	<i>634,350</i>	<i>6,066,960</i>	<i>6,436,500</i>
Debt Service	-	-	150,000	150,000
	-	-	-	-
	<u>\$ 944,030</u>	<u>\$ 634,350</u>	<u>\$ 6,216,960</u>	<u>\$ 6,586,500</u>
Full Time Equivalent Positions	<u>5.0</u>	<u>5.0</u>	<u>6.0</u>	<u>6.0</u>
<i>Expenditures by Cost Center:</i>				
Village Council	\$ 20,630	\$ 27,380	\$ 75,510	\$ 75,510
Village Manager	161,810	104,920	374,780	408,350
Village Attorney	240,000	152,690	480,000	480,000
Village Clerk	36,560	38,950	201,780	122,950
Finance	58,780	60,550	162,830	162,830
Community Development	120,000	111,030	1,014,770	1,217,140
Animal Control	-	-	194,140	193,720
Public Works				
Physical Environment/Natural Resources	-	13,150	266,200	288,750
Transportation	-	-	2,445,300	2,503,800
Information Technologies	-	6,230	71,940	71,940
Law Enforcement	-	-	-	17,850
General Government Operations	306,250	119,450	779,710	893,660
Debt Service	-	-	150,000	150,000
	-	-	-	-
	<u>\$ 944,030</u>	<u>\$ 634,350</u>	<u>\$ 6,216,960</u>	<u>\$ 6,586,500</u>
<i>Expenditures by Function: ¹</i>				
General Government	\$ 944,030	\$ 621,200	\$ 3,161,320	\$ 3,432,380
Public Safety	-	-	-	17,850
Physical Environment	-	13,150	266,200	288,750
Transportation	-	-	2,445,300	2,503,800
Human Services	-	-	194,140	193,720
Debt Service	-	-	150,000	150,000
	-	-	-	-
	<u>\$ 944,030</u>	<u>\$ 634,350</u>	<u>\$ 6,216,960</u>	<u>\$ 6,586,500</u>

¹ Expenditure Functions are required by the Florida State Chart of Charts.

Village of Estero
Fiscal Year 2015-2016
Village Council Expenditures

Fund	General Fund	Cost Center	100 Village Council		Transaction	511 Legislative
			Budget	Estimated		Manager
			6 Months	6 Months	12 Months	12 Months
			<u>2014-2015</u>	<u>2014-2015</u>	<u>2015-2016</u>	<u>2015-2016</u>
Transaction/ Object #	Account Description					
5111100	Executive Salaries		20,630	24,380	45,000	45,000
5112100	FICA Taxes		-	1,860	3,450	3,450
5112400	Workers Compensation		-	70	130	130
5112500	Unemployment Compensation		-	1,070	1,700	1,700
			-	-	-	-
	Total Personal Services		<u>20,630</u>	<u>27,380</u>	<u>50,280</u>	<u>50,280</u>
5114000	Travel & Per Diem ¹		-	-	21,000	21,000
5115400	Books, Pub, Memberships ²		-	-	4,230	4,230
5115500	Training ¹		-	-	-	-
			-	-	-	-
	Total Operating Expenditures		<u>-</u>	<u>-</u>	<u>25,230</u>	<u>25,230</u>
			-	-	-	-
Village Council Expenditures			<u>\$ 20,630</u>	<u>\$ 27,380</u>	<u>\$ 75,510</u>	<u>\$ 75,510</u>
Full Time Equivalent Positions			<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

¹ Travel and Per Diem and Training line items include \$3,000 per Village Council Member.

² Books, Publications and Memberships include Florida League of Cities and Southwest Florida League of Cities memberships.

Village of Estero
Fiscal Year 2015-2016
Village Manager Expenditures

Fund	General Fund	Cost Center	200 Village Manager		Transaction 512 Executive	
			Budget 6 Months <u>2014-2015</u>	Estimated 6 Months <u>2014-2015</u>	Manager Recommended 12 Months <u>2015-2016</u>	Council Adopted 12 Months <u>2015-2016</u>
Transaction/ Object #	Account Description					
5121100	Executive Salaries		57,290	67,710	125,000	155,000
5121101	Car Allowance		-	3,900	7,200	7,200
5121200	Regular Salaries & Wages		62,500	-	150,000	150,000
	Fringe Benefits @ 35%		42,020	-	-	-
5122100	FICA Taxes		-	5,830	20,870	21,300
5122200	Retirement Contributions ¹		-	-	27,500	30,500
5122300	Group Insurance ²		-	4,650	34,200	34,200
5122400	Workers Compensation		-	210	790	850
5122500	Unemployment Compensation		-	840	2,220	2,300
			-	-	-	-
	Total Personal Services		<u>161,810</u>	<u>83,140</u>	<u>367,780</u>	<u>401,350</u>
51234xx	Contractual Services-Admin Assistant		-	21,780	-	-
5124000	Travel & Per Diem ³		-	-	4,000	4,000
5125400	Book, Pub, Membership ⁴		-	-	3,000	3,000
5125500	Training ³		-	-	-	-
			-	-	-	-
	Total Operating Expenditures		<u>-</u>	<u>21,780</u>	<u>7,000</u>	<u>7,000</u>
			-	-	-	-
	Village Manager Expenditures		<u>\$ 161,810</u>	<u>\$ 104,920</u>	<u>\$ 374,780</u>	<u>\$ 408,350</u>
	Full Time Equivalent Positions		<u>3.0</u>	<u>2.0</u>	<u>3.0</u>	<u>3.0</u>

¹ Retirement contributions are budgeted at 10% of salaries.

² Group insurance includes health, life, AD&D, dental and vision.

³ Travel and Per Diem and Training line items include \$1,500 for conference attendance for the Village Manager and Assistance Village Manager and \$500 for other travel reimbursement.

⁴ Books, Publications and Memberships include International City/County Management Association (ICMA) & Florida City/County Management Association (FCCMA) memberships

Village of Estero
Fiscal Year 2015-2016
Village Attorney Expenditures

Fund	General Fund	Cost Center	210 Village Attorney		Transaction		514 Legal Counsel	
			Budget	Estimated	Manager	Council		
			6 Months	6 Months	12 Months	12 Months	12 Months	12 Months
			2014-2015	2014-2015	2015-2016	2015-2016	2015-2016	2015-2016
Transaction/ Object #	Account Description							
5143400	Professional Services		240,000	-	-	-	-	-
	Village Attorney-Retainer		-	48,750	90,000	90,000	90,000	90,000
5143401	Contractual Services		-	-	-	-	-	-
	Other Legal Counsel		-	103,940	390,000	390,000	390,000	390,000
			-	-	-	-	-	-
	Total Operating Expenditures		240,000	152,690	480,000	480,000	480,000	480,000
			-	-	-	-	-	-
Village Attorney Expenditures			\$ 240,000	\$ 152,690	\$ 480,000	\$ 480,000	\$ 480,000	\$ 480,000
Full Time Equivalent Positions			-	-	-	-	-	-

Village of Estero
Fiscal Year 2015-2016
Village Clerk Expenditures

Fund	<i>General Fund</i>	Cost Center	<i>220 Village Clerk</i>		Transaction	<i>513</i>
						<i>Administration</i>
			Budget	Estimated	Manager	Council
			6 Months	6 Months	Recommended	Adopted
			<u>2014-2015</u>	<u>2014-2015</u>	<u>12 Months</u>	<u>12 Months</u>
					<u>2015-2016</u>	<u>2015-2016</u>
Transaction/ Object #	Account Description					
5131200	Regular Salaries & Wages	27,080	26,670	80,000	80,000	
	Fringe Benefits @ 35%	9,480	-	-	-	
5132100	FICA Taxes	-	2,040	6,120	6,120	
5132200	Retirement Contributions ¹	-	-	8,000	8,000	
5132300	Group Insurance ²	-	4,000	11,400	11,400	
5132400	Workers Compensation	-	80	220	220	
5132500	Unemployment Compensation	-	1,100	650	650	
		-	-	-	-	
	Total Personal Services	<u>36,560</u>	<u>33,890</u>	<u>106,390</u>	<u>106,390</u>	
51334xx	Contractual Services					
5133400	Audio Software Maintenance	-	-	3,000	3,000	
5133401	Codification	-	-	6,000	6,000	
	Elections March 2015	-	-	78,830	-	
5134000	Travel & Per Diem ³	-	-	2,000	2,000	
5134800	Legal Notices ⁴	-	5,060	5,060	5,060	
5135400	Book, Pub, Memberships ⁵	-	-	500	500	
5135500	Training ³	-	-	-	-	
		-	-	-	-	
	Total Operating Expenditures	<u>-</u>	<u>5,060</u>	<u>95,390</u>	<u>16,560</u>	
		-	-	-	-	
Village Clerk Expenditures		<u>\$ 36,560</u>	<u>\$ 38,950</u>	<u>\$ 201,780</u>	<u>\$ 122,950</u>	
Full Time Equivalent Positions		<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	

¹ Retirement contributions are budgeted at 10% of salaries.

² Group insurance includes health, life, AD&D, dental and vision.

³ Travel and Per Diem and Training line items include \$1,500 for conference attendance for the Village Clerk and \$500 for other travel reimbursement.

⁴ Legal Notice cost as required for Ordinances, Truth in Millage Compliance (TRIM) and other required advertisements.

⁵ Books, Publications and Memberships include Florida Association of City Clerks and International Institute of Municipal Clerks memberships.

Village of Estero
Fiscal Year 2015-2016
Finance Expenditures

Fund	<i>General Fund</i>	Cost Center	<i>230 Finance</i>		Transaction	<i>513 Financial</i>
			Budget	Estimated	Manager	Council
			6 Months	6 Months	12 Months	12 Months
			<u>2014-2015</u>	<u>2014-2015</u>	<u>2015-2016</u>	<u>2015-2016</u>
Transaction/ Object #	Account Description					
5131200	Regular Salaries & Wages		43,540	25,000	100,000	100,000
	Fringe Benefits @ 35%		15,240	-	-	-
5132100	FICA Taxes		-	1,920	7,650	7,650
5132200	Retirement Contributions ¹		-	-	10,000	10,000
5132300	Group Insurance ²		-	-	11,400	11,400
5132400	Workers Compensation		-	70	270	270
5132500	Unemployment Compensation		-	430	840	840
			-	-	-	-
	Total Personal Services		<u>58,780</u>	<u>27,420</u>	<u>130,160</u>	<u>130,160</u>
5133100	Professional Services					
	Auditing & Actuarial Services		-	-	30,000	30,000
5133400	Contractual Services ³		-	33,130	-	-
5134000	Travel & Per Diem ⁴		-	-	2,000	2,000
5135400	Book, Pub, Memberships ⁵		-	-	670	670
5135500	Training ⁴		-	-	-	-
			-	-	-	-
	Total Operating Expenditures		<u>-</u>	<u>33,130</u>	<u>32,670</u>	<u>32,670</u>
			-	-	-	-
	Finance Expenditures		<u>\$ 58,780</u>	<u>\$ 60,550</u>	<u>\$ 162,830</u>	<u>\$ 162,830</u>
			-	-	-	-
Full Time Equivalent Positions			<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>

¹ Retirement contributions are budgeted at 10% of salaries.

² Group insurance includes health, life, AD&D, dental and vision.

³ Contract for accounting services and interim Finance Director for full fiscal year totals \$117,600.

⁴ Travel and Per Diem and Training line items include \$2,000 for 40 hours per year of continuing education as required to maintain Florida Certified Public Accounting (CPA) License.

⁵ Books, Publications and Memberships include Governmental Financial Officer's Association, Florida Governmental Financial Officer's Association membership as well as publications for Audited Financial Statement preparation.

Village of Estero
Fiscal Year 2015-2016
Community Development Expenditures

Fund	<i>General Fund</i>	Cost Center	<i>240 Community Development</i>	Transaction	<i>515 Planning</i>
Transaction/ Object #	Account Description	Budget 6 Months <u>2014-2015</u>	Estimated 6 Months <u>2014-2015</u>	Manager Recommended 12 Months <u>2015-2016</u>	Council Adopted 12 Months <u>2015-2016</u>
5151200	Regular Salaries & Wages	-	24,310	79,000	79,000
5152100	FICA Taxes	-	1,860	6,050	6,050
5152200	Retirement Contributions ¹	-	-	7,900	7,900
5152300	Group Insurance ²	-	-	11,400	11,400
5152400	Workers Compensation	-	70	220	220
5152500	Unemployment Compensation	-	430	650	650
		-	-	-	-
	Total Personal Services	<u>-</u>	<u>26,670</u>	<u>105,220</u>	<u>105,220</u>
51531xx	Professional Services	120,000	-	-	-
5153100	Planning Initiative ³	-	79,180	74,420	74,420
5153101	Comprehensive Plan/Land Development Regulations	-	-	120,000	250,000
5153102	Corkscrew Transportation Planning	-	-	-	30,000
51534xx	Contractual Services				
5513401	Economic Development	-	-	-	20,000
5153410	Lee County Community Development Community Development Services	-	-	695,740	713,290
5154000	Travel & Per Diem ⁴	-	-	2,000	2,000
5154800	Legal Notices-Planning and Zoning ⁵	-	5,180	5,180	10,000
5155400	Book, Pub, Memberships ⁶	-	-	12,210	12,210
5155500	Training ⁴	-	-	-	-
		-	-	-	-
	Total Operating Expenditures	<u>120,000</u>	<u>84,360</u>	<u>909,550</u>	<u>1,111,920</u>
		-	-	-	-
	Community Development Expenditures	<u>\$ 120,000</u>	<u>\$ 111,030</u>	<u>\$ 1,014,770</u>	<u>\$ 1,217,140</u>
		-	-	-	-
	Full Time Equivalent Positions	<u>-</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>

¹ Retirement contributions are budgeted at 10% of salaries.

² Group insurance includes health, life, AD&D, dental and vision.

³ Contractual services for Village of Estero Planning Initiative.

⁴ Travel and Per Diem and Training line items include \$1,500 for conference attendance for the Community Development Director and \$500 for other travel reimbursement.

⁵ Required Land Development Legal Notices.

⁶ Books, Publications and Memberships include Lee County Metropolitan Planning Organization (MPO), \$3,320, and Southwest Regional Planning Council \$8,890 memberships.

Village of Estero
Fiscal Year 2015-2016
Animal Control Expenditures

Fund	<i>General Fund</i>	Cost Center	<i>250 Animal Control</i>	Transaction	<i>562 Human Services</i>
		Budget	Estimated	Manager	Council
		6 Months	6 Months	Recommended	Adopted
		<u>2014-2015</u>	<u>2014-2015</u>	<u>2015-2016</u>	<u>2015-2016</u>
Transaction/ Object #	Account Description				
56234xx	Contractual Services				
5623410	Lee County Animal Control				
	Animal Control Services	-	-	194,140	193,720
		-	-	-	-
	Total Operating Expenditures	<u>-</u>	<u>-</u>	<u>194,140</u>	<u>193,720</u>
		-	-	-	-
	Animal Control Expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 194,140</u>	<u>\$ 193,720</u>
	Full Time Equivalent Positions	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

Village of Estero
Fiscal Year 2015-2016
Public Works Expenditures

Fund	<i>General Fund</i>	Cost Center	<i>260 Public Works</i>		Transaction	<i>537 Physical Environment</i>	
Transaction/ Object #	Account Description	Budget 6 Months <u>2014-2015</u>	Estimated 6 Months <u>2014-2015</u>	Manager Recommended 12 Months <u>2015-2016</u>	Council Adopted 12 Months <u>2015-2016</u>		
53731xx	Professional Services						
	Flood Plain-Community Rating System	-	13,150	-	-		
53734xx	Contractual Services						
5373410	Lee County Dept of Natural Resources						
	Surface Water Management	-	-	119,440	121,990		
	Major Maintenance	-	-	96,760	96,760		
	Appeal Preliminary Flood Ins Rate Maps ¹	-	-	50,000	70,000		
		-	-	-	-		
	Total Operating Expenditures	<u>-</u>	<u>13,150</u>	<u>266,200</u>	<u>288,750</u>		
		-	-	-	-		
	Public Works-Physical Environment Expenditures	<u>\$ -</u>	<u>\$ 13,150</u>	<u>\$ 266,200</u>	<u>\$ 288,750</u>		
	Full Time Equivalent Positions	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>		

¹ Balance needed to complete Appeal of 2015 Preliminary Flood Insurance Rate Maps FIRM.

Village of Estero
Fiscal Year 2015-2016
Public Works Expenditures

Fund	<i>General Fund</i>	Cost Center	<i>260 Public Works</i>		Transaction	<i>541 Transportation</i>	
Transaction/ Object #	Account Description	Budget 6 Months <u>2014-2015</u>	Estimated 6 Months <u>2014-2015</u>	Manager Recommended 12 Months <u>2015-2016</u>	Council Adopted 12 Months <u>2015-2016</u>		
54134xx	Contractual Services						
5413410	Lee County Transportation						
	Canal Maintenance	-	-	165,200	160,750		
	Transportation	-	-	2,140,700	2,161,510		
	Vehicle Replacement Fund	-	-	139,400	139,400		
	Employee Pay Increase	-	-	-	42,140		
		-	-	-	-		
	Total Operating Expenditures	<u>-</u>	<u>-</u>	<u>2,445,300</u>	<u>2,503,800</u>		
		-	-	-	-		
	Public Works-Transportation Expenditures¹	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,445,300</u>	<u>\$ 2,503,800</u>		
	Full Time Equivalent Positions	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>		

¹ Gas Tax and State Revenue Sharing-Fuel Tax are required to be spent on Transportation expenditures. For 2015-2016, transportation revenue is estimated at \$843,000 for Gas Tax and \$140,000 for State Revenue Sharing-Fuel Tax for a total of \$983,000. This reduces the financial impact of transportation expenditures in the Interlocal Agreement to \$1,520,800.

Village of Estero
Fiscal Year 2015-2016
Law Enforcement & Security Expenditures

Fund	00 General Fund	Cost Center	280 Law Enforcement/ Security	Transaction	521 Public Safety
				Manager	Council
		Budget	Estimated	Recommended	Adopted
		6 Months	6 Months	12 Months	12 Months
		<u>2014-2015</u>	<u>2014-2015</u>	<u>2015-2016</u>	<u>2015-2016</u>
Transaction/ Object #	Account Description				
5213410	Law Enforcement-Lee County	-	-	-	17,850
		-	-	-	-
	Total Operating Expenditures	<u>-</u>	<u>-</u>	<u>-</u>	<u>17,850</u>
		-	-	-	-
	Law Enforcement/Security-Public Safety Expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 17,850</u>
	Full Time Equivalent Positions	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

Village of Estero
Fiscal Year 2015-2016
General Government Operations Expenditures

Fund	General Fund	Cost Center	900 General Government Operations		Transaction 513 Administration	
			Budget 6 Months 2014-2015	Estimated 6 Months 2014-2015	Manager Recommended 12 Months 2015-2016	Council Adopted 12 Months 2015-2016
Transaction/ Object #	Account Description					
51334xx	Contractual Services					
5133400	Office Lease ¹		54,000	26,760	28,560	28,560
5133101	Tax Collector Fees-Local Bus Tax		-	-	3,300	3,300
5133102	State Alcohol Service Charge		-	-	1,200	1,200
5134100	Communications		-	2,490	4,500	4,500
5134200	Freight & Postage		-	-	1,200	1,200
5134300	Utilities		-	-	-	-
5134400	Equipment & Leases		-	-	-	-
5134500	Insurance		13,080	11,620	13,950	27,900
5134600	Equipment Repair & Maintenance		-	-	5,000	5,000
5134700	Printing		-	-	1,500	1,500
5134901	Bank Charges		-	-	8,500	8,500
5134902	Line of Credit Interest		-	1,580	-	-
5134909	Contingency ²		64,170	-	250,000	250,000
5135100	Office Supplies		-	12,000	12,000	12,000
			-	-	-	-
	Total Operating Expenditures		131,250	54,450	329,710	343,660
5136400	Capital Outlay ³		175,000	65,000	450,000	550,000
			-	-	-	-
	Total Capital Outlay		175,000	65,000	450,000	550,000
			-	-	-	-
	General Government Operations Expenditures		\$ 306,250	\$ 119,450	\$ 779,710	\$ 893,660
513xxxx	Line of Credit Repayment		-	-	150,000	150,000
			-	-	-	-
	Total Debt Services		-	-	150,000	150,000
			-	-	-	-
	Full Time Equivalent Positions		-	-	-	-

¹ Office Lease was included in the initial Cash Flow Projections as Operations and Rent. Included in the estimate for 2014-2015 is \$7,600 as reimbursement for operating expenditures to Estero Council of Community Leaders (ECCL).

