

Note to reviewer – This Recreation Lease Agreement is intended to be read in tandem with the Shared Use Agreement of even date herewith.

**THIS INSTRUMENT WAS PREPARED BY
AND AFTER RECORDING RETURN TO:**

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1001 S. Fort Harrison Avenue, Suite 201
Clearwater, Florida 33756

RECREATION LEASE AGREEMENT

THIS RECREATION LEASE AGREEMENT is made and entered into as of the _____ day of January, 2024 (“**Effective Date**”), by and between **THE SCHOOL BOARD OF LEE COUNTY, FLORIDA, a body corporate**, whose post office address is 2855 Colonial Boulevard, Fort Myers, Florida 33966 (“**Lessor**”), and **VILLAGE OF ESTERO, a Florida municipal corporation**, whose post office address is 9401 Corkscrew Palms Circle, Estero, Florida 33928 (“**Lessee**”). Lessor and Lessee may each be referred to herein as a “**Party**” or collectively as the “**Parties**”.

RECITALS :

WHEREAS, Lessor and Lessee mutually intend this Lease, including, without limitation, all schedules and exhibits attached hereto and/or incorporated herein (this “**Lease**”), to facilitate the provision of the highest quality sports, park, and recreational facilities for the Parties’ mutual benefit;

WHEREAS, the Parties acknowledge and agree that this Lease is intended to maximize the benefits available to the surrounding community but without diminishing Lessor’s athletic programs;

WHEREAS, Lessee desires to enter into this Lease in order to gain the ability to use the Property as a Village park in in exchange for Lessee’s agreement to share the use of certain facilities on the Property with Lessor, and Lessee’s assumption of the obligation to manage, maintain, repair, replace and upgrade such shared facilities;

WHEREAS, the Parties acknowledge and agree that the shared use agreement attached hereto is intended to be a living document that will require the ongoing, reasonable cooperation of the Parties to ensure the Parties’ needs and desires are reasonably accommodated;

WHEREAS, the Parties acknowledge and agree that well-being, education, and development of Lessor’s students is of the utmost priority, and Lessee shall undertake performance of its obligations with respect to caring for and upgrading the shared facilities to ensure the quality of all such facilities meet or exceed those of the best, similar facilities under Lessor’s control; and

WHEREAS, in consideration of the Lease and Lease Term, Lessee will be making substantial financial investments to improve the sports, park, and recreational facilities and amenities to serve the long-term needs of both Lessee's residents and Lessor's students.

WITNESSETH:

THAT the above recitals are hereby incorporated into this Lease as if restated in full.

THAT in consideration of and subject to the covenants, conditions, and agreements hereinafter mentioned and to be performed by the respective Parties and the payment of the rental hereinafter designated to be paid by Lessee in accordance with the provisions of this Lease, Lessor will lease, rent, let, and demise unto Lessee a leasehold interest in and to the real property situate, lying and being in Lee County, Florida, being more particularly described on **EXHIBIT A**, attached hereto and made a part hereof (the "**Property**").

TO HAVE AND TO HOLD, subject to the terms of this Lease, the Property, and such additional lands as may be made subject hereto by express written agreement between the Parties, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise incident or appertaining, together with the rents, issues, and profits thereof (save and except the rents and other amounts due Lessor herein) unto said Lessee for the Term (as defined below), unless extended or terminated in accordance with the terms and conditions hereof.

Notwithstanding anything in this Lease to the contrary, the Parties acknowledge that although the Lease becomes effective on the Effective Date, Lessee's rights, interests, and obligations related to the management and use of the Property will become effective when Lessee has completed the football field turf installation project on the Property, including all permitting, design, materials acquisition and installation, as required by this Lease and the Shared Use Agreement (referred to herein as the **Qualifying Investment**), and provided satisfactory evidence of such investment is delivered to Lessor. From and after the date Lessee makes the substantiated Qualifying Investment, Lessee shall have the right to possess the Property, as well as the obligation to maintain, repair, manage and use all of the various recreational facilities on the Property, subject those priority uses set forth in the Shared Use Agreement (the "**Shared Facilities**"), as well as the obligation to manage, maintain, refurbish, replace, develop and construct recreational facilities thereon, and further subject to the terms of this Lease, including, in particular and without limitation, the Lessor Uses (as defined below).

The Parties acknowledge that Section 6 of the Shared Use Agreement imposes certain deadlines for Lessee to complete enhancements to certain aspects of the Property. In the event Lessee fails to meet those deadlines, time being of the essence, Lessee shall be in default of this Lease.

Those periods of time when all or a portion of the Property is being used by or is under the control of the Lessor for Estero High School-related purposes, including games, practices, District events, school events, third-party events permitted by Lessor, or upgrades or

maintenance performed by the Lessor may be collectively referred to herein as the “**Lessor Uses**”. The extent, nature, timing, and characteristics of those uses and how they integrate with Lessee’s rights and obligations with respect to the Property are contemplated by this Lease and that certain Shared Use Agreement adopted by the Parties contemporaneously with this Lease, a true correct, and complete copy of which is attached hereto as Schedule 1 (the “**Shared Use Agreement**”), including as the Shared Use Agreement may be amended from time to time, and is incorporated herein by reference.

1. **TERM AND RENEWAL.** The term of this Lease (“**Term**”) shall begin on the Effective Date, and shall run for a period of ninety-nine years, ending on the 99th annual anniversary of the Effective Date (99-year term) (“**Expiration Date**”), unless extended or terminated prior to said date in accordance with the terms and conditions hereof. Unless this Lease is otherwise terminated as provided for herein, this Lease shall automatically renew for successive ninety-nine-year periods, subject to the Lessee’s making at the beginning of each successive renewal period the following payments to Lessor: (a) the rental payment required in Paragraph 3 of this Lease, and (b) an additional payment in the amount