² Contingency is approximately 4% of General Fund Budgeted Expenditures.

³ Capital Outlay includes \$450,000 for Municipal Office Expansion for lease and build out and \$100,000 for office furniture, fixtures and equipment.

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VILLAGE OF ESTERO, FLORIDA

RESOLUTION NO. 2015 - 60

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE
VILLAGE OF ESTERO, FLORIDA PROVIDING FOR
NEGOTIATION OF A CONTRACT WITH THE TOP
RANKED VILLAGE MANAGER CANDIDATE; AND
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Section 5(1) of the Village of Estero Charter states that the Village Council shall appoint a Village Manager who shall be appointed primarily on the basis of executive and administrative qualifications; and

WHEREAS, the Village Council has performed an extensive search of candidates qualified to serve as Village Manager; and

WHEREAS, the Village Council has ranked _____ as its number one candidate; and

WHEREAS, the Village Council is authorizing _____, _____, and _____ to immediately begin contract negotiations with the number one ranked candidate.

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

Section 1. The above recitals are true and correct.

Section 2. This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 16th day of September, 2015.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: _____
Kathy Hall, MMC, Village Clerk

By: _____
Nicholas Batos, Mayor

Reviewed for legal sufficiency:

By: _____
Burt Saunders, Esq., Village Attorney

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VILLAGE OF ESTERO, FLORIDA

RESOLUTION NO. 2015 - 61

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION AND THE VILLAGE OF ESTERO FOR THE CREATION OF THE METROPOLITAN PLANNING ORGANIZATION; AUTHORIZING THE VILLAGE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the incorporation of the Village of Estero has created the need to amend the composition of the Lee County Metropolitan Planning Organization to include a representative from the Village of Estero; and

WHEREAS, the State of Florida, Department of Transportation has asked the Village of Estero, the Lee County Board of County Commissioners, City of Cape Coral, City of Fort Myers, City of Sanibel, Town of Fort Myers Beach, and the City of Bonita Springs to approve the State of Florida, Department of Transportation, Interlocal Agreement for the Creation of the Metropolitan Planning Organization; and

WHEREAS, it is in the best interest of the residents of the Village of Estero for the Village to be a member of the Lee County Metropolitan Planning Organization in order to participate in the transportation planning and the funding of transportation projects in Lee County.

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

Section 1. The Village Council hereby approves the Interlocal Agreement between the Village of Estero and the State of Florida, Department of Transportation, a copy of which is attached hereto and incorporated herein by this reference.

Section 2. The Village Council authorizes the Village Mayor to execute the Interlocal Agreement between the Village of Estero and State of Florida, Department of Transportation for the creation of the Metropolitan Planning Organization.

Section 3. This Resolution shall take effect immediately upon adoption.

44 **ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this
45 16th day of September, 2015.

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47

48 Attest:

VILLAGE OF ESTERO, FLORIDA

49

50

51 By: _____
52 Kathy Hall, MMC, Village Clerk

By: _____
Nicholas Batos, Mayor

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54

55 Reviewed for legal sufficiency:

56

57 By: _____
58 Burt Saunders, Esq., Village Attorney



2015 RE-APPORTIONMENT PLAN

Approved by MPO Board April 17, 2015

Lee County Metropolitan Planning Organization
P.O. Box 150045
Cape Coral, Florida 33915-0045
239-330-2241

www.leempo.com

DESCRIPTION

The Lee Metropolitan Planning Organization (MPO) and the area it covers is depicted on the statewide map in **Attachment A**. The map in **Attachment B** shows the MPO boundary, the municipal boundaries and the 2014 population for each of the jurisdictions for a total current Lee County population of 653,485 (Lee County/Bureau of Economic Business Research).

The Lee MPO is going through the apportionment process to add the Village of Estero, the newly incorporated jurisdiction that was approved by the State Legislature and the voters in 2014. As a part of this update, the MPO Board also approved adding one additional City of Cape Coral voting member to the Board. The Lee MPO planning area now includes six (6) municipalities within the metropolitan area. The six (6) incorporated areas are: the City of Cape Coral, the City of Fort Myers, the City of Bonita Springs, the City of Sanibel, Town of Fort Myers Beach and Village of Estero. Of these, the City of Cape Coral is the largest with a 2014 population of 163,599.

BACKGROUND

APPORTIONMENT 2000

At the April 2000 TAC and CAC meetings, the TAC and CAC approved Plan #1, which called for inclusion of Bonita Springs to the MPO membership without disturbing the membership apportionment of the participating jurisdictions. The TAC requested that the actual apportionment of the MPO plan be based upon geography and population and that it should be deferred until after the 2000 census. At the MPO meeting, comments were received from the public in favor of apportioning an additional representative to the City of Cape Coral in addition to the City of Bonita Springs representative.

At the April 2000 MPO meeting, Staff provided seven (7) different reapportionment options to the MPO Board for their review. Plan #1, stated that all jurisdictions would retain their current voting members and the new City of Bonita Springs would receive one (1) voting member.

During the April 2000 MPO meeting, Commissioner Coy made a motion to recommend Plan #2 which included the incorporation of the City of Bonita Springs with an MPO representative and also an additional member to the City of Cape Coral, based on their increase in population. Commissioner St. Cerny seconded the motion and it carried unanimously. The number of MPO members was increased to fifteen (15) members.

APPORTIONMENT 2001 (from the 2000 Census)

In 2001, after the census data was available, the MPO reaffirmed what had changed when the City of Bonita Springs was added and the City of Cape Coral was given an additional representative. The fifteen (15) member MPO Board included the following members by jurisdiction:

- Lee County Board of County Commissioners – 5 members
- City of Cape Coral – 4 members
- City of Fort Myers – 3 members
- City of Bonita Springs – 1 member
- City of Sanibel – 1 member
- Town of Fort Myers Beach – 1 member

The other major transportation systems (airports, transit and the Southwest Florida Expressway Authority) were considered to be covered by members on the Board who also oversee or serve on their Boards. The five Board of County Commissioners on the MPO Board serve as the Board of Port Commissioners which governs the Lee County Port Authority covering the Southwest Florida International Airport and Page Field General Aviation Airport. In addition, Lee Tran, the local transit agency reports to the five County Commissioners. In 2005, the Southwest Florida Expressway Authority was created by the Florida Legislature and two members of the Authority Board were representatives on the MPO Board, one voting (County Commissioner) and one non-voting member (FDOT District Secretary).

APPORTIONMENT 2009

The City of Bonita Springs requested that the apportionment of the MPO members be brought to the MPO Board as a discussion item. At the February 2008 MPO meeting the MPO discussed looking at other MPO areas in Florida to see how they are apportioned and to see if there are any other ways to re-apportion the members. At the meeting the Board directed staff to research how other MPO's in Florida are apportioned, answer some questions regarding the maximum number of members that the MPO could have and determine the process and bring back that information at a future meeting.

At the May 2008 MPO meeting, the Board discussed the follow up items and gave direction to bring back a draft apportionment plan that added one member for the City of Bonita Springs. This change kept the population per member fairly consistent among the participating jurisdictions.

At the June 20, 2008 MPO meeting, the MPO Board discussed the draft apportionment plan which included adding the one (1) additional MPO

representative for the City of Bonita Springs, and it was approved by a 9 to 4 vote. The Board then gave direction to staff to seek a resolution of support from each of the jurisdictions that would then be attached to this document for submittal to FDOT and the Governor for approval. The addition of one member for the City of Bonita Springs was approved by FDOT in 2009, making the Board membership sixteen (16) members as it is today and apportioned as listed below:

- Lee County Board of County Commissioners – 5 members
- City of Cape Coral – 4 members
- City of Fort Myers – 3 members
- City of Bonita Springs – 2 members
- City of Sanibel – 1 member
- Town of Fort Myers Beach – 1 member

APPORTIONMENT 2013 (from the 2010 Census)

Following the 2010 census, the Lee MPO reconfirmed the existing MPO Board membership based on the 2010 census population for each of the jurisdictions. No changes were made at this time as there was little that changed from the apportionment change that was done in 2009. The apportionment of the MPO Board was approved by the Governor in the fall of 2013 (**Attachment C** includes the current apportionment).

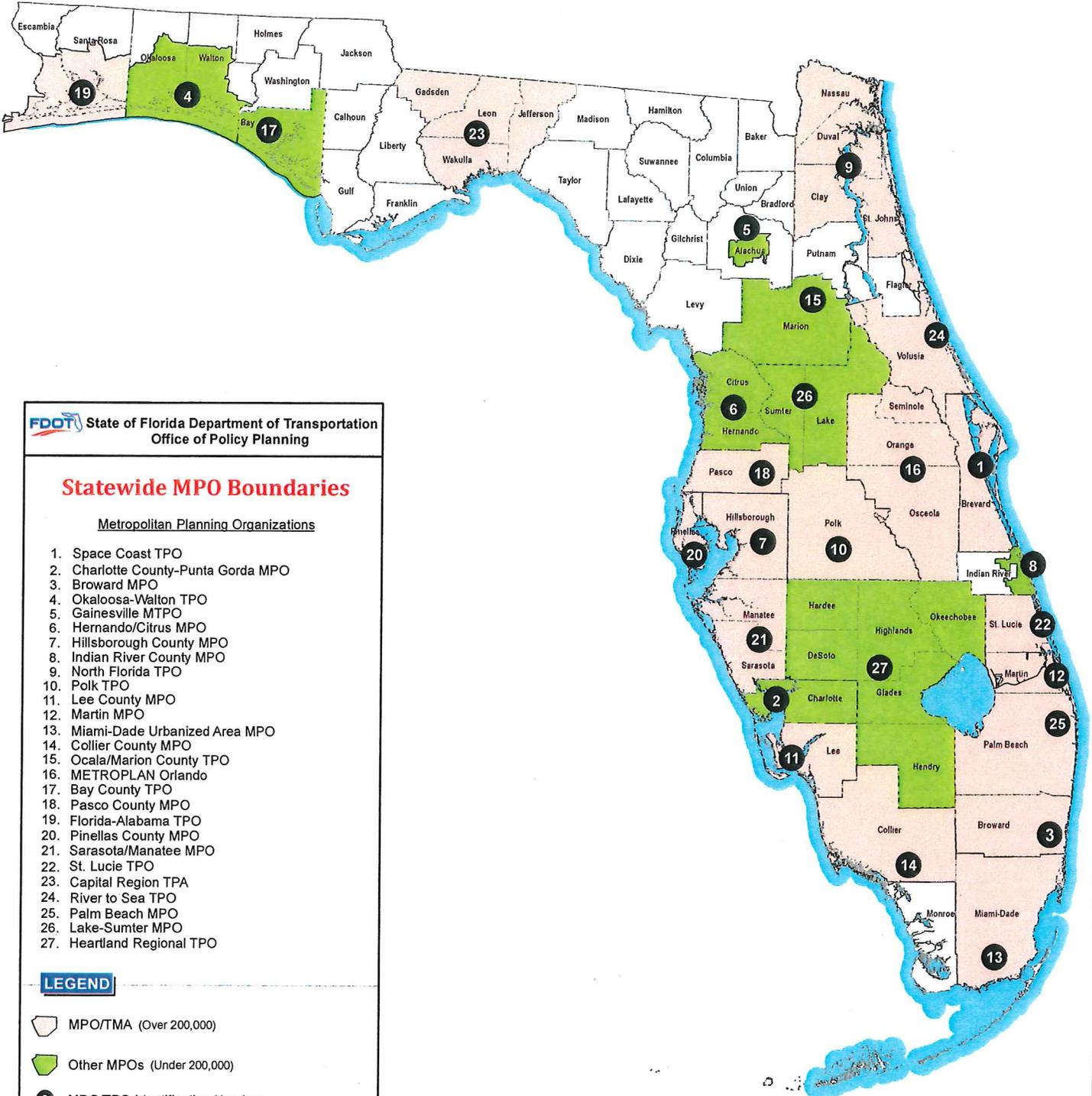
RE-APPORTIONMENT 2015 (addition of the Village of Estero member and one additional member for the City of Cape Coral)

The addition of representatives to the MPO Board for the Village of Estero and one additional member for the City of Cape Coral is governed by FS 339.175. The proposed re-apportionment plan change is required to be approved by the jurisdictions representing seventy five percent of the population of the MPO planning area and approval by the largest incorporated jurisdiction (City of Cape Coral). **Attachment D** includes the results of the proposed re-apportionment with the addition of one member representing the Village of Estero and one additional member representing the City of Cape Coral. The MPO representative per population for each jurisdiction is fairly consistent among the jurisdictions and with this proposed change the MPO Board will increase to eighteen (18) members. The MPO Board approved the addition of the two members by a vote of 8-2 at their April 17, 2015 MPO Board meeting. The proposed re-apportionment is listed below:

- Lee County Board of County Commissioners – 5 members
- City of Cape Coral – 5 members
- City of Fort Myers – 3 members
- City of Bonita Springs – 2 members
- City of Sanibel – 1 member
- Town of Fort Myers Beach – 1 member
- Village of Estero – 1 member

Metropolitan Planning Organizations and Designated Transportation Management Areas

(As of December 8, 2014)



FDOT State of Florida Department of Transportation
Office of Policy Planning

Statewide MPO Boundaries

Metropolitan Planning Organizations

1. Space Coast TPO
2. Charlotte County-Punta Gorda MPO
3. Broward MPO
4. Okaloosa-Walton TPO
5. Gainesville MTPO
6. Hernando/Citrus MPO
7. Hillsborough County MPO
8. Indian River County MPO
9. North Florida TPO
10. Polk TPO
11. Lee County MPO
12. Martin MPO
13. Miami-Dade Urbanized Area MPO
14. Collier County MPO
15. Ocala/Marion County TPO
16. METROPLAN Orlando
17. Bay County TPO
18. Pasco County MPO
19. Florida-Alabama TPO
20. Pinellas County MPO
21. Sarasota/Manatee MPO
22. St. Lucie TPO
23. Capital Region TPA
24. River to Sea TPO
25. Palm Beach MPO
26. Lake-Sumter MPO
27. Heartland Regional TPO

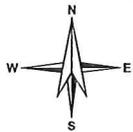
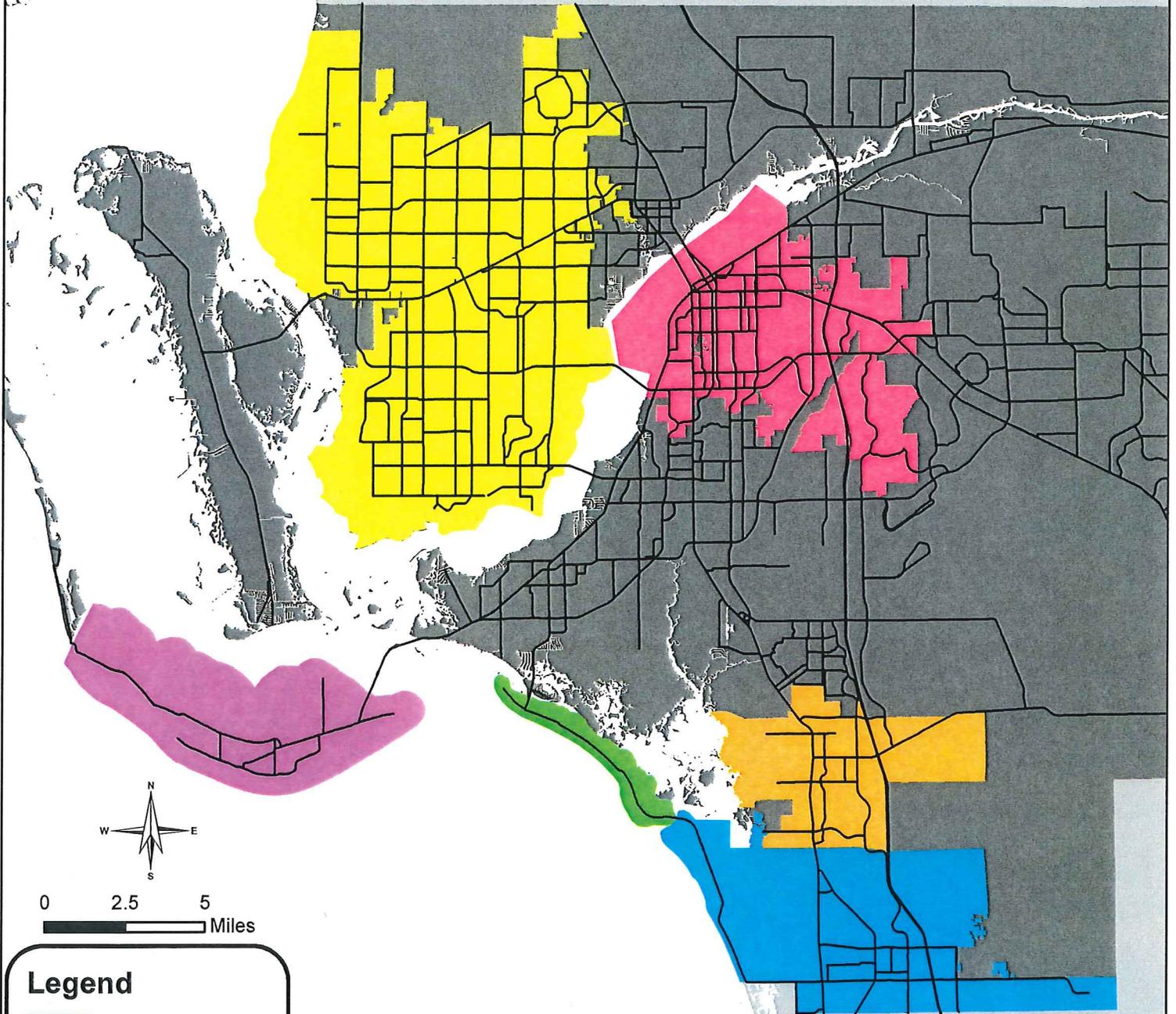
LEGEND

- MPO/TMA (Over 200,000)
- Other MPOs (Under 200,000)
- MPO/TPO Identification Number



2015 LEE COUNTY APPORTIONMENT PLAN

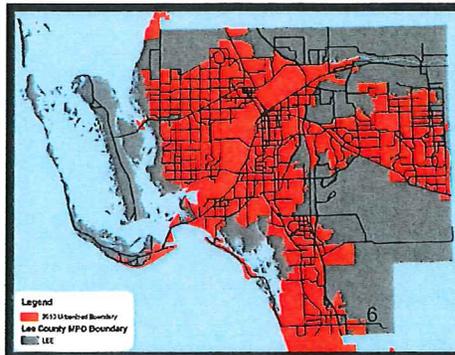
Attachment B



0 2.5 5 Miles

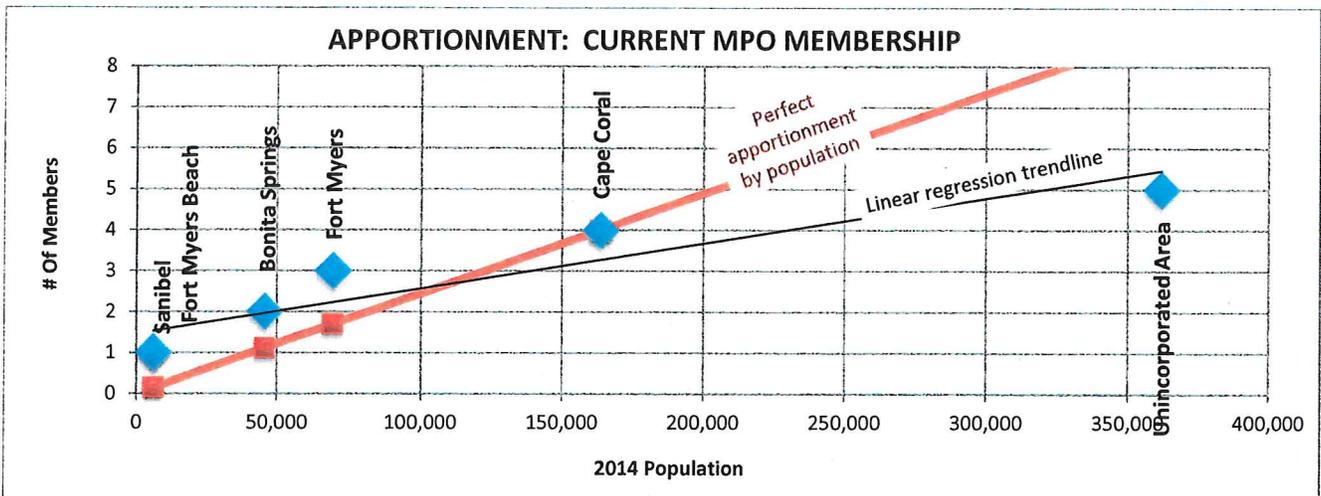
Legend

- Bonita Springs
- Cape Coral
- Estero
- Fort Myers
- Fort Myers Beach
- Sanibel
- Major Roads

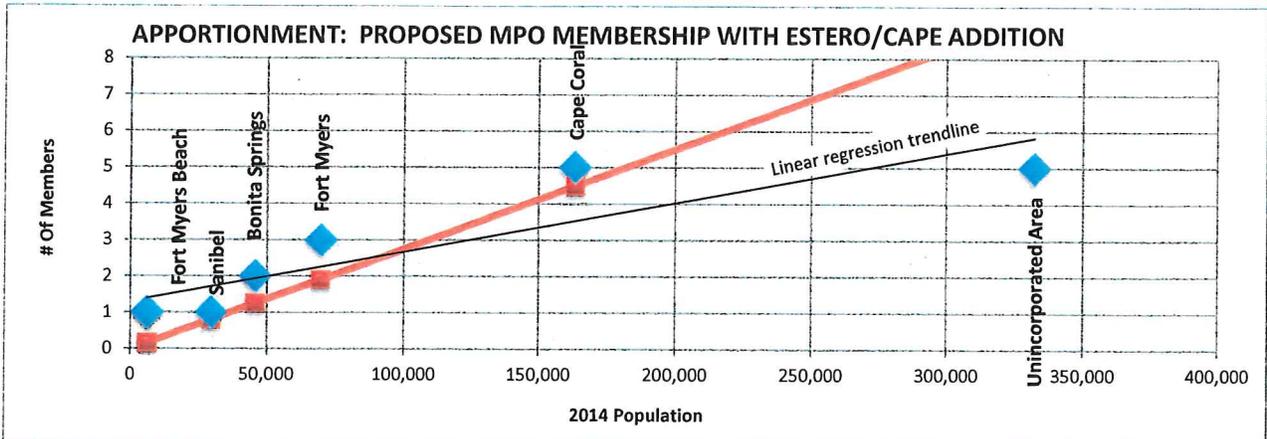


2014 Population	
Bonita Springs	45,819
Cape Coral	163,599
Estero	29,632
Fort Myers	69,437
Fort Myers Beach	6,250
Sanibel	6,490
Unincorporated	332,258
Total	653,485

LEE COUNTY
MPO
 METROPOLITAN PLANNING ORGANIZATION
 Brian V. Raimondo
 Senior Planner - GIS Spec
 4.28.15
 Pop. Data: BEBR



Participating Agency	Unincorporated Area	Bonita Springs	Cape Coral	Fort Myers	Fort Myers Beach	Sanibel	Countywide Total	Pearson's Coefficient	Correlation Coefficient	Percent RMS Error
2014 BEBR Population	361,890	45,819	163,599	69,437	6,250	6,490	653,485	0.96	0.93	73%
Current Membership	5	2	4	3	1	1	16			
Apportioned by Population	8.86	1.12	4.01	1.70	0.15	0.16	16.00			
Population per Member	72,378	22,910	40,900	23,146	6,250	6,490	40,843	M:MPO Apportionment2015		



Participating Agency	Unincorporated Area	Bonita Springs	Cape Coral	Fort Myers	Estero	Fort Myers Beach	Sanibel	Countywide Total	Pearson's Coefficient	Correlation Coefficient	Percent RMS Error
2014 BEBR Population	332,258	45,819	163,599	69,437	29,632	6,250	6,490	653,485	0.96	0.89	68%
Current Membership	5	2	5	3	1	1	1	18			
Apportioned by Population	9.15	1.26	4.51	1.91	0.82	0.17	0.18	18.00			
Population per Member	66,452	22,910	32,720	23,146	29,632	6,250	6,490	36,305	M:WPO Apportionment 2015		

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THIS INTERLOCAL AGREEMENT for the formation of a Metropolitan Planning Organization is made and entered into on this _____ day of _____, by and between the FLORIDA DEPARTMENT OF TRANSPORTATION; LEE COUNTY; the CITIES OF CAPE CORAL, FORT MYERS, BONITA SPRINGS, SANIBEL, TOWN OF FORT MYERS BEACH and the VILLAGE OF ESTERO, collectively known as "the parties."

RECITALS

WHEREAS, the federal government, under the authority of Title 23 United States Code (USC) §134 and Title 49 USC §5303, requires each metropolitan area, as a condition for the receipt of federal capital or operating assistance, to have a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs consistent with the comprehensively planned development of the metropolitan area;

WHEREAS, the parties to this Interlocal Agreement desire to participate cooperatively in the performance, on a continuing basis, of a coordinated, comprehensive transportation planning process to assure that highway facilities, mass transit systems, bicycle and pedestrian facilities, rail systems, air transportation and other facilities will be properly located and developed in relation to the overall plan of community development;

WHEREAS, Title 23 USC §134 and Title 49 USC §§5303-5305, as amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21) and Section 339.175, Florida Statutes (F.S.), provide for the creation of Metropolitan Planning Organizations to develop transportation plans and programs for urbanized areas;

WHEREAS, pursuant to Titles 23 USC §134(d), 49 USC §5303, 23 CFR §450.310(b), and Section 339.175(2), F.S., a determination has been made by the Governor and units of general purpose local government representing at least 75 percent of the affected population (including the largest incorporated city, based on population as named by the Bureau of Census) in the urbanized area to designate a Metropolitan Planning Organization;

WHEREAS, pursuant to this Interlocal Agreement, the parties wish to collectively participate in the metropolitan planning process as the Lee County Metropolitan Planning Organization for the Cape Coral, Florida urbanized area, herein after referred to as "the Metropolitan Planning Organization" or "the MPO". Further, the parties approved by majority vote an apportionment and boundary plan for presentation to the Governor on the 17th day of April 2015;

WHEREAS, pursuant to Section 339.175(4), F.S., the Governor approved the apportionment and boundary plan submitted by the MPO;

WHEREAS, pursuant to Title 23 CFR §450.314(a), and Section 339.175(10), F.S., an agreement must be entered into by the Department, the MPO, and the governmental entities and public transportation operators to identify the responsibility of each party for cooperatively carrying out a comprehensive transportation planning process;

WHEREAS, this Interlocal Agreement is required to create the Metropolitan Planning Organization and delineate the provisions for operation of the MPO;

WHEREAS, the undersigned parties have determined that this Interlocal Agreement is consistent with Section 339.175(10), F.S.;

WHEREAS, the undersigned parties have determined that this Interlocal Agreement is consistent with statutory requirements set forth in Section 163.01, F.S., relating to Interlocal Agreements; and

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representation herein, the parties desiring to be legally bound, do agree as follows:

**ARTICLE 1
RECITALS; DEFINITIONS**

Section 1.01. Recitals. Each and all of the foregoing recitals are incorporated herein and acknowledged to be true and correct to the best of the parties' knowledge. Failure of any of the foregoing recitals to be true and correct shall not operate to invalidate this Interlocal Agreement.

Section 1.02. Definitions. The following words when used in this Interlocal Agreement (unless the context shall clearly indicate the contrary) shall have the following meanings:

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Interlocal Agreement means and refers to this instrument, as may be amended from time to time.

Department means and refers to the Florida Department of Transportation, an agency of the State of Florida created pursuant to Section 20.23, F.S.

FHWA means and refers to the Federal Highway Administration.

ETA means and refers to the Federal Transit Administration.

Long Range Transportation Plan (LRTP) is the 20-year transportation planning horizon which includes transportation facilities; identifies a financial plan that demonstrates how the plan can be implemented and assesses capital improvements necessary to preserve the existing metropolitan transportation system and make efficient use of existing transportation facilities; indicates proposed transportation activities; and in ozone/carbon monoxide nonattainment areas is coordinated with the State Implementation Plan, all as required by Title 23 USC §134(c), Title 49 USC §5303, Title 23 CFR §450.322, and Section 339.175(7), F.S.

Metropolitan Planning Area means and refers to the planning area determined by agreement between the MPO and the Governor for the urbanized area containing at least a population of 50,000 as described in Title 23 USC §134(b)(1), Title 49 USC §5303, and Section 339.175(2)(c) and (d), F.S., and including the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, which shall be subject to the Metropolitan Planning Organization's planning authority.

MPO means and refers to the Metropolitan Planning Organization formed pursuant to this Interlocal Agreement as described in 23 USC §134(b)(2), 49 USC §5303, and Section 339.175(1), F.S.

Transportation Improvement Program (TIP) is the staged multi-year program of transportation improvement projects developed by a Metropolitan Planning Organization consistent with the Long Range Transportation Plan, developed pursuant to 23 USC §134(j), 49 USC §5303, 23 CFR §450.324 and Section 339.175(8), F.S.

Unified Planning Work Program (UPWP) is the biennial program developed in cooperation with the Department and public transportation providers, that identifies the planning priorities and activities to be carried out within a metropolitan planning area to be undertaken during a 2-year period, together with a complete description thereof and an estimated budget, all as required by 23 CFR §450.308, and Section 339.175(9), F.S.

**ARTICLE 2
PURPOSE**

Section 2.01. General Purpose. The purpose of this Interlocal Agreement is to establish the MPO and recognize the boundary and apportionment approved by the Governor. This Interlocal Agreement shall serve:

- (a) To assist in the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through this metropolitan planning area and minimize, to the maximum extent feasible for transportation-related fuel consumption and air pollution;
- (b) To develop transportation plans and programs, in cooperation with the Department, which plans and programs provide for the development of transportation facilities that will function as a multi-modal and intermodal transportation system for the metropolitan planning area;
- (c) To implement and ensure a continuing, cooperative, and comprehensive transportation planning process that results in coordinated plans and programs consistent with the comprehensively planned development of this affected metropolitan planning area in cooperation with the Department;
- (d) To assure eligibility for the receipt of federal capital and operating assistance pursuant to Title 23 USC §134 and Title 49 USC §§5303, 5304, 5305, 5307, 5309, 5310, 5311, 5314, 5326, 5337 and 5339, 5340; and
- (e) To carry out the metropolitan transportation planning process, in cooperation with the Department, as required by federal, state and local laws.

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Section 2.02. Major MPO Responsibilities. The MPO is intended to be a forum for cooperative decision making by officials of the governmental entities which are parties to this Interlocal Agreement in the development of transportation-related plans and programs, including but not limited to:

- (a) The LRTP;
- (b) The TIP;
- (c) The UPWP;
- (d) Incorporating performance goals, measures, and targets into the process of identifying and selecting needed transportation improvements and projects;
- (e) A congestion management process for the metropolitan area and coordinated development of all other transportation management systems required by state or federal law;
- (f) Assisting the Department in mapping transportation planning boundaries required by state or federal law;
- (g) Supporting the Department in performing its duties relating to access management, functional classification of roads, and data collection; and
- (h) Performing such other tasks required by state or federal law.

Section 2.03. Coordination with the Department and Consistency with Comprehensive Plans. Chapter 334, F.S., grants broad authority for the Department's role in transportation. Section 334.044, F.S., includes the legislative intent declaring that the Department shall be responsible for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the State. Section 339.155, F.S., requires the Department to develop a statewide transportation plan, which considers, to the maximum extent feasible, strategic regional policy plans, MPO plans, and approved local government comprehensive plans. Section 339.175(5), F.S., specifies the authority and responsibility of the MPO and the Department to manage a continuing, cooperative, and comprehensive transportation planning process for the metropolitan area.

In fulfillment of this purpose and in the exercise of the various powers granted by Chapters 334 and 339, F.S., the parties to this Interlocal Agreement acknowledge that decisions made by the MPO will be coordinated with the Department. All parties to this Interlocal Agreement acknowledge that actions taken pursuant to this Interlocal Agreement will be consistent with local government comprehensive plans.

**ARTICLE 3
MPO ORGANIZATION AND CREATION**

Section 3.01. Establishment of MPO. The MPO for the metropolitan planning area as described in the membership apportionment plan approved by the Governor is hereby created and established pursuant to this Interlocal Agreement to carry out the purposes and functions set forth in Articles 2 and 5. The legal name of this Metropolitan Planning Organization shall be the MPO.

Section 3.02. MPO to operate pursuant to law. In the event that any election, referendum, approval, permit, notice, other proceeding or authorization is required under applicable law to undertake any power, duty, or responsibility hereunder, or to observe, assume, or carry out any of the provisions of this Interlocal Agreement, the MPO will, to the extent of its legal capacity, comply with all applicable laws and requirements.

Section 3.03. Governing board to act as policy-making body of MPO. The governing board established pursuant to Section 4.01 of this Interlocal Agreement shall act as the policy-making body for the MPO, and will be responsible for coordinating the cooperative decision-making process of the MPO's actions, and will take required actions as the MPO.

Section 3.04. Data, reports, records, and other documents. Subject to the right to claim an exemption from the Florida Public Records Law, Chapter 119, F.S., the parties shall provide to each other such data, reports, records, contracts, and other documents in its possession relating to the MPO as is requested. Charges are to be in accordance with Chapter 119, F.S.

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Section 3.05. Rights of review. All parties to this Interlocal Agreement and the affected federal funding agencies (e.g., FHWA, FTA, and FAA) shall have the rights of technical review and comment on MPO's projects.

**ARTICLE 4
COMPOSITION; MEMBERSHIP; TERMS OF OFFICE**

Section 4.01. Composition and membership of governing board.

- (a) The membership of the MPO shall consist of 18 (eighteen) voting members and 1 (one) non-voting advisor. The names of the member local governmental entities and the voting apportionment of the governing board as approved by the Governor shall be as follows:

Lee County	five voting members
City of Cape Coral	five voting members
City of Fort Myers	three voting members
City of Bonita Springs	two voting members
City of Sanibel	one voting member
Town of Fort Myers Beach	one voting member
Village of Estero	one voting member
Florida Department of Transportation	non-voting advisor

- (b) All voting representatives shall be elected officials of general purpose local governments, one of whom may represent a group of general-purpose local governments through an entity created by the MPO for that purpose. The MPO may include, as part of its apportioned voting membership, a member of a statutorily authorized planning board or an official of an agency that operates or administers a major mode of transportation. All individuals acting as a representative of the governing board of the county, the city, or authority shall first be selected by said governing board.
- (c) The voting membership of an M.P.O. shall consist of at least 5 but not more than 25 apportioned members, with the exact number determined on an equitable geographic-population ratio basis, based on an agreement among the affected units of general-purpose local government and the Governor, as required by federal regulations and shall be in compliance with 339.175(3) F.S.
- (d) In the event that a governmental entity that is a member of the MPO fails to fill an assigned appointment to the MPO within sixty days after notification by the Governor of its duty to appoint a representative, the appointment shall then be made by the Governor from the eligible individuals of that governmental entity.

Section 4.02. Terms. The term of office of members of the MPO shall be four years. The membership of a member who is a public official automatically terminates upon said official leaving the elective or appointive office for any reason, or may be terminated by a majority vote of the total membership of the governmental entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be appointed for one or more additional four year terms.

**ARTICLE 5
AUTHORITIES, POWERS, DUTIES AND RESPONSIBILITIES**

Section 5.01. General authority. The MPO shall have all authorities, powers and duties, enjoy all rights, privileges, and immunities, exercise all responsibilities and perform all obligations necessary or appropriate to managing a continuing, cooperative, and comprehensive transportation planning process as specified in Section 339.175(5) and (6), F.S.

Section 5.02. Specific authority and powers. The MPO shall have the following powers and authority:

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- (a) As provided in Section 339.175(6)(g), F.S., the MPO may employ personnel and/or may enter into contracts with local or state agencies and private planning or engineering firms to utilize the staff resources of local and/or state agencies;
- (b) As provided in Section 163.01(14), F.S., the MPO may enter into contracts for the performance of service functions of public agencies;
- (c) As provided in Section 163.01(5)(j), F.S., the MPO may acquire, own, operate, maintain, sell, or lease real and personal property;
- (d) As provided in Section 163.01(5)(m), F.S., the MPO may accept funds, grants, assistance, gifts or bequests from local, state, and federal resources;
- (e) The MPO may promulgate rules to effectuate its powers, responsibilities, and obligations enumerated herein; provided, that said rules do not supersede or conflict with applicable local and state laws, rules and regulations; and
- (f) The MPO shall have such powers and authority as specifically provided in Section 163.01 and Section 339.175(5) and (6), F.S., and as may otherwise be provided by federal or state law.

Section 5.03. Duties and responsibilities. In addition to those duties and responsibilities set forth in Article 2, the MPO shall have the following duties and responsibilities:

- (a) As provided in Section 339.175(6)(d), F.S., the MPO shall create and appoint a technical advisory committee;
- (b) As provided in Section 339.175(6)(e), F.S., the MPO shall create and appoint a citizens' advisory committee;
- (c) As provided in Section 163.01(5)(o), F.S., the MPO membership shall be jointly and severally liable for liabilities, and the MPO may respond to such liabilities through the purchase of insurance or bonds, the retention of legal counsel, and, as appropriate, the approval of settlements of claims by its governing board, or in any manner agreed upon by the MPO. Nothing contained herein shall constitute a waiver by any party of its sovereign immunity or the provisions of section 768.28, F.S.
- (d) As provided in Section 339.175(9), F.S., the MPO shall establish an estimated budget which shall operate on a fiscal year basis consistent with any requirements of the UPWP;
- (e) The MPO, in cooperation with the Department, shall carry out the metropolitan transportation planning process as required by Title 23 CFR Parts 420 and 450, and Title 49 CFR Part 613, Subpart A, and consistent with Chapter 339, F.S., and other applicable state and local laws;
- (f) As provided in Section 339.175(10)(a), F.S., the MPO shall enter into agreements with the Department, operators of public transportation systems and the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan area. These agreements will prescribe the cooperative manner in which the transportation planning process will be coordinated and included in the comprehensively planned development of the area;
- (g) Perform such other tasks presently or hereafter required by state or federal law;
- (h) Execute certifications and agreements necessary to comply with state or federal law; and
- (i) Adopt operating rules and procedures.

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**ARTICLE 6
FUNDING; INVENTORY REPORT; RECORD-KEEPING**

Section 6.01. Funding. The Department shall allocate to the MPO for performance of its transportation planning and programming duties, an appropriate amount of federal transportation planning funds consistent with the approved planning funds formula.

Section 6.02. Inventory report. The MPO agrees to inventory, to maintain records of and to insure proper use, control, and disposal of all nonexpendable tangible property acquired pursuant to funding under this Interlocal Agreement. This shall be done in accordance with the requirements of Title 23 CFR Part 420, Subpart A, Title 49 CFR Part 18, Subpart C, and all other applicable federal regulations.

Section 6.03. Record-keeping and document retention. The Department and the MPO shall prepare and retain all records in accordance with federal and state requirements, including but not limited to 23 CFR Part 420, Subpart A, 49 CFR Part 18, Subpart C, 49 CFR §18.42, and Chapter 119, F.S.

Section 6.04 Compliance with laws. All parties shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the parties in conjunction with this Agreement. Specifically, if a party is acting on behalf of a public agency the party shall:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the services being performed by the party.
- (b) Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (d) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the party upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

**ARTICLE 7
MISCELLANEOUS PROVISIONS**

Section 7.01. Constitutional or statutory duties and responsibilities of parties. This Interlocal Agreement shall not be construed to authorize the delegation of the constitutional or statutory duties of any of the parties. In addition, this Interlocal Agreement does not relieve any of the parties of an obligation or responsibility imposed upon them by law, except to the extent of actual and timely performance thereof by one or more of the parties to this Interlocal Agreement or any legal or administrative entity created or authorized by this Interlocal Agreement, in which case this performance may be offered in satisfaction of the obligation or responsibility.

Section 7.02. Amendment of Interlocal Agreement. Amendments or modifications of this Interlocal Agreement may only be made by written agreement signed by all parties here to with the same formalities as the original Interlocal Agreement. No amendment may alter the apportionment or jurisdictional boundaries of the MPO without approval by the Governor.

Section 7.03. Duration; withdrawal procedure.

- (a) Duration. This Interlocal Agreement shall remain in effect until terminated by the parties to this Interlocal Agreement. The Interlocal Agreement shall be reviewed by the parties at least every five years, concurrent with the decennial census, and/or concurrent with a new Federal Reauthorization bill, and updated as necessary.

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- (b) Withdrawal procedure. Any party, except Lee County and the United States Bureau of the Census designated largest incorporated city, may withdraw from this Interlocal Agreement after presenting in written form a notice of intent to withdraw to the other parties to this Interlocal Agreement and the MPO, at least 90 days prior to the intended date of withdrawal. Upon receipt of the intended notice of withdrawal:
- (1) The withdrawing member and the MPO shall execute a memorandum reflecting the withdrawal of the member and alteration of the list of member governments that are signatories to this Interlocal Agreement. The memorandum shall be filed in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located; and
 - (2) The MPO shall contact The Office of the Governor and the Governor, with the agreement of the remaining members of the MPO, shall determine whether any reapportionment of the membership is appropriate. The Governor and the MPO shall review the previous MPO designation, applicable federal, state and local law, and MPO rules for appropriate revision. In the event that another entity is to be afforded membership in the place of the member withdrawing from the MPO, the parties acknowledge that pursuant to Title 23 CFR §450.310(I)(2), adding membership to the MPO does not automatically require redesignation of the MPO. In the event that a party who is not a signatory to this Interlocal Agreement is afforded membership in the MPO, membership shall not become effective until this Interlocal Agreement is amended to reflect that the new member has joined the MPO.

Section 7.04. Notices. All notices, demands and correspondence required or provided for under this Interlocal Agreement shall be in writing and delivered in person or dispatched by certified mail, postage prepaid, return receipt requested. Notice required to be given shall be addressed as follows:

FLORIDA DEPARTMENT OF TRANSPORTATION, District Secretary, P.O. Box 1249, Bartow, FL 33831-1249

LEE COUNTY, County Administrator, with copy to the County Attorney, P.O. Box 398, Fort Myers, FL 33902-0398

CITY OF CAPE CORAL, Mayor, P.O. Box 150027, Cape Coral, FL 33915-0027

CITY OF FORT MYERS, Mayor, with copies to the City Clerk and City Planner, P.O. Box 2217, Fort Myers, FL 33902

CITY OF BONITA SPRINGS, City Manager, 9101 Bonita Beach Road, Bonita Springs, FL 34135-4223

CITY OF SANIBEL, City Manager, 800 Dunlop Road, Sanibel, FL 33957;

TOWN OF FORT MYERS BEACH, Mayor, 2523 Estero Blvd, Fort Myers Beach, FL 33931

VILLAGE OF ESTERO, Mayor, with copies to Village Manager, 21500 Three Oaks Parkway, Estero, FL 33928

A party may unilaterally change its address or addressee by giving notice in writing to the other parties as provided in this section. Thereafter, notices, demands and other pertinent correspondence shall be addressed and transmitted to the new address.

Section 7.05. Interpretation.

- (a) Drafters of the Interlocal Agreement. The Department and the members of the MPO were each represented by or afforded the opportunity for representation by legal counsel and participated in the drafting of this Interlocal Agreement and in choice of wording. Consequently, no provision should be more strongly construed against any party as drafter of this Interlocal Agreement.
- (b) Severability. Invalidation of any one of the provisions of this Interlocal Agreement or any part, clause or word, or the application thereof in specific circumstances, by judgment, court order, or administrative hearing or order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect; provided, that such remainder would then continue to conform to the terms and requirements of applicable law.
- (c) Rules of construction. In interpreting this Interlocal Agreement, the following rules of construction shall apply unless the context indicates otherwise:

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- (1) The singular of any word or term includes the plural;
- (2) The masculine gender includes the feminine gender; and
- (3) The word "shall" is mandatory, and "may" is permissive.

Section 7.06. Enforcement by parties hereto. In the event of any judicial or administrative action to enforce or interpret this Interlocal Agreement by any party hereto, each party shall bear its own costs and attorney's fees in connection with such proceeding.

Section 7.07. Interlocal Agreement execution; Use of counterpart signature pages. This Interlocal Agreement, and any amendments hereto, may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

Section 7.08. Effective date; Cost of recordation.

- (a) Effective date. This Interlocal Agreement shall become effective upon its filing in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located. Any amendment hereto shall become effective only upon its filing in the Office of the Clerk of the Circuit Court for each county in which a party hereto is located.
- (b) Recordation. The MPO hereby agrees to pay for any costs of recordation or filing of this Interlocal Agreement in the Office of the Circuit Court for each county in which a party is hereto located. The recorded or filed original, or any amendment, shall be returned to the MPO for filing in its records.

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the above designated MPO.

Signed, Sealed and Delivered in the presence of:

[Every member of the MPO shall sign this Interlocal Agreement with the appropriate witnesses]

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Signed, Sealed and Delivered this _____ day of _____, 2015

Attested By:

LEE COUNTY, Board of County Commissioners

Clerk of Circuit Court

Brian Hamman, Chairman

Approved as to form and legal sufficiency:

County Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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Signed, Sealed and Delivered this _____ day of _____, 2015

Attested By:

CITY OF CAPE CORAL

City Clerk

Marni Sawicki, Mayor

Approved as to form and legal sufficiency:

City Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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Signed, Sealed and Delivered this _____ day of _____, 2015

Attested By:

CITY OF FORT MYERS

City Clerk

Randall P. Henderson Jr., Mayor

Approved as to form and legal sufficiency:

City Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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Signed, Sealed and Delivered this _____ day of _____, 2015

Attested By:

CITY OF BONITA SPRINGS

City Clerk

Ben L. Nelson Jr., Mayor

Approved as to form and legal sufficiency:

City Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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Signed, Sealed and Delivered this _____ day of _____, 2015

Attested By:

CITY OF SANIBEL

City Clerk

Kevin Ruane, Mayor

Approved as to form and legal sufficiency:

City Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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Signed, Sealed and Delivered this _____ day of _____, 2015

Attested By:

TOWN OF FORT MYERS BEACH

City Clerk

Anita T Cereceda, Mayor

Approved as to form and legal sufficiency:

Town Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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Signed, Sealed and Delivered this _____ day of _____, 2015

Attested By:

VILLAGE OF ESTERO

City Clerk

Nick Batos, Mayor

Approved as to form and legal sufficiency:

Village Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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Signed, Sealed and Delivered this _____ day of _____, 2015

Attested By:

Florida Department of Transportation

Executive Secretary

Billy Hattaway, District One Secretary

Approved as to form and legal sufficiency:

Legal Counsel

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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2015 - 09

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE VILLAGE OF ESTERO, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Estero, Florida recognizes that the Village of Estero, Florida and its citizens need and desire the benefits of electric service; and

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

WHEREAS, Florida Power & Light Company (FPL) is a public utility which has the demonstrated ability to supply such services; and

WHEREAS, FPL and the Village of Estero, Florida desire to enter into a franchise agreement providing for the payment of fees to the Village of Estero, Florida in exchange for the nonexclusive right and privilege of supplying electricity and other services within the Village of Estero, Florida free of competition from the Village of Estero, Florida, pursuant to certain terms and conditions;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA:

Section 1. There is hereby granted to Florida Power & Light Company, its successors and assigns (hereinafter called the "Grantee"), for the period of 30 years from the effective date hereof, the nonexclusive right, privilege and franchise (hereinafter called "franchise") to construct, operate and maintain in, under, upon, along, over and across the present and future roads, streets, alleys, bridges, easements, rights-of-way and other public places (hereinafter called "public rights-of-way") throughout all of the incorporated areas, as such incorporated areas may be constituted from time to time, of the Village of Estero, Florida, and its successors (hereinafter called the "Grantor"), in accordance with the Grantee's customary practice with respect to construction and maintenance, electric light and power facilities, including, without limitation, conduits, poles, wires, transmission and distribution lines, and all other facilities installed in conjunction with or ancillary to all of the Grantee's operations (herein called "facilities"), for the purpose of supplying

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

47
48 Section 2. The facilities of the Grantee shall be installed, located or relocated so as to not
49 unreasonably interfere with traffic over the public rights-of-way or with reasonable egress from
50 and ingress to abutting property. To avoid conflicts with traffic, the location or relocation of all
51 facilities shall be made as representatives of the Grantor may prescribe in accordance with the
52 Grantor's reasonable rules and regulations with reference to the placing and maintaining in, under,
53 upon, along, over and across said public rights-of-way; provided, however, that such rules or
54 regulations (a) shall not prohibit the exercise of the Grantee's right to use said public rights-of-
55 way for reasons other than unreasonable interference with motor vehicular traffic, (b) shall not
56 unreasonably interfere with the Grantee's ability to furnish reasonably sufficient, adequate and
57 efficient electric service to all of its customers, and (c) shall not require the relocation of any of
58 the Grantee's facilities installed before or after the effective date hereof in public rights-of-way
59 unless or until widening or otherwise changing the configuration of the paved portion of any
60 public right-of-way used by motor vehicles causes such installed facilities to unreasonably
61 interfere with motor vehicular traffic. Such rules and regulations shall recognize that above-grade
62 facilities of the Grantee installed after the effective date hereof should be installed near the outer
63 boundaries of the public rights-of-way to the extent possible. When any portion of a public right-
64 of-way is excavated by the Grantee in the location or relocation of any of its facilities, the portion
65 of the public right-of-way so excavated shall within a reasonable time be replaced by the Grantee,
66 and any damages repaired, at its expense and in as good condition as it was at the time of such
67 excavation. The Grantor shall not be liable to the Grantee for any cost or expense in connection
68 with any relocation of the Grantee's facilities required under subsection (c) of this Section, except,
69 however, the Grantee shall be entitled to reimbursement of its costs from others and as may be
70 provided by law.

71
72 Section 3. The Grantor shall in no way be liable or responsible for any accident or damage
73 that may occur in the construction, operation or maintenance by the Grantee of its facilities
74 hereunder, and the acceptance of this ordinance shall be deemed an agreement on the part of the
75 Grantee to indemnify the Grantor and hold it harmless against any and all liability, loss, cost,
76 damage or expense which may accrue to the Grantor by reason of the negligence, default or
77 misconduct of the Grantee in the construction, operation or maintenance of its facilities hereunder.

78
79 Section 4. All rates and rules and regulations established by the Grantee from time to time
80 shall be subject to such regulation as may be provided by law.

81
82 Section 5(a). As a consideration for this franchise, the Grantee shall pay to the Grantor,
83 commencing 90 days after the effective date hereof, and each month thereafter for the remainder
84 of the term of this franchise, an amount which added to the amount of all licenses, excises, fees,
85 charges and other impositions of any kind whatsoever (except ad valorem property taxes and non-
86 ad valorem tax assessments on property) levied or imposed by the Grantor against the Grantee's
87 property, business or operations and those of its subsidiaries during the Grantee's monthly billing
88 period ending 60 days prior to each such payment will equal 4.5 percent of the Grantee's billed
89 revenues, less actual write-offs, from the sale of electrical energy to residential, commercial and

90 industrial customers (as such customers are defined by FPL's tariff) within the incorporated areas
91 of the Grantor for the monthly billing period ending 60 days prior to each such payment. Except
92 subject to the provisions of Section 5(b), in no event shall payment for the rights and privileges
93 granted herein exceed 4.5 percent of such revenues for any monthly billing period of the Grantee.

94 The Grantor understands and agrees that such revenues as described in the preceding
95 paragraph are limited to the precise revenues described therein, and that such revenues do not
96 include, by way of example and not limitation: (a) revenues from the sale of electrical energy
97 for Public Street and Highway Lighting (service for lighting public ways and areas); (b)
98 revenues from Other Sales to Public Authorities (service with eligibility restricted to
99 governmental entities); (c) revenues from Sales to Railroads and Railways (service supplied
100 for propulsion of electric transit vehicles); (d) revenues from Sales for Resale (service to other
101 utilities for resale purposes); (e) franchise fees; (f) Late Payment Charges; (g) Field Collection
102 Charges; (h) other service charges.

103
104 Section 5(b). It is further provided that the Grantor shall have the option once annually,
105 subject to all terms, conditions, and limitations specified below, to increase up to a maximum
106 of 6.0% or decrease to a minimum of 1.0%, the percentage used to calculate the amount to be
107 paid by the Grantee pursuant to this Section 5 (such percentage hereinafter sometimes referred
108 to for purposes of this option as the "percentage"). This option shall be exercised, if at all, by
109 an ordinance duly adopted by the Grantor in accordance with law, a certified copy of which
110 must be delivered to the Grantee. Such ordinance shall include a provision that the Grantor is
111 exercising the option provided herein and state the new percentage to be used in accordance
112 with and subject to the terms, conditions and limitations set forth in this Section 5. In no event
113 may the Grantor, in exercising this option, increase or decrease the percentage in increments
114 of less than 0.5% from the percentage then in effect. The Grantor's option hereunder is limited
115 solely to the percentage used to calculate the amount to be paid by Grantee pursuant to this
116 Section 5, and no other section, provision or term of this franchise shall or may be altered,
117 amended or affected by the Grantor's exercise of this option. Nothing herein shall require the
118 Grantor to exercise its option hereunder. As a condition precedent to the taking effect of the
119 ordinance exercising the option, the Grantee shall file its acceptance of the new rate with the
120 Grantor's Clerk within 30 days after receipt by Grantee of a certified copy of said ordinance.
121 The effective date of the new rate shall be the date upon which the Grantee files its acceptance.

122
123 Section 6. As a further consideration, during the term of this franchise or any extension thereof,
124 the Grantor agrees: (a) not to engage in the distribution and/or sale, in competition with the
125 Grantee, of electric capacity and/or electric energy to any ultimate consumer of electric utility
126 service (herein called a "retail customer") or to any electrical distribution system established solely
127 to serve any retail customer formerly served by the Grantee, (b) not to participate in any
128 proceeding or contractual arrangement, the purpose or terms of which would be to obligate the
129 Grantee to transmit and/or distribute, electric capacity and/or electric energy from any third
130 party(ies) to any other retail customer's facility(ies), and (c) not to seek to have the Grantee
131 transmit and/or distribute electric capacity and/or electric energy generated by or on behalf of the
132 Grantor at one location to the Grantor's facility(ies) at any other location(s). Nothing specified
133 herein shall prohibit the Grantor from engaging with other utilities or persons in wholesale
134 transactions which are subject to the provisions of the Federal Power Act.

135 Nothing herein shall prohibit the Grantor, if permitted by law, (i) from purchasing
136 electric capacity and/or electric energy from any other person, or (ii) from seeking to have the
137 Grantee transmit and/or distribute to any facility(ies) of the Grantor electric capacity and/or
138 electric energy purchased by the Grantor from any other person; provided, however, that before
139 the Grantor elects to purchase electric capacity and/or electric energy from any other person, the
140 Grantor shall notify the Grantee. Such notice shall include a summary of the specific rates, terms
141 and conditions which have been offered by the other person and identify the Grantor's facilities
142 to be served under the offer. The Grantee shall thereafter have 60 days to evaluate the offer and,
143 if the Grantee offers rates, terms and conditions which are equal to or better than those offered
144 by the other person, the Grantor shall be obligated to continue to purchase from the Grantee
145 electric capacity and/or electric energy to serve the previously-identified facilities of the Grantor
146 for a term no shorter than that offered by the other person. If the Grantee does not agree to rates,
147 terms and conditions which equal or better the other person's offer, all of the terms and conditions
148 of this franchise shall remain in effect.

149
150 Section 7. If the Grantor grants a right, privilege or franchise to any other person or
151 otherwise enables any other such person to construct, operate or maintain electric light and power
152 facilities within any part of the incorporated areas of the Grantor in which the Grantee may
153 lawfully serve or compete on terms and conditions which the Grantee determines are more
154 favorable than the terms and conditions contained herein, the Grantee may at any time thereafter
155 terminate this franchise if such terms and conditions are not remedied within the time period
156 provided hereafter. The Grantee shall give the Grantor at least 60 days advance written notice of
157 its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the
158 Grantee herein, advise the Grantor of such terms and conditions that it considers more favorable.
159 The Grantor shall then have 60 days in which to correct or otherwise remedy the terms and
160 conditions complained of by the Grantee. If the Grantee determines that such terms or conditions
161 are not remedied by the Grantor within said time period, the Grantee may terminate this franchise
162 agreement by delivering written notice to the Grantor's Clerk and termination shall be effective
163 on the date of delivery of such notice.

164
165 Section 8. If as a direct or indirect consequence of any legislative, regulatory or other action by
166 the United States of America or the State of Florida (or any department, agency, authority,
167 instrumentality or political subdivision of either of them) any person is permitted to provide
168 electric service within the incorporated areas of the Grantor to a customer then being served by
169 the Grantee, or to any new applicant for electric service within any part of the incorporated areas
170 of the Grantor in which the Grantee may lawfully serve, and the Grantee determines that its
171 obligations hereunder, or otherwise resulting from this franchise in respect to rates and service,
172 place it at a competitive disadvantage with respect to such other person, the Grantee may, at any
173 time after the taking of such action, terminate this franchise if such competitive disadvantage is
174 not remedied within the time period provided hereafter. The Grantee shall give the Grantor at
175 least 90 days advance written notice of its intent to terminate. Such notice shall, without prejudice
176 to any of the rights reserved for the Grantee herein, advise the Grantor of the consequences of
177 such action which resulted in the competitive disadvantage. The Grantor shall then have 90 days
178 in which to correct or otherwise remedy the competitive disadvantage. If such competitive
179 disadvantage is not remedied by the Grantor within said time period, the Grantee may terminate

180 this franchise agreement by delivering written notice to the Grantor's Clerk and termination shall
181 take effect on the date of delivery of such notice.

182
183 Section 9. Failure on the part of the Grantee to comply in any substantial respect with any
184 of the provisions of this franchise shall be grounds for forfeiture, but no such forfeiture shall take
185 effect if the reasonableness or propriety thereof is protested by the Grantee until there is final
186 determination (after the expiration or exhaustion of all rights of appeal) by a court of competent
187 jurisdiction that the Grantee has failed to comply in a substantial respect with any of the provisions
188 of this franchise, and the Grantee shall have six months after such final determination to make
189 good the default before a forfeiture shall result with the right of the Grantor at its discretion to
190 grant such additional time to the Grantee for compliance as necessities in the case require.

191
192 Section 10. Failure on the part of the Grantor to comply in substantial respect with any of
193 the provisions of this ordinance, including, but not limited to: (a) denying the Grantee use of
194 public rights-of-way for reasons other than unreasonable interference with motor vehicular traffic;
195 (b) imposing conditions for use of public rights-of-way contrary to Florida law or the terms and
196 conditions of this franchise; (c) unreasonable delay in issuing the Grantee a use permit, if any, to
197 construct its facilities in public rights-of-way, shall constitute breach of this franchise and entitle
198 the Grantee to withhold all or part of the payments provided for in Section 5 hereof until such
199 time as a use permit is issued or a court of competent jurisdiction has reached a final determination
200 in the matter. The Grantor recognizes and agrees that nothing in this franchise agreement
201 constitutes or shall be deemed to constitute a waiver of the Grantee's delegated sovereign right of
202 condemnation and that the Grantee, in its sole discretion, may exercise such right.

203
204 Section 11. The Grantor may, upon reasonable notice and within 90 days after each
205 anniversary date of this franchise, at the Grantor's expense, examine the records of the Grantee
206 relating to the calculation of the franchise payment for the year preceding such anniversary date.
207 Such examination shall be during normal business hours at the Grantee's office where such
208 records are maintained. Records not prepared by the Grantee in the ordinary course of business
209 may be provided at the Grantor's expense and as the Grantor and the Grantee may agree in writing.
210 Information identifying the Grantee's customers by name or their electric consumption shall not
211 be taken from the Grantee's premises. Such audit shall be impartial and all audit findings, whether
212 they decrease or increase payment to the Grantor, shall be reported to the Grantee. The Grantor's
213 right to examine the records of the Grantee in accordance with this Section shall not be conducted
214 by any third party employed by the Grantor whose fee, in whole or part, for conducting such audit
215 is contingent on findings of the audit.

216
217 Section 12. The provisions of this ordinance are interdependent upon one another, and if
218 any of the provisions of this ordinance are found or adjudged to be invalid, illegal, void or of no
219 effect, the entire ordinance shall be null and void and of no force or effect.

220
221 Section 13. As used herein "person" means an individual, a partnership, a corporation, a
222 business trust, a joint stock company, a trust, an incorporated association, a joint venture, a
223 governmental authority or any other entity of whatever nature.

224 Section 14. All ordinances and parts of ordinances and all resolutions and parts of
225 resolutions in conflict herewith, are hereby repealed.

226
227 Section 15. As a condition precedent to the taking effect of this ordinance, the Grantee
228 shall file its acceptance hereof with the Grantor's Clerk within 30 days of adoption of this
229 ordinance. The effective date of this ordinance shall be the date upon which the Grantee files
230 such acceptance.

231
232 **PASSED** on first reading this _____ day of _____, 2015

233
234 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,
235 Florida this _____ day of _____, 2015.

236
237
238 Attest: **VILLAGE OF ESTERO, FLORIDA**

239
240
241 By: _____ By: _____
242 Kathy Hall, MMC Nicholas Batos
243 Village Clerk Mayor

244
245
246
247 (SEAL)
248 Reviewed for legal sufficiency:

249
250
251 By: _____
252 Burt Saunders, Esq.
253 Village Attorney

254
255
256 Vote: AYE NAY
257 Mayor Batos _____
258 Vice Mayor Levitan _____
259 Councilmember Boesch _____
260 Councilmember Brown _____
261 Councilmember Errington _____
262 Councilmember Ribble _____
263 Councilmember Wilson _____

1 **VILLAGE OF ESTERO, FLORIDA**

2
3 **RESOLUTION NO. 2015 - 62**

4
5 **A RESOLUTION OF THE VILLAGE COUNCIL OF THE**
6 **VILLAGE OF ESTERO, FLORIDA, ADOPTING AND**
7 **AGREEING TO FOLLOW THE LEE COUNTY**
8 **COMPREHENSIVE EMERGENCY MANAGEMENT**
9 **PLAN; AND PROVIDING AN EFFECTIVE DATE.**

10
11 **WHEREAS**, Chapter 252, Florida Statutes, assigns to the Board of County
12 Commissioners of Lee County responsibility for disaster preparedness, response, recovery and
13 mitigation; and

14
15 **WHEREAS**, the Board of County Commissioners of Lee County passed and adopted
16 Resolution No. 13-12-30 on December 17, 2013, approving and adopting the Lee County
17 Comprehensive Emergency Management Plan; and

18
19 **WHEREAS**, the Village Council of the Village of Estero, lying within Lee County,
20 finds it in the best interest of public health, safety, and general welfare of the Village and its
21 residents and property owners that the Village of Estero adopt by reference and agree to follow
22 the Comprehensive Emergency Management Plan adopted by the Lee County Board of County
23 Commissioners.

24
25 **NOW, THEREFORE**, be it resolved by the Village Council of the Village of Estero,
26 Florida:

27
28 **Section 1.** The Village Council of the Village of Estero hereby adopts the
29 Comprehensive Emergency Management Plan by reference and agrees to follow the
30 Comprehensive Emergency Management Plan adopted by the Lee County Board of County
31 Commissioners.

32
33 **Section 2.** This Resolution shall take effect immediately upon adoption.

34
35 **ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this
36 16th day of September, 2015.

37
38 Attest: **VILLAGE OF ESTERO, FLORIDA**

39
40 By: _____
41 Kathy Hall, MMC, Village Clerk

40 By: _____
41 Nicholas Batos, Mayor

42
43 Reviewed for legal sufficiency:

44
45 By: _____
46 Burt Saunders, Esq., Village Attorney

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VILLAGE OF ESTERO, FLORIDA

RESOLUTION NO. 2015 - 63

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, PROVIDING FOR THE ADOPTION OF THE LOCAL MITIGATION STRATEGY, PREPARED BY THE LOCAL MITIGATION STRATEGY WORKING GROUP OF LEE COUNTY, AS THE FORMAL GUIDE FOR THE VILLAGE OF ESTERO HAZARD MITIGATION ACTIVITIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village of Estero, Florida is subject to natural and manmade hazards including hurricanes, tornadoes, floods, fires and chemical releases and faces potential damage to life, property, natural resources and the local economy; and

WHEREAS, the Local Mitigation Strategy Working Group consists of employees and community members of Lee County and surrounding municipalities and is open to participation to any and all interested parties; and

WHEREAS, the Working Group has identified these local hazards and has reassessed the county-wide vulnerability and risk to these hazards based on the most recent scientific and technically based risk assessment techniques; and

WHEREAS, the Working Group has identified and prioritized mitigation initiatives that would reduce local vulnerability to these hazards; and

WHEREAS, the Local Mitigation Strategy has been updated to reflect the knowledge gained from disasters that Lee County and the incorporated municipalities therein have experienced over the past year; and

WHEREAS, projects identified in the Local Mitigation Strategy Mitigation Initiatives List are given more consideration by federal and state managed funding programs; and

WHEREAS, the Local Mitigation Strategy can serve as the Flood Mitigation Plan as required of all communities participating in the National Flood Insurance Program and seeking project funding from the Flood Mitigation Assistance Program; and

WHEREAS, the Local Mitigation Strategy is designed to be a process-oriented document with review and revision policies that allow the Local Mitigation Strategy to be changed to meet new or changing conditions including hazard-event frequency, perceived local needs and funding opportunities.

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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2015 - 11

AN ORDINANCE REPEALING VILLAGE OF ESTERO ORDINANCE 2015-08, ADOPTING VILLAGE OF ESTERO LAND DEVELOPMENT CODE CHAPTERS 6 & 10 TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; ADOPT TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDE FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENERS ERRORS, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Village of Estero and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the Village Council adopted Ordinance 2015-08 on June 17, 2015 confirming its intent to continue application of the floodplain management requirements of Lee County and to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for participation in the National Flood Insurance Program; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

WHEREAS, section 553.73(5), Florida Statutes, allows adoption of local technical amendments to the *Florida Building Code* (FBC); and

WHEREAS, the adoption of Chapter 6 of the Village of Estero Land Development Code (LDC) is necessary to achieve consistency with the National Flood Insurance Program requirements and the Florida Building Code and to protect the public health, safety and general welfare; and

46 **WHEREAS**, the Village Council of the Village of Estero, Florida has determined that
47 it is in the public interest to adopt the proposed floodplain management amendments that are
48 coordinated with the *Florida Building Code*.

49
50 **NOW, THEREFORE**, be it ordained by the village council of the Village of Estero,
51 Florida:

52
53 **SECTION ONE: ADOPTION OF AMENDMENTS TO FLORIDA BUILDING**
54 **CODE**

55
56 Village of Estero Land Development Code Chapter 6

57
58 **Chapter 6. BUILDINGS AND BUILDING REGULATIONS**

59
60 **ARTICLE II. CODES AND STANDARDS**

61
62 ~~DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS~~

63
64 ~~**Sec. 6-81. Variations; modification of orders.**~~

65
66 ~~(a) through (b) remain unchanged.~~

67
68 ~~(e) — Pursuant to section 553.73(5), F.S., the variance procedures adopted in Article IV~~
69 ~~Flood Hazard Reduction will apply to requests submitted for variances to the provisions of~~
70 ~~section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of~~
71 ~~section R322 of the Florida Building Code, Residential. This section does not apply to~~
72 ~~section 3109 of the Florida Building Code, Building.~~

73
74 **DIVISION 3. BUILDING CODE**

75
76 ~~**Sec. 6-118. Building permits issued on the basis of an affidavit.**~~

77
78 ~~Amend the FBC, Building by adding Section 107.6.1, as follows:~~
79 ~~107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of~~
80 ~~federal regulation for participation in the National Flood Insurance Program (44.C.F.R.~~
81 ~~Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on~~
82 ~~inspections, and to accept plans and construction documents on the basis of affidavits and~~
83 ~~plans submitted pursuant to section 105.14 and section 107.6, shall not extend to the flood~~
84 ~~load and flood resistance construction requirements of the Florida Building Code.~~

85
86 **Sec. 6-119. Substantial Improvement.**

87
88 Amend FBC, Building Section ~~202+612.2~~ and Existing Building Section 202,
89 pertaining to the definition of substantial improvement, as follows:

90 *Substantial improvement.* Any combination of repair, reconstruction, rehabilitation,
91 addition, or other improvement of a building or structure, taking place during a five-
92 year period, the cumulative cost of which equals or exceeds 50 percent of the market
93 value of the building or structure before the improvement or repair is started. For each
94 building or structure, the five-year period begins on the date of the first improvement
95 or repair of the building or structure subsequent to the date specified in the Local
96 Floodplain Management Ordinance. If the structure has incurred "substantial damage,"
97 any repairs are considered substantial improvement regardless of the actual repair work
98 performed. The term does not, however, include either:
99

100 (1) Any project for improvement of a building required to correct existing health,
101 sanitary, or safety code violations identified by the building official and that are
102 the minimum necessary to assure safe living conditions.
103

104 (2) Any alteration of a historic structure provided the alteration will not preclude
105 the structure's continued designation as a historic structure.
106

107 *Substantial damage.* Damage of any origin sustained by a building or structure whereby
108 the cost of restoring the building or structure to its before-damaged condition would
109 equal or exceed 50 percent of the market value of the building or structure before the
110 damage occurred. The term also includes buildings and structures that have
111 experienced repetitive loss.
112

113 **Sec. 6-120. Critical facilities.**
114

115 Amend FBC, Building Section 1612.4, pertaining to elevation of buildings, as follows:
116

117 **1612.4.1 Elevation of Category III and IV buildings (critical facilities).**
118

119 Critical facilities, as defined in the Flood Hazard Reduction Ordinance, shall be located
120 outside the limits of the special flood hazard area where feasible. Construction of new critical
121 facilities shall be permissible within the special flood hazard area if no feasible alternative site
122 is available. If permitted, critical facilities shall be elevated or protected to or above the base flood
123 elevation plus two (2) feet or the 500-year (0.2 percent chance) flood elevation, whichever is
124 higher. Flood proofing and sealing measures must be implemented to ensure that toxic substances
125 will not be displaced by or released into floodwaters. Access routes elevated to or above the base
126 flood elevation shall be provided to all critical facilities to the maximum extent possible. Critical
127 facilities shall be designed to remain operable during such an event.
128

129 Sec. 6-1186-121 – 6-210. Reserved
130

131 Delete ARTICLE IV. FLOOD HAZARD REDUCTION (SECS. 6-401 – 6-476) in its entirety
132 and replace with:

133 **ARTICLE IV. FLOOD HAZARD REDUCTION**
134 **DIVISION 1. ADMINISTRATION**

135
136 *Subdivision I. Generally*
137

138 **Sec. 6-401. Scope.**
139

140 The provisions of this article apply to all development that is wholly within or partially
141 within any flood hazard area, including but not limited to the subdivision of land; filling, grading,
142 and other site improvements and utility installations; construction, alteration, remodeling,
143 enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures,
144 and facilities that are exempt from the *Florida Building Code*; placement, installation, or
145 replacement of manufactured homes and manufactured buildings; installation or replacement of
146 tanks; placement of recreational vehicles; installation of swimming pools; and any other
147 development.
148

149 **Sec. 6-402. Intent.**
150

151 The purposes of this article and the flood load and flood resistant construction
152 requirements of the *Florida Building Code* are to establish minimum requirements to safeguard
153 the public health, safety, and general welfare and to minimize public and private losses due to
154 flooding through regulation of development in flood hazard areas to:
155

- 156 (1) Minimize unnecessary disruption of commerce, access and public service
157 during times of flooding;
158
- 159 (2) Require the use of appropriate construction practices in order to prevent or
160 minimize future flood damage;
161
- 162 (3) Manage filling, grading, dredging, mining, paving, excavation, drilling
163 operations, storage of equipment or materials, and other development which
164 may increase flood damage or erosion potential;
165
- 166 (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to
167 minimize the impact of development on the natural and beneficial functions of
168 the floodplain;
169
- 170 (5) Minimize damage to public and private facilities and utilities;
171
- 172 (6) Help maintain a stable tax base by providing for the sound use and development
173 of flood hazard areas;
174
- 175 (7) Minimize the need for future expenditure of public funds for flood control
176 projects and response to and recovery from flood events; and
177

178 (8) Meet the requirements of the National Flood Insurance Program for community
179 participation as set forth in the Title 44 Code of Federal Regulations, Section
180 59.22.
181

182 **Sec. 6-403. Coordination with the *Florida Building Code*.**
183

184 This article is intended to be administered and enforced in conjunction with the *Florida*
185 *Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is referenced
186 by the *Florida Building Code*.
187

188 **Sec. 6-404. Warning.**
189

190 The degree of flood protection required by this article and the *Florida Building Code*, as
191 amended by the Village of Estero, is considered the minimum reasonable for regulatory purposes
192 and is based on scientific and engineering considerations. Larger floods can and will occur. Flood
193 heights may be increased by man-made or natural causes. This article does not imply that land
194 outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas,
195 will be free from flooding or flood damage. The flood hazard areas and base flood elevations
196 contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the
197 requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by
198 the Federal Emergency Management Agency, requiring this community to revise these
199 regulations to remain eligible for participation in the National Flood Insurance Program. No
200 guaranty of vested use, existing use, or future use is implied or expressed by compliance with
201 this article.
202

203 **Sec. 6-405. Disclaimer of Liability.**
204

205 This article will not create liability on the part of the Village of Estero or by any officer
206 or employee thereof for any flood damage that results from reliance on this article or any
207 administrative decision lawfully made there under.
208

209 **Secs. 6-406 – 6-410. Reserved.**
210

211
212 *Subdivision II. Applicability*
213

214 **Sec. 6-411. General.**
215

216 (1) Where there is a conflict between a general requirement and a specific
217 requirement, the specific requirement will be applicable.
218

219 (2) This article applies to all flood hazard areas within the Village of Estero, as
220 established in Section 6-411(3).
221

222 (3) The Flood Insurance Study for Lee County, Florida and Incorporated Areas,
223 effective August 28, 2008, and all subsequent amendments and revisions, and
224 the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent
225 amendments and revisions to such maps, are adopted by reference as a part of
226 this article and will serve as the minimum basis for establishing flood hazard
227 areas. Studies and maps that establish flood hazard areas are on file at the
228 Village Hall.
229

230 **Sec. 6-412. Submission of additional data to establish flood hazard areas.**
231

232 To establish flood hazard areas and base flood elevations, pursuant to Division 1,
233 Subdivision V of this article the Floodplain Administrator may require submission of
234 additional data. Where field surveyed topography prepared by a Florida licensed professional
235 surveyor or digital topography accepted by the community indicates that ground elevations:
236

237 (1) Are below the closest applicable base flood elevation, even in areas not
238 delineated as a special flood hazard area on a FIRM, the area will be considered
239 as flood hazard area and subject to the requirements of this article and, as
240 applicable, the requirements of the *Florida Building Code*.
241

242 (2) Are above the closest applicable base flood elevation, the area will be regulated
243 as special flood hazard area unless the applicant obtains a Letter of Map Change
244 that removes the area from the special flood hazard area.
245

246 **Sec. 6-413. Other laws.**
247

248 The provisions of this article will not be deemed to nullify any provisions of local, state
249 or federal law.
250

251 **Sec. 6-414. Abrogation and greater restrictions.**
252

253 This article supersedes any article in effect for management of development in flood
254 hazard areas. However, it is not intended to repeal or abrogate any existing articles including
255 but not limited to land development regulations, zoning resolutions, stormwater management
256 regulations, or the *Florida Building Code*. In the event of a conflict between this article and
257 any other article, the more restrictive will govern. This article will not impair any deed
258 restriction, covenant or easement, but any land that is subject to such interests will also be
259 governed by this article.
260

261 **Sec. 6-415. Interpretation.**
262

263 In the interpretation and application of this article, all provisions will be:
264

265 (1) Considered as minimum requirements;
266

267 (2) Liberally construed in favor of the governing body; and

268

269 (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

270

271 **Secs. 6-416 – 6-420. Reserved.**

272

273 *Subdivision III. Duties and Powers of the Floodplain Administrator*

274

275 **Sec. 6-421. Designation.**

276

277 The Village Manager or his/her designee is designated as the Floodplain Administrator.

278 The Floodplain Administrator may delegate performance of certain duties to other employees.

279

280 **Sec. 6-422. General.**

281

282 The Floodplain Administrator is authorized and directed to administer and enforce the

283 provisions of this article. The Floodplain Administrator will have the authority to render

284 interpretations of this article consistent with the intent and purpose of this article and may

285 establish policies and procedures in order to clarify the application of its provisions. Such

286 interpretations, policies, and procedures will not have the effect of waiving requirements

287 specifically provided in this article without the granting of a variance pursuant to Division 1,

288 Subdivision VII of this article.

289

290 **Sec. 6-423. Applications and permits.**

291

292 The Floodplain Administrator, in coordination with other pertinent offices of the

293 community, will:

294

295 (1) Review applications and plans to determine whether proposed new
296 development will be located in flood hazard areas;

297

298 (2) Review applications for modification of any existing development in flood
299 hazard areas for compliance with the requirements of this article;

300

301 (3) Interpret flood hazard area boundaries where such interpretation is necessary to
302 determine the exact location of boundaries; a person contesting the
303 determination will have the opportunity to appeal the interpretation;

304

305 (4) Provide available flood elevation and flood hazard information;

306

307 (5) Determine whether additional flood hazard data will be obtained from other
308 sources or will be developed by an applicant;

309

310 (6) Review applications to determine whether proposed development will be
311 reasonably safe from flooding;

- 312 (7) Issue floodplain development permits or approvals for development other than
313 buildings and structures that are subject to the *Florida Building Code*, including
314 buildings, structures and facilities exempt from the *Florida Building Code*,
315 when compliance with this article is demonstrated, or disapprove the same in
316 the event of noncompliance; and
317
318 (8) Coordinate to assure that applications, plan reviews, and inspections for
319 buildings and structures in flood hazard areas comply with the applicable
320 provisions of this article.

321
322 **Sec. 6-424. Substantial improvement and substantial damage determinations.**

323
324 For applications for building permits to improve buildings and structures, including
325 alterations, movement, enlargement, replacement, repair, change of occupancy, additions,
326 rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any
327 other improvement of or work on such buildings and structures, the Floodplain Administrator
328 will:

- 329
330 (1) Estimate the market value, or require the applicant to obtain an appraisal of the
331 market value prepared by a qualified independent appraiser, of the building or
332 structure before the start of construction of the proposed work; in the case of
333 repair, the market value of the building or structure will be the market value
334 before the damage occurred and before any repairs are made;
335
336 (2) Compare the cost to perform the improvement, the cost to repair a damaged
337 building to its pre-damaged condition, or the combined costs of improvements
338 and repairs, if applicable, to the market value of the building or structure;
339
340 (3) Determine and document whether the proposed work constitutes substantial
341 improvement or repair of substantial damage; the determination requires
342 evaluation of previous permits issued for improvements and repairs as specified
343 in the definition of “substantial improvement” and previous permits issued for
344 repair of flood-related damage; and
345
346 (4) Notify the applicant if it is determined that the work constitutes substantial
347 improvement or repair of substantial damage and that compliance with the flood
348 resistant construction requirements of the *Florida Building Code* and this article
349 is required.

350
351 **Sec. 6-425. Modifications of the strict application of the requirements of the *Florida***
352 ***Building Code*.**

353
354 The Floodplain Administrator will review requests submitted to the Building Official
355 that seek approval to modify the strict application of the flood load and flood resistant

356 construction requirements of the *Florida Building Code* to determine whether such requests
357 require the granting of a variance pursuant to Division 1, Subdivision VII of this article.

358
359 **Sec. 6-426. Notices and orders.**

360
361 The Floodplain Administrator will coordinate with appropriate local agencies for the
362 issuance of all necessary notices or orders to ensure compliance with this article.

363
364 **Sec. 6-427. Inspections.**

365
366 The Floodplain Administrator will make the required inspections as specified in
367 Division 1, Subdivision VI of this article for development that is not subject to the *Florida*
368 *Building Code*, including buildings, structures and facilities exempt from the *Florida Building*
369 *Code*. The Floodplain Administrator will inspect flood hazard areas to determine if
370 development is undertaken without issuance of a permit.

371
372 **Sec. 6-428. Other duties of the Floodplain Administrator.**

373
374 The Floodplain Administrator will have other duties, including but not limited to:

- 375
376 (1) Establish procedures for administering and documenting determinations of
377 substantial improvement and substantial damage made pursuant to Section 6-
378 424 of this article;
- 379
380 (2) Require that applicants proposing alteration of a watercourse notify adjacent
381 communities and the Florida Division of Emergency Management, State
382 Floodplain Management Office, and submit copies of such notifications to the
383 Federal Emergency Management Agency (FEMA);
- 384
385 (3) Require applicants who submit hydrologic and hydraulic engineering analyses
386 to support permit applications to submit to FEMA the data and information
387 necessary to maintain the Flood Insurance Rate Maps if the analyses propose to
388 change base flood elevations, flood hazard area boundaries, or floodway
389 designations; such submissions will be made within 6 months of such data
390 becoming available;
- 391
392 (4) Review required design certifications and documentation of elevations
393 specified by this article and the *Florida Building Code* to determine that such
394 certifications and documentations are complete;
- 395
396 (5) Notify the Federal Emergency Management Agency when the corporate
397 boundaries of the Village of Estero are modified; and
- 398
399 (6) Advise applicants for new buildings and structures, including substantial
400 improvements, which are located in any unit of the Coastal Barrier Resources

401 System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and
402 the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal
403 flood insurance is not available on such construction; areas subject to this
404 limitation are identified on Flood Insurance Rate Maps as “Coastal Barrier
405 Resource System Areas” and “Otherwise Protected Areas.”

406
407 **Sec. 6-429. Floodplain management records.**

408
409 Regardless of any limitation on the period required for retention of public records, the
410 Floodplain Administrator will maintain and permanently keep and make available for public
411 inspection all records that are necessary for the administration of this article and the flood
412 resistant construction requirements of the *Florida Building Code*, including Flood Insurance
413 Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits;
414 determinations of whether proposed work constitutes substantial improvement or repair of
415 substantial damage; required design certifications and documentation of elevations specified
416 by the *Florida Building Code* and this article; notifications to adjacent communities, FEMA,
417 and the state related to alterations of watercourses; assurances that the flood carrying capacity
418 of altered watercourses will be maintained; documentation related to appeals and variances,
419 including justification for issuance or denial; and records of enforcement actions taken
420 pursuant to this article and the flood resistant construction requirements of the *Florida Building*
421 *Code*. These records are available for public inspection at the Village Hall.

422
423 **Secs. 6-430 – 6-432. Reserved.**

424
425 *Subdivision IV. Permits*

426
427 **Sec. 6-433. Permits required.**

428
429 Any owner or owner’s authorized agent (hereinafter “applicant”) who intends to
430 undertake any development activity within the scope of this article, including buildings,
431 structures and facilities exempt from the *Florida Building Code*, which is wholly within or
432 partially within any flood hazard area must first make application to the Floodplain
433 Administrator and must obtain the required permit(s) and approval(s). No such permit or
434 approval will be issued until compliance with the requirements of this article and all other
435 applicable codes and regulations has been satisfied.

436
437 **Sec. 6-434. Floodplain development permits or approvals.**

438
439 Floodplain development permits or approvals will be issued pursuant to this article for any
440 development activities not subject to the requirements of the *Florida Building Code*, including
441 buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the
442 nature and extent of proposed development that includes a building or structure, the Floodplain
443 Administrator may determine that a floodplain development permit or approval is required in
444 addition to a building permit.

446 **Sec. 6-435. Buildings, structures and facilities exempt from the Florida Building Code.**
447

448 Pursuant to the requirements of federal regulation for participation in the National
449 Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or
450 approvals will be required for buildings, structures and facilities that are exempt from the
451 Florida Building Code and any further exemptions provided by law, which are subject to the
452 requirements of this article.
453

454 **Sec. 6-436. Application for a permit or approval.**
455

456 To obtain a floodplain development permit or approval the applicant must first file an
457 application in writing on a form furnished by the community. The information provided must:
458

- 459 (1) Identify and describe the development to be covered by the permit or approval.
460
- 461 (2) Describe the land on which the proposed development is to be conducted by
462 legal description, street address or similar description that will readily identify
463 and definitively locate the site.
464
- 465 (3) Indicate the use and occupancy for which the proposed development is
466 intended.
467
- 468 (4) Be accompanied by a site plan or construction documents as specified in
469 Division 1, Subdivision V of this article.
470
- 471 (5) State the valuation of the proposed work.
472
- 473 (6) Be signed by the applicant or the applicant's authorized agent.
474
- 475 (7) Give such other data and information as required by the Floodplain
476 Administrator.
477

478 **Sec. 6-437. Validity of permit or approval.**
479

480 The issuance of a floodplain development permit or approval pursuant to this article
481 must not be construed to be a permit for, or approval of, any violation of this article, the Florida
482 Building Codes, or any other article of this community. The issuance of permits based on
483 submitted applications, construction documents, and information will not prevent the
484 Floodplain Administrator from requiring the correction of errors and omissions.
485

486 **Sec. 6-438. Suspension or revocation.**
487

488 The Floodplain Administrator is authorized to suspend or revoke a floodplain
489 development permit or approval if the permit was issued in error, on the basis of incorrect,
490 inaccurate or incomplete information, or in violation of this article or any other article,
regulation or requirement of this community.

491 **Sec. 6-439. Other permits required.**

492
493 Floodplain development permits and building permits must include a condition that all
494 other applicable state or federal permits be obtained before commencement of the permitted
495 development, including but not limited to the following:

- 496
497 (1) The South Florida Water Management District; section 373.036, F.S.
498
499 (2) Florida Department of Health for onsite sewage treatment and disposal systems;
500 section 381.0065, F.S. and Chapter 64E-6, F.A.C.
501
502 (3) Florida Department of Environmental Protection for activities subject to the
503 Joint Coastal Permit; section 161.055, F.S.
504
505 (4) Florida Department of Environmental Protection for activities that affect
506 wetlands and alter surface water flows, in conjunction with the U.S. Army
507 Corps of Engineers; Section 404 of the Clean Water Act.
508
509 (5) Federal permits and approvals.

510
511 **Secs. 6-440 – 6-443. Reserved.**

512
513 *Subdivision V. Site Plans and Construction Documents*

514
515 **Sec. 6-444. Information for development in flood hazard areas.**

516
517 The site plan or construction documents for any development subject to the
518 requirements of this article must be drawn to scale and must include, as applicable to the
519 proposed development:

- 520
521 (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base
522 flood elevation(s), and ground elevations if necessary for review of the
523 proposed development.
524 (2) Where base flood elevations, or floodway data are not included on the FIRM or
525 in the Flood Insurance Study, they must be established in accordance with
526 Section 6-445(2) or (3).
527
528 (3) Where the parcel on which the proposed development will take place will have
529 more than 50 lots or is larger than 5 acres and the base flood elevations are not
530 included on the FIRM or in the Flood Insurance Study, such elevations must be
531 established in accordance with Section 6-445(1).
532 (4) Location of the proposed activity and proposed structures, and locations of
533 existing buildings and structures; in coastal high hazard areas, new buildings
534 must be located landward of the reach of mean high tide.
535

- 536 (5) Location, extent, amount, and proposed final grades of any filling, grading, or
537 excavation.
538
539 (6) Where the placement of fill is proposed, the amount, type, and source of fill
540 material; compaction specifications; a description of the intended purpose of
541 the fill areas; and evidence that the proposed fill areas are the minimum
542 necessary to achieve the intended purpose.
543
544 (7) Extent of any proposed alteration of sand dunes or mangrove stands, provided
545 such alteration is approved by the Florida Department of Environmental
546 Protection.
547
548 (8) Existing and proposed alignment of any proposed alteration of a watercourse.
549

550 The Floodplain Administrator is authorized to waive the submission of site plans, construction
551 documents, and other data that are required by this article but that are not required to be
552 prepared by a registered design professional if it is found that the nature of the proposed
553 development is such that the review of such submissions is not necessary to ascertain
554 compliance with this article.
555

556 **Sec. 6-445. Information in flood hazard areas without base flood elevations (approximate**
557 **Zone A).**
558

559 Where flood hazard areas are delineated on the FIRM and base flood elevation data
560 have not been provided, the Floodplain Administrator will:
561

- 562 (1) Require the applicant to include base flood elevation data prepared in
563 accordance with currently accepted engineering practices.
564
565 (2) Obtain, review, and provide to applicants base flood elevation and floodway
566 data available from a federal or state agency or other source or require the
567 applicant to obtain and use base flood elevation and floodway data available
568 from a federal or state agency or other source.
569
570 (3) Where base flood elevation and floodway data are not available from another
571 source, where the available data are deemed by the Floodplain Administrator to
572 not reasonably reflect flooding conditions, or where the available data are
573 known to be scientifically or technically incorrect or otherwise inadequate:
574
575 (a) Require the applicant to include base flood elevation data prepared in
576 accordance with currently accepted engineering practices; or
577
578 (b) Specify that the base flood elevation is two (2) feet above the highest
579 adjacent grade at the location of the development, provided there is no

580 evidence indicating flood depths have been or may be greater than two
581 (2) feet.

- 582
583 (4) Where the base flood elevation data are to be used to support a Letter of Map
584 Change from FEMA, advise the applicant that the analyses must be prepared
585 by a Florida licensed engineer in a format required by FEMA, and that it must
586 be the responsibility of the applicant to satisfy the submittal requirements and
587 pay the processing fees.

588
589 **Sec. 6-446. Additional analyses and certifications.**

590
591 As applicable to the location and nature of the proposed development activity, and in
592 addition to the requirements of this section, the applicant must have the following analyses
593 signed and sealed by a Florida licensed engineer for submission with the site plan and
594 construction documents:

- 595
596 (1) For development activities proposed to be located in a regulatory floodway, a
597 floodway encroachment analysis that demonstrates that the encroachment of the
598 proposed development will not cause any increase in base flood elevations;
599 where the applicant proposes to undertake development activities that do
600 increase base flood elevations, the applicant must submit such analysis to
601 FEMA as specified in Section 6-447 of this article and must submit the
602 Conditional Letter of Map Revision, if issued by FEMA, with the site plan and
603 construction documents.
- 604
605 (2) For development activities proposed to be located in a riverine flood hazard
606 area for which base flood elevations are included in the Flood Insurance Study
607 or on the FIRM and floodways have not been designated, hydrologic and
608 hydraulic analyses that demonstrate that the cumulative effect of the proposed
609 development, when combined with all other existing and anticipated flood
610 hazard area encroachments, will not increase the base flood elevation more than
611 one (1) foot at any point within the community. This requirement does not
612 apply in isolated flood hazard areas not connected to a riverine flood hazard
613 area or in flood hazard areas identified as Zone AO or Zone AH.
- 614
615 (3) For alteration of a watercourse, an engineering analysis prepared in accordance
616 with standard engineering practices which demonstrates that the flood-carrying
617 capacity of the altered or relocated portion of the watercourse will not be
618 decreased, and certification that the altered watercourse must be maintained in
619 a manner which preserves the channel's flood-carrying capacity; the applicant
620 must submit the analysis to FEMA as specified in Section 6-447 of this article.
- 621
622 (4) For activities that propose to alter sand dunes or mangrove stands in coastal
623 high hazard areas (Zone V), an engineering analysis that demonstrates that the
624 proposed alteration will not increase the potential for flood damage.

625 **Sec. 6-447. Submission of additional data.**

626
627 When additional hydrologic, hydraulic or other engineering data, studies, and
628 additional analyses are submitted to support an application, the applicant has the right to seek
629 a Letter of Map Change from FEMA to change the base flood elevations, change floodway
630 boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such
631 data to FEMA for such purposes. The analyses must be prepared by a Florida licensed engineer
632 in a format required by FEMA. Submittal requirements and processing fees will be the
633 responsibility of the applicant.

634
635 **Secs. 6-448 – 6-450. Reserved.**

636
637 *Subdivision VI. Inspections*

638
639 **Sec. 6-451. General.**

640
641 Development for which a floodplain development permit or approval is required will
642 be subject to inspection.

643
644 **Sec. 6-452. Development other than buildings and structures.**

645
646 The Floodplain Administrator will inspect all development to determine compliance
647 with the requirements of this article and the conditions of issued floodplain development
648 permits or approvals.

649
650 **Sec. 6-453. Buildings, structures and facilities exempt from the *Florida Building Code*.**

651
652 The Floodplain Administrator will inspect buildings, structures and facilities exempt
653 from the *Florida Building Code* to determine compliance with the requirements of this article
654 and the conditions of issued floodplain development permits or approvals.

655
656 **Sec. 6-454. Buildings, structures and facilities exempt from the *Florida Building Code*,**
657 **lowest floor inspection.**

658
659 Upon placement of the lowest floor, including basement, and prior to further vertical
660 construction, the owner of a building, structure or facility exempt from the *Florida Building*
661 *Code*, or the owner's authorized agent, must submit to the Floodplain Administrator:

- 662
663 (1) If a design flood elevation was used to determine the required elevation of the
664 lowest floor, the certification of elevation of the lowest floor prepared and
665 sealed by a Florida licensed professional surveyor; or
666
667 (2) If the elevation used to determine the required elevation of the lowest floor was
668 determined in accordance with Section 6-445 of this article, the documentation
669 of height of the lowest floor above highest adjacent grade, prepared by the

owner or the owner's authorized agent.

Sec. 6-455. Buildings, structures and facilities exempt from the Florida Building Code, final inspection.

As part of the final inspection, the owner or owner's authorized agent must submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations must be prepared as specified in Section 6-454 of this article.

Sec. 6-456. Manufactured homes.

The Building Official must inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor must be submitted to the Building Official.

Secs. 6-457 – 6-460. Reserved.

Subdivision VII. Variances and Appeals

Sec. 6-461. General.

The Board of Adjustment and Appeals must hear and decide on requests for appeals and requests for variances from the strict application of this article. Pursuant to section 553.73(5), F.S., the Board of Adjustment and Appeals hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.

Sec. 6-462. Appeals.

The Board of Adjustment and Appeals will hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this article. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.

Sec. 6-463. Limitations on authority to grant variances.

The Board of Adjustment and Appeals will base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 6-467 of this article, the conditions of issuance set forth in Section 6-468 of this article, and the comments and recommendations of the Building Official. The Board of Adjustment and Appeals has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.

715 **Sec. 6-464. Restrictions in floodways.**

716

717 A variance will not be issued for any proposed development in a floodway if any
718 increase in base flood elevations would result, as evidenced by the applicable analyses and
719 certifications required in Section 6-446 of this article.

720

721 **Sec. 6-465. Historic buildings.**

722

723 A variance is authorized to be issued for the repair, improvement, or rehabilitation of a
724 historic building that is determined eligible for the exception to the flood resistant construction
725 requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings,
726 upon a determination that the proposed repair, improvement, or rehabilitation will not preclude
727 the building's continued designation as a historic building and the variance is the minimum
728 necessary to preserve the historic character and design of the building. If the proposed work
729 precludes the building's continued designation as a historic building, a variance will not be
730 granted and the building and any repair, improvement, and rehabilitation will be subject to the
731 requirements of the *Florida Building Code*.

732

733 **Sec. 6-466. Functionally dependent uses.**

734

735 A variance is authorized to be issued for the construction or substantial improvement
736 necessary for the conduct of a functionally dependent use, as defined in this article, provided
737 the variance meets the requirements of Section 6-464 is the minimum necessary considering
738 the flood hazard, and all due consideration has been given to use of methods and materials that
739 minimize flood damage during occurrence of the base flood.

740

741 **Sec. 6-467. Considerations for issuance of variances.**

742

743 In reviewing requests for variances, the Board of Adjustment and Appeals will consider
744 all technical evaluations, all relevant factors, all other applicable provisions of the *Florida*
745 *Building Code*, this article, and the following:

746

747 (1) The danger that materials and debris may be swept onto other lands resulting in
748 further injury or damage;

749

750 (2) The danger to life and property due to flooding or erosion damage;

751

752 (3) The susceptibility of the proposed development, including contents, to flood
753 damage and the effect of such damage on current and future owners;

754

755 (4) The importance of the services provided by the proposed development to the
756 community;

757

758 (5) The availability of alternate locations for the proposed development that are
759 subject to lower risk of flooding or erosion;

- 760 (6) The compatibility of the proposed development with existing and anticipated
761 development;
762
763 (7) The relationship of the proposed development to the comprehensive plan and
764 floodplain management program for the area;
765
766 (8) The safety of access to the property in times of flooding for ordinary and
767 emergency vehicles;
768
769 (9) The expected heights, velocity, duration, rate of rise and debris and sediment
770 transport of the floodwaters and the effects of wave action, if applicable,
771 expected at the site; and
772 (10) The costs of providing governmental services during and after flood conditions
773 including maintenance and repair of public utilities and facilities such as sewer,
774 gas, electrical and water systems, streets and bridges.
775

776 **Sec. 6-468. Conditions for issuance of variances.**
777

778 Variances may be issued only upon:
779

- 780 (1) Submission by the applicant, of a showing of good and sufficient cause that the
781 unique characteristics of the size, configuration, or topography of the site limit
782 compliance with any provision of this article or the required elevation
783 standards;
784
785 (2) Determination by the Board of Adjustment and Appeals that:
786
787 (a) Failure to grant the variance would result in exceptional hardship due to
788 the physical characteristics of the land that render the lot undevelopable;
789 increased costs to satisfy the requirements or inconvenience do not
790 constitute hardship;
791
792 (b) The granting of a variance will not result in increased flood heights,
793 additional threats to public safety, extraordinary public expense, nor
794 create nuisances, cause fraud on or victimization of the public or conflict
795 with existing local laws and articles; and
796
797 (c) The variance is the minimum necessary, considering the flood hazard,
798 to afford relief;
799
800 (3) If the request is for a variance to allow construction of the lowest floor of a new
801 building, or substantial improvement of a building, below the required
802 elevation, a copy in the record of a written notice from the Floodplain
803 Administrator to the applicant for the variance, specifying the difference
804 between the base flood elevation and the proposed elevation of the lowest floor,

805 stating that the cost of federal flood insurance will be commensurate with the
806 increased risk resulting from the reduced floor elevation (up to amounts as high
807 as \$25 for \$100 of insurance coverage), and stating that construction below the
808 base flood elevation increases risks to life and property.

809
810 **Secs. 6-469 – 6-470. Reserved.**

811
812 Subdivision VIII. Violations

813
814 **Sec. 6-471. Violations.**

815
816 Any development that is not within the scope of the Florida Building Code but that is
817 regulated by this article that is performed without an issued permit, that is in conflict with an
818 issued permit, or that does not fully comply with this article, will be deemed a violation of this
819 article. A building or structure without the documentation of elevation of the lowest floor,
820 other required design certifications, or other evidence of compliance required by this article or
821 the Florida Building Code is presumed to be a violation until such time as that documentation
822 is provided.

823
824 **Sec. 6-472. Authority.**

825
826 For development that is not within the scope of the Florida Building Code but that is
827 regulated by this article and that is determined to be a violation, the Floodplain Administrator
828 is authorized to serve notices of violation or stop work orders to owners of the property
829 involved, to the owner’s agent, or to the person or persons performing the work.

830
831 **Sec. 6-473. Unlawful continuance.**

832
833 Any person who continues any work after having been served with a notice of violation
834 or a stop work order, except such work as that person is directed to perform to remove or
835 remedy a violation or unsafe condition, will be subject to penalties as prescribed by law.

836 **Sec. 6-474 – 6-476. Reserved.**

837
838 DIVISION 2. DEFINITIONS

839
840 Subdivision I. General

841
842 **Sec. 6-477. Terms defined in the Florida Building Code.**

843
844 Where terms are not defined in this article and are defined in the Florida Building Code,
845 such terms will have the meanings ascribed to them in that code.

846

847 **Sec. 6-478. Terms not defined.**

848
849 Where terms are not defined in this article or the *Florida Building Code*, such terms
850 will have ordinarily accepted meanings such as the context implies.

851
852 **Sec. 6-479. Definitions.**

853
854 Unless otherwise expressly stated, the following words and terms, for the purposes of
855 this article, have the meanings shown in this section.

856
857 *Alteration of a watercourse.* A dam, impoundment, channel relocation, change in
858 channel alignment, channelization, or change in cross-sectional area of the channel or the
859 channel capacity, or any other form of modification which may alter, impede, retard or change
860 the direction and/or velocity of the riverine flow of water during conditions of the base flood.

861
862 *Appeal.* A request for a review of the Floodplain Administrator’s interpretation of any
863 provision of this article.

864
865 *ASCE 24.* A standard titled *Flood Resistant Design and Construction* that is referenced
866 by the *Florida Building Code*. ASCE 24 is developed and published by the American Society
867 of Civil Engineers, Reston, VA.

868
869 *Base flood.* A flood having a 1-percent chance of being equaled or exceeded in any
870 given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to
871 as the "100-year flood" or the "1-percent-annual chance flood."

872
873 *Base flood elevation.* The elevation of the base flood, including wave height, relative
874 to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD)
875 or other datum specified on the Flood Insurance Rate Map (FIRM).

876
877 *Basement.* The portion of a building having its floor subgrade (below ground level) on
878 all sides.

879
880 *Coastal high hazard area.* A special flood hazard area extending from offshore to the
881 inland limit of a primary frontal dune along an open coast and any other area subject to high
882 velocity wave action from storms or seismic sources. Coastal high hazard areas are also
883 referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are
884 designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V.

885
886 *Conditional Letter of Map Revision (CLOMR):* A formal review and comment as to
887 whether a proposed flood protection project or other project complies with the minimum NFIP
888 requirements for such projects with respect to delineation of special flood hazard areas. A
889 CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study;
890 upon submission and approval of certified as-built documentation, a Letter of Map Revision
891 may be issued by FEMA to revise the effective FIRM.

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Critical facility means one or more of the following:

- (1) Structures or facilities that commercially produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials that are defined as extremely hazardous substances by the Environmental Protection Agency under section 302 of the Emergency Planning and Community Right-to-Know Act, Title III of the Superfund amendments and Reauthorization Act of 1986, 42, USC.;
- (2) Hospitals, nursing homes, assisted living facilities and health care facilities Groups I, II and IV;
- (3) Structures used as law enforcement stations, fire stations, governmental vehicle and equipment storage facilities, and emergency operations centers that are needed for emergency response activities before, during and after a flood incident; and
- (4) Public or private utility facilities that are vital to maintaining and restoring normal services to flooded areas before, during and after a flood incident.

Design flood. The flood associated with the greater of the following two areas:

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.

Design flood elevation. The elevation of the “design flood,” including wave height, relative to the datum specified on the community’s legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation will be the elevation of the highest existing grade of the building’s perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number will be taken as being equal to 2 feet.

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any buildings and structures for which the “start of construction” commenced before September 19, 1984.

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities,

937 the construction of streets, and either final site grading or the pouring of concrete pads) is
938 completed before September 19, 1984.

939

940 Expansion to an existing manufactured home park or subdivision. The preparation of
941 additional sites by the construction of facilities for servicing the lots on which the
942 manufactured homes are to be affixed (including the installation of utilities, the construction
943 of streets, and either final site grading or the pouring of concrete pads).

944

945 Federal Emergency Management Agency (FEMA). The federal agency that, in addition
946 to carrying out other functions, administers the National Flood Insurance Program.

947

948 Flood or flooding. A general and temporary condition of partial or complete inundation
949 of normally dry land from:

950

951 (1) The overflow of inland or tidal waters.

952

953 (2) The unusual and rapid accumulation or runoff of surface waters from any source.

954

955 Flood damage-resistant materials. Any construction material capable of withstanding
956 direct and prolonged contact with floodwaters without sustaining any damage that requires
957 more than cosmetic repair.

958

959 Flood hazard area. The greater of the following two areas:

960

961 (1) The area within a floodplain subject to a 1-percent or greater chance of flooding
962 in any year.

963

964 (2) The area designated as a flood hazard area on the community's flood hazard
965 map, or otherwise legally designated.

966

967 Flood Insurance Rate Map (FIRM). The official map of the community on which the
968 Federal Emergency Management Agency has delineated both special flood hazard areas and
969 the risk premium zones applicable to the community.

970

971 Flood Insurance Study (FIS). The official report provided by the Federal Emergency
972 Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and
973 Floodway Map (if applicable), the water surface elevations of the base flood, and supporting
974 technical data.

975

976 Floodplain Administrator. The office or position designated and charged with the
977 administration and enforcement of this article (may be referred to as the Floodplain Manager).

978

979 Floodplain development permit or approval. An official document or certificate issued
980 by the community, or other evidence of approval or concurrence, which authorizes

981 performance of specific development activities that are located in flood hazard areas and that
982 are determined to be compliant with this article.

983
984 *Floodway.* The channel of a river or other riverine watercourse and the adjacent land
985 areas that must be reserved in order to discharge the base flood without cumulatively increasing
986 the water surface elevation more than one (1) foot.

987
988 *Floodway encroachment analysis.* An engineering analysis of the impact that a
989 proposed encroachment into a floodway is expected to have on the floodway boundaries and
990 base flood elevations; the evaluation must be prepared by a qualified Florida licensed engineer
991 using standard engineering methods and models.

992
993 *Florida Building Code.* The family of codes adopted by the Florida Building
994 Commission, including: *Florida Building Code, Building; Florida Building Code,*
995 *Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical;*
996 *Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.*

997
998 *Functionally dependent use.* A use which cannot perform its intended purpose unless
999 it is located or carried out in close proximity to water, including only docking facilities, port
1000 facilities that are necessary for the loading and unloading of cargo or passengers, and ship
1001 building and ship repair facilities; the term does not include long-term storage or related
1002 manufacturing facilities.

1003
1004 *Highest adjacent grade.* The highest natural elevation of the ground surface prior to
1005 construction next to the proposed walls or foundation of a structure.

1006
1007 *Historic structure.* Any structure that is determined eligible for the exception to the
1008 flood hazard area requirements of the *Florida Building Code, Existing Building, Chapter 11*
1009 *Historic Buildings.*

1010
1011 *Letter of Map Amendment (LOMA):* An amendment based on technical data showing
1012 that a property was incorrectly included in a designated special flood hazard area. A LOMA
1013 amends the current effective Flood Insurance Rate Map and establishes that a specific property,
1014 portion of a property, or structure is not located in a special flood hazard area.

1015
1016 *Letter of Map Change (LOMC).* An official determination issued by FEMA that
1017 amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters
1018 of Map Change include:

1019
1020 *Letter of Map Revision (LOMR):* A revision based on technical data that may show
1021 changes to flood zones, flood elevations, special flood hazard area boundaries and floodway
1022 delineations, and other planimetric features.

1023
1024 *Letter of Map Revision Based on Fill (LOMR-F):* A determination that a structure or
1025 parcel of land has been elevated by fill above the base flood elevation and is, therefore, no

1026 longer located within the special flood hazard area. In order to qualify for this determination,
1027 the fill must have been permitted and placed in accordance with the community's floodplain
1028 management regulations.

1029

1030 Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500
1031 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000
1032 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

1033

1034 (1) Designed primarily for purposes of transportation of property or is a derivation
1035 of such a vehicle, or

1036

1037 (2) Designed primarily for transportation of persons and has a capacity of more
1038 than 12 persons; or

1039

1040 (3) Available with special features enabling off-street or off-highway operation and
1041 use.

1042

1043 Lowest floor. The lowest floor of the lowest enclosed area of a building or structure,
1044 including basement, but excluding any unfinished or flood-resistant enclosure, other than a
1045 basement, usable solely for vehicle parking, building access or limited storage provided that
1046 such enclosure is not built so as to render the structure in violation of the non-elevation
1047 requirements of the Florida Building Code or ASCE 24.

1048

1049 Manufactured home. A structure, transportable in one or more sections, which is eight
1050 (8) feet or more in width and greater than four hundred (400) square feet, and which is built on
1051 a permanent, integral chassis and is designed for use with or without a permanent foundation
1052 when attached to the required utilities. The term "manufactured home" does not include a
1053 "recreational vehicle" or "park trailer."

1054

1055 Manufactured home park or subdivision. A parcel (or contiguous parcels) of land
1056 divided into two or more manufactured home lots for rent or sale.

1057

1058 Market value. The price at which a property will change hands between a willing buyer
1059 and a willing seller, neither party being under compulsion to buy or sell and both having
1060 reasonable knowledge of relevant facts. As used in this article, the term refers to the market
1061 value of buildings and structures, excluding the land and other improvements on the parcel.
1062 Market value may be established by a qualified independent appraiser, Actual Cash Value
1063 (replacement cost depreciated for age and quality of construction), or tax assessment value
1064 adjusted to approximate market value by a factor provided by the Property Appraiser.

1065

1066 New construction. For the purposes of administration of this article and the flood
1067 resistant construction requirements of the Florida Building Code, structures for which the
1068 "start of construction" commenced on or after September 19, 1984 and includes any
1069 subsequent improvements to such structures.

1070

1071 New manufactured home park or subdivision. A manufactured home park or
1072 subdivision for which the construction of facilities for servicing the lots on which the
1073 manufactured homes are to be affixed (including at a minimum, the installation of utilities, the
1074 construction of streets, and either final site grading or the pouring of concrete pads) is
1075 completed on or after September 19, 1984.

1076
1077 Park trailer. A transportable unit which has a body width not exceeding fourteen (14)
1078 feet and which is built on a single chassis and is designed to provide seasonal or temporary
1079 living quarters when connected to utilities necessary for operation of installed fixtures and
1080 appliances.

1081
1082 Permanent construction. Does not include land preparation (such as clearing, grading,
1083 or filling), the installation of streets or walkways, excavation for a basement, footings, piers,
1084 or foundations, the erection of temporary forms or the installation of accessory buildings such
1085 as garages or sheds not occupied as dwelling units or not part of the main buildings. For a
1086 substantial improvement, the actual “start of construction” means the first alteration of any
1087 wall, ceiling, floor or other structural part of a building, whether or not that alteration affects
1088 the external dimensions of the building.

1089
1090 Recreational vehicle. A vehicle, including a park trailer, which is: [See section 320.01,
1091 F.S.)

- 1092
1093 (1) Built on a single chassis;
1094
1095 (2) Four hundred (400) square feet or less when measured at the largest horizontal
1096 projection;
1097
1098 (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
1099
1100 (4) Designed primarily not for use as a permanent dwelling but as temporary living
1101 quarters for recreational, camping, travel, or seasonal use.

1102
1103 Repetitive loss means flood-related damage sustained by a structure on two separate
1104 occasions during a ten-year period for which the cost of repairs at the time of each flood event,
1105 on the average, equals or exceeds 25 percent of the market value of the structure before the
1106 damage occurred.

1107
1108 Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward
1109 of the beach.

1110
1111 Special flood hazard area. An area in the floodplain subject to a 1 percent or greater
1112 chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone
1113 A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

1114

1115 Start of construction. The date of issuance of permits for new construction and
1116 substantial improvements, provided the actual start of construction, repair, reconstruction,
1117 rehabilitation, addition, placement, or other improvement is within 180 days of the date of the
1118 issuance. The actual start of construction means either the first placement of permanent
1119 construction of a building (including a manufactured home) on a site, such as the pouring of
1120 slab or footings, the installation of piles, the construction of columns.

1121
1122 Substantial damage. Damage of any origin sustained by a building or structure whereby
1123 the cost of restoring the building or structure to its before-damaged condition would equal or
1124 exceed 50 percent of the market value of the building or structure before the damage occurred.
1125 The term also includes buildings and structures that have experienced repetitive loss.

1126
1127 Substantial improvement. Any combination of repair, reconstruction, rehabilitation,
1128 addition, or other improvement of a building or structure, taking place during a five-year
1129 period, the cumulative cost of which equals or exceeds 50 percent of the market value of the
1130 building or structure before the improvement or repair is started. For each building or structure,
1131 the five-year period begins on the date of the first improvement or repair of the building or
1132 structure subsequent to November 18, 1992. If the structure has incurred "substantial damage,"
1133 any repairs are considered substantial improvement regardless of the actual repair work
1134 performed. The term does not, however, include either:

- 1135
1136 (1) Any project for improvement of a building required to correct existing health,
1137 sanitary, or safety code violations identified by the building official and that are
1138 the minimum necessary to assure safe living conditions.
1139 (2) Any alteration of a historic structure provided the alteration will not preclude
1140 the structure's continued designation as a historic structure.

1141
1142 Variance. A grant of relief from the requirements of this article, or the flood resistant
1143 construction requirements of the *Florida Building Code*, which permits construction in a
1144 manner that would not otherwise be permitted by this article or the *Florida Building Code*.

1145
1146 Watercourse. A river, creek, stream, channel or other topographic feature in, on,
1147 through, or over which water flows at least periodically.

1148 DIVISION 3. FLOOD RESISTANT DEVELOPMENT

1149 Subdivision I. Buildings and Structures

1150 **Sec. 6-480. Design and construction of buildings, structures and facilities exempt from** 1151 **the Florida Building Code.**

1152
1153 Pursuant to Section 6-435 of this article, buildings, structures, and facilities that are exempt
1154 from the *Florida Building Code*, including substantial improvement or repair of substantial damage
1155 of such buildings, structures and facilities, must be designed and constructed in accordance with
1156 the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from

1160 the Florida Building Code that are not walled and roofed buildings must comply with the
1161 requirements of Division 3, Subdivision VII of this article.

1162

1163

Subdivision II. Subdivisions

1164

Sec. 6-482. Minimum requirements.

1165

1166 Subdivision proposals, including proposals for manufactured home parks and
1167 subdivisions, must be reviewed to determine that:

1168

1169

1170 (1) Such proposals are consistent with the need to minimize flood damage and will
1171 be reasonably safe from flooding;

1172

1173 (2) All public utilities and facilities such as sewer, gas, electric, communications,
1174 and water systems are located and constructed to minimize or eliminate flood
1175 damage; and

1176

1177 (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones
1178 AH and AO, adequate drainage paths must be provided to guide floodwaters
1179 around and away from proposed structures.

1180

Sec. 6-483. Standards for subdivision and other development proposals.

1181

1182 Where any portion of proposed subdivisions, including manufactured home parks and
1183 subdivisions, lies within a flood hazard area, the following will be required:

1184

1185

1186 (1) Where the subdivision has more than 50 lots or is larger than 5 acres and base
1187 flood elevations are not included on the FIRM, the base flood elevations
1188 determined in accordance with Section 6-445(1) of this article; and

1189

1190 (2) Compliance with the site improvement and utilities requirements of Division 3,
1191 Subdivision III of this article.

1192

Subdivision III. Site Improvements, Utilities and Limitations

1193

Sec. 6-484. Minimum requirements.

1194

1195 All proposed new development will be reviewed to determine that:

1196

1197 (1) Such proposals are consistent with the need to minimize flood damage and will
1198 be reasonably safe from flooding;

1199

1200

- 1201 (2) All public utilities and facilities such as sewer, gas, electric, communications,
1202 and water systems are located and constructed to minimize or eliminate flood
1203 damage; and
1204
1205 (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones
1206 AH and AO, adequate drainage paths must be provided to guide floodwaters
1207 around and away from proposed structures.
1208

1209 **Sec. 6-485. Sanitary sewage facilities.**
1210

1211 All new and replacement sanitary sewage facilities, private sewage treatment plants
1212 (including all pumping stations and collector systems), and on-site waste disposal systems must
1213 be designed in accordance with the standards for onsite sewage treatment and disposal systems
1214 in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of
1215 floodwaters into the facilities and discharge from the facilities into flood waters, and
1216 impairment of the facilities and systems.
1217

1218 **Sec. 6-486. Water supply facilities.**
1219

1220 All new and replacement water supply facilities must be designed in accordance with
1221 the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7
1222 to minimize or eliminate infiltration of floodwaters into the systems.
1223

1224 **Sec. 6-487. Limitations on sites in regulatory floodways.**
1225

1226 No development, including but not limited to site improvements, and land disturbing
1227 activity involving fill or regrading, may be authorized in the regulatory floodway unless the
1228 floodway encroachment analysis required in Section 6-446(1) of this article demonstrates that
1229 the proposed development or land disturbing activity will not result in any increase in the base
1230 flood elevation.
1231

1232 **Sec. 6-488. Limitations on placement of fill.**
1233

1234 Subject to the limitations of this article, fill must be designed to be stable under
1235 conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged
1236 inundation, and protection against flood-related erosion and scour. In addition to these
1237 requirements, if intended to support buildings and structures (Zone A only), fill must comply
1238 with the requirements of the *Florida Building Code*.
1239

1240 **Sec. 6-489. Limitations on sites in coastal high hazard areas (Zone V).**
1241

1242 In coastal high hazard areas, alteration of sand dunes and mangrove stands will be
1243 permitted only if such alteration is approved by the Florida Department of Environmental
1244 Protection and only if the engineering analysis required by Section 6-446(4) of this article
1245 demonstrates that the proposed alteration will not increase the potential for flood damage.

1246 Construction or restoration of dunes under or around elevated buildings and structures must
1247 comply with Section 6-512 of this article.

1248

1249

Subdivision IV. Manufactured Homes

1250

1251

Sec. 6-490. General.

1252

1253

1254

All manufactured homes installed in flood hazard areas must be installed by an installer that is licensed pursuant to section 320.8249, F.S., and must comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this article.

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The placement of manufactured homes or recreational vehicles is prohibited in coastal high hazard areas (Zone V), except in an existing manufactured home or recreational vehicle park or subdivision. A replacement manufactured home or recreational vehicle may be placed on a lot in an existing manufactured home or recreational vehicle park or subdivision, provided the anchoring standards of Section 6-492 and the elevation standards of Sections 6-494 and 6-495, as applicable, are met. New or expanded manufactured home or recreational vehicle parks or subdivisions are prohibited until such time, if ever, that Lee Plan Policy 80.1.2 is amended or repealed so as to allow such new or expanded manufactured home or recreational vehicle development.

1266

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Sec. 6-491. Foundations.

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All new manufactured homes and replacement manufactured homes installed in flood hazard areas must be installed on permanent, reinforced foundations that:

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- (1) In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.2 and this article. Foundations for manufactured homes subject to 304.4.2 are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

1278

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- (2) In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.3 and this article.

1282

Sec. 6-492. Anchoring.

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All new manufactured homes and replacement manufactured homes must be installed using methods and practices which minimize flood damage and must be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

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Sec. 6-493. Elevation.

Manufactured homes that are placed, replaced, or substantially improved must comply with Section 6-494 or 6-495, as applicable.

Sec. 6-494. General elevation requirement.

Unless subject to the requirements of Section 6-495, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated such that the top or the lowest floor is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V).

Sec. 6-495. Elevation requirement for certain existing manufactured home parks and subdivisions.

Manufactured homes that are not subject to Section 6-494, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, must be elevated such that either the:

- (1) Top or the lowest floor of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V); or
- (2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

Sec. 6-496. Enclosures.

Enclosed areas below elevated manufactured homes must comply with the requirements of the *Florida Building Code, Residential* Sections R322.2 or R322.3 for such enclosed areas, as applicable to the flood hazard area.

Sec. 6-497. Utility equipment.

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, must comply with the requirements of the *Florida Building Code, Residential* Section R322, as applicable to the flood hazard area.

1336 Subdivision V. Recreational Vehicles and Park Trailers

1337
1338 **Sec. 6-498. Temporary placement.**

1339
1340 Recreational vehicles and park trailers placed temporarily in flood hazard areas must:

- 1341
- 1342 (1) Be on the site for fewer than 180 consecutive days; or
 - 1343
 - 1344 (2) Be fully licensed and ready for highway use, which means the recreational
 - 1345 vehicle or park model is on wheels or jacking system, is attached to the site only
 - 1346 by quick-disconnect type utilities and security devices, and has no permanent
 - 1347 attachments such as additions, rooms, stairs, decks and porches.

1348
1349 **Sec. 6-499. Permanent placement.**

1350
1351 Recreational vehicles and park trailers that do not meet the limitations in Section 6-498

1352 of this article for temporary placement must meet the requirements of Division 3, Subdivision

1353 IV of this article for manufactured homes.

1354
1355 Subdivision VI. Tanks

1356
1357 **Sec. 6-500. Underground tanks.**

1358
1359 Underground tanks in flood hazard areas must be anchored to prevent flotation,

1360 collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during

1361 conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

1362
1363 **Sec. 6-501. Above-ground tanks, not elevated.**

1364
1365 Above-ground tanks that do not meet the elevation requirements of Section 6-502 of

1366 this article must:

- 1367
- 1368 (1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard
 - 1369 areas, provided the tanks are anchored or otherwise designed and constructed
 - 1370 to prevent flotation, collapse or lateral movement resulting from hydrodynamic
 - 1371 and hydrostatic loads during conditions of the design flood, including the
 - 1372 effects of buoyancy assuming the tank is empty and the effects of flood-borne
 - 1373 debris.
- 1374
- 1375 (2) Not be permitted in coastal high hazard areas (Zone V).

1376
1377 **Sec. 6-502. Above-ground tanks, elevated.**

1378
1379 Above-ground tanks in flood hazard areas must be attached to and elevated to or above

1380 the design flood elevation on a supporting structure that is designed to prevent flotation,

1381 collapse or lateral movement during conditions of the design flood. Tank-supporting structures
1382 must meet the foundation requirements of the applicable flood hazard area.

1383

1384 **Sec. 6-503. Tank inlets and vents.**

1385

1386 Tank inlets, fill openings, outlets and vents must be:

1387

1388 (1) At or above the design flood elevation or fitted with covers designed to prevent
1389 the inflow of floodwater or outflow of the contents of the tanks during
1390 conditions of the design flood; and

1391 (2) Anchored to prevent lateral movement resulting from hydrodynamic and
1392 hydrostatic loads, including the effects of buoyancy, during conditions of the
1393 design flood.

1394

1395 *Subdivision VII. Other Development*

1396

1397 **Sec. 6-504. General requirements for other development.**

1398

1399 All development, including man-made changes to improved or unimproved real estate
1400 for which specific provisions are not specified in this article or the *Florida Building Code*,
1401 must:

1402

1403 (1) Be located and constructed to minimize flood damage;

1404

1405 (2) Meet the limitations of Section 6-487 of this article if located in a regulated
1406 floodway;

1407

1408 (3) Be anchored to prevent flotation, collapse or lateral movement resulting from
1409 hydrostatic loads, including the effects of buoyancy, during conditions of the
1410 design flood;

1411

1412 (4) Be constructed of flood damage-resistant materials; and

1413

1414 (5) Have mechanical, plumbing, and electrical systems above the design flood
1415 elevation, except that minimum electric service required to address life safety
1416 and electric code requirements is permitted below the design flood elevation
1417 provided it conforms to the provisions of the electrical part of building code for
1418 wet locations.

1419

1420 **Sec. 6-505. Accessory structures.**

1421 Accessory structures are not required to meet the elevation requirements if they meet
1422 all of the following requirements, in addition to those set forth in Section 6-487:

1423

1424 a. The structure is securely anchored to resist flotation, collapse, and lateral

1424 movement;

- 1425 b. The building is a minimal investment and the total size of the building does not
1426 exceed 1,000 square feet in floor area;
1427 c. The structure is used exclusively for uninhabitable parking or storage purposes;
1428 d. All electrical or heating equipment is elevated above the base flood elevation
1429 or otherwise protected from intrusion of floodwaters; and
1430 e. For accessory structures located in coastal high-hazard areas (V zones),
1431 breakaway walls are used below the lowest floor.
1432

1433 **Sec. 6-506. Fences in regulated floodways.**
1434

1435 Fences in regulated floodways that have the potential to block the passage of
1436 floodwaters must meet the limitations of Section 6-487 of this article.
1437

1438 **Sec. 6-507. Retaining walls, sidewalks and driveways in regulated floodways.**
1439

1440 Retaining walls and sidewalks and driveways that involve the placement of fill in
1441 regulated floodways must meet the limitations of Section 6-487 of this article.
1442

1443 **Sec. 6-508. Roads and watercourse crossings in regulated floodways.**
1444

1445 Roads and watercourse crossings, including roads, bridges, culverts, low-water
1446 crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse
1447 to the other side, that encroach into regulated floodways must meet the limitations of Section
1448 6-487 of this article. Alteration of a watercourse that is part of a road or watercourse crossing
1449 must meet the requirements of Section 6-446(3) of this article.
1450

1451 **Sec. 6-509. Concrete slabs used as parking pads, enclosure floors, landings, decks,**
1452 **walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).**
1453

1454 In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors,
1455 landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or
1456 adjacent to buildings and structures provided the concrete slabs are designed and constructed
1457 to be:
1458

- 1459 (1) Structurally independent of the foundation system of the building or structure;
1460
1461 (2) Frangible and not reinforced, so as to minimize debris during flooding that is
1462 capable of causing significant damage to any structure; and
1463
1464 (3) Have a maximum slab thickness of not more than four (4) inches.
1465
1466
1467
1468
1469

1470 **Sec. 6-510. Decks and patios in coastal high hazard areas (Zone V).**
1471

1472 In addition to the requirements of the Florida Building Code, in coastal high hazard
1473 areas decks and patios must be located, designed, and constructed in compliance with the
1474 following:

- 1475
- 1476 (1) A deck that is structurally attached to a building or structure must have the
1477 bottom of the lowest horizontal structural member at or above the design flood
1478 elevation and any supporting members that extend below the design flood
1479 elevation must comply with the foundation requirements that apply to the
1480 building or structure, which must be designed to accommodate any increased
1481 loads resulting from the attached deck.
- 1482
- 1483 (2) A deck or patio that is located below the design flood elevation must be
1484 structurally independent from buildings or structures and their foundation
1485 systems, and must be designed and constructed either to remain intact and in
1486 place during design flood conditions or to break apart into small pieces to
1487 minimize debris during flooding that is capable of causing structural damage to
1488 the building or structure or to adjacent buildings and structures.
- 1489
- 1490 (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or
1491 that is constructed with more than the minimum amount of fill necessary for
1492 site drainage must not be approved unless an analysis prepared by a qualified
1493 registered design professional demonstrates no harmful diversion of
1494 floodwaters or wave runup and wave reflection that would increase damage to
1495 the building or structure or to adjacent buildings and structures.
- 1496
- 1497 (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and
1498 that is at natural grade or on nonstructural fill material that is similar to and
1499 compatible with local soils and is the minimum amount necessary for site
1500 drainage may be approved without requiring analysis of the impact on diversion
1501 of floodwaters or wave runup and wave reflection.
- 1502

1503 **Sec. 6-511. Other development in coastal high hazard areas (Zone V).**
1504

1505 In coastal high hazard areas, development activities other than buildings and structures
1506 may be permitted only if also authorized by the appropriate federal, state or local authority; if
1507 located outside the footprint of, and not structurally attached to, buildings and structures; and
1508 if analyses prepared by qualified registered design professionals demonstrate no harmful
1509 diversion of floodwaters or wave runup and wave reflection that would increase damage to
1510 adjacent buildings and structures. Such other development activities include but are not limited
1511 to:

- 1512
- 1513 (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control
1514 structures;

- 1515 (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed
1516 and constructed to fail under flood conditions less than the design flood or otherwise
1517 function to avoid obstruction of floodwaters; and
1518
1519 (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled
1520 systems or mound systems.

1521
1522 **Sec. 6-512. Nonstructural fill in coastal high hazard areas (Zone V).**

1523
1524 In coastal high hazard areas:

- 1525
1526 (1) Minor grading and the placement of minor quantities of nonstructural fill may
1527 be permitted for landscaping and for drainage purposes under and around
1528 buildings.
1529
1530 (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to
1531 five units horizontal may be permitted only if an analysis prepared by a
1532 qualified registered design professional demonstrates no harmful diversion of
1533 floodwaters or wave runup and wave reflection that would increase damage to
1534 adjacent buildings and structures.
1535
1536 (3) Where authorized by the Florida Department of Environmental Protection or
1537 applicable local approval, sand dune construction and restoration of sand dunes
1538 under or around elevated buildings are permitted without additional engineering
1539 analysis or certification of the diversion of floodwater or wave runup and wave
1540 reflection if the scale and location of the dune work is consistent with local
1541 beach-dune morphology and the vertical clearance is maintained between the
1542 top of the sand dune and the lowest horizontal structural member of the
1543 building.

1544
1545 **Sec. 6-513. Critical Facilities.**

1546
1547 Critical facilities, as defined in the Flood Hazard Reduction Ordinance, shall be located
1548 outside the limits of the special flood hazard area where feasible. Construction of new critical
1549 facilities shall be permissible within the special flood hazard area if no feasible alternative site
1550 is available. If permitted, critical facilities shall be elevated or protected to or above the base flood
1551 elevation plus two (2) feet or the 500-year (0.2 percent chance) flood elevation, whichever is
1552 higher. Flood proofing and sealing measures must be implemented to ensure that toxic substances
1553 will not be displaced by or released into floodwaters. Access routes elevated to or above the base
1554 flood elevation shall be provided to all critical facilities to the maximum extent possible. Critical
1555 facilities shall be designed to remain operable during such an event.

1556

1557 **Sec. 6-514. Standards for areas in the B, C, and X Zones.**

1558

1559 All new buildings not located in the areas of special flood hazard established in Section
1560 6-411(3) must have the lowest floor elevation (including basement) constructed at least 12
1561 inches above the crown of the nearest local street unless the building official determines there
1562 are extenuating circumstances that would preclude meeting that elevation.

1563

1564 **Secs. 6-515 – 6-520. Reserved.**

1565

1566 **ARTICLE V. RESERVED**

1567

1568 **Secs. 6-501—6-521 - 6-550. Reserved.**

1569

1570 **SECTION THREE: AMENDMENTS TO LDC CHAPTER 10**

1571

1572 Lee County Land Development Code Chapter 10 is amended as follow with strike through
1573 identifying deleted text and underline identifying new text.

1574

1575 **Chapter 10. DEVELOPMENT STANDARDS**

1576

1577 **ARTICLE I. IN GENERAL**

1578

1579 **Sec. 10-1. - Definitions and rules of construction.**

1580

1581 Base flood elevation means the elevation of the base flood, including wave height,
1582 relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum
1583 (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

1584

1585 **ARTICLE II. ADMINISTRATION**

1586

1587 **DIVISION 2. DEVELOPMENT ORDERS**

1588

1589 *Subdivision II. Procedures*

1590

1591 **Sec. 10-101. Applicability of requirements.**

1592

1593 (a) *Development orders.* All developments, as defined in this chapter, including
1594 subdivisions, are required to obtain a development order prior to commencing any land
1595 development activities or receiving any development permit, including a building
1596 permit, with the exception of the following, which are not subject to review pursuant
1597 to this chapter except as noted herein:

1598

1599 (1) *remains unchanged.*

1600

1601 (2) Agriculture, as defined herein except as required for excavations permitted
1602 under section 10-329 and improvements to the land subject to provisions of
1603 Chapter 6, Article IV;
1604

1605 *Remainder of Section is unchanged.*
1606

1607 **ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS**

1608 **DIVISION 1. GENERALLY**

1609 **Sec. 10-253. - Consideration of soil conditions and flood hazards.**

1610
1611 No development plan will be approved unless the developer submits substantial and
1612 competent evidence that all lands intended for use as development sites can be safely developed
1613 without undue danger from flood or adverse soil or foundation conditions. The following
1614 standards must also be adhered to, as applicable:
1615
1616

1617
1618 *(1) through (5) remain unchanged.*
1619

1620 (6) Land affected by Chapter 6, Article IV, pertaining to flood hazard reduction,
1621 must show the base flood elevation expressed in NAVD 1988 datum on the site
1622 plan and the plat.
1623

1624 **SECTION 10-254. – FISCAL IMPACT STATEMENT**

1625
1626 In terms of design, plan application review, construction and inspection of buildings and
1627 structures, the cost impact as an overall average is negligible in regard to the local technical
1628 amendments because all development has been subject to the requirements of the local
1629 floodplain management ordinance adopted for participation in the National Flood Insurance
1630 Program. In terms of lower potential for flood damage, there will be continued savings and
1631 benefits to consumers.
1632

1633 **SECTION FOUR: CONFLICTS OF LAW**

1634
1635 Whenever the requirements or provisions of this Ordinance are in conflict with the
1636 requirements or provisions of any other lawfully adopted ordinance or statute, the most
1637 restrictive requirements will apply.
1638

1639 **SECTION FIVE: SEVERABILITY**

1640
1641 It is the intent of the Village Council of the Village of Estero that if any section, subsection,
1642 clause or provision of this ordinance is deemed invalid or unconstitutional by a court of
1643 competent jurisdiction, such portion will become a separate provision and will not affect the
1644 remaining provisions of this ordinance. The Village Council further declares its intent that this
1645 ordinance would have been adopted if such unconstitutional provision was not included.

1646 **SECTION SIX: CODIFICATION AND SCRIVENER’S ERRORS**

1647

1648 The Village Council intends that this ordinance will be made part of the Village of Estero Land
1649 Development Code. Sections of this ordinance can be renumbered or relettered and the word
1650 “ordinance” can be changed to “section”, “article,” or other appropriate word or phrase to
1651 accomplish codification, and regardless of whether this ordinance is ever codified, the
1652 ordinance can be renumbered or relettered and typographical errors that do not affect the intent
1653 can be corrected with the authorization of the Village Administrator or his designee, without
1654 the need for a public hearing.

1655

1656 **SECTION SEVEN: MODIFICATION**

1657

1658 It is the intent of the Village Council that the provisions of this Ordinance may be modified as
1659 a result of consideration that may arise during Public Hearing(s). Such modifications shall be
1660 incorporated into the final version.

1661

1662 **SECTION EIGHT: EFFECTIVE DATE**

1663

1664 This ordinance will take effect as of the second public hearing. September 23, 2015. The
1665 provisions of this ordinance will apply to all projects or applications subject to the LDC unless
1666 the development order application for such project is complete or the zoning request is found
1667 sufficient before the effective date.

1668

1669 **ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this
1670 _____ day of _____, 2015.

1671

1672 Attest: **VILLAGE OF ESTERO, FLORIDA**

1673

1674

1675 By: _____ By: _____

1676 Kathy Hall, MMC
1677 Village Clerk

Nicholas Batos
Mayor

1678

1679

1680 Reviewed for legal sufficiency:

1681

1682

1683 By: _____

1684 Burt Saunders, Esq.
1685 Village Attorney

1686

1687

1688

1689

1690

	Vote:	AYE	NAY
1691	Mayor Batos	_____	_____
1692	Vice Mayor Levitan	_____	_____
1693	Councilmember Boesch	_____	_____
1694	Councilmember Brown	_____	_____
1695	Councilmember Errington	_____	_____
1696	Councilmember Ribble	_____	_____
1697	Councilmember Wilson	_____	_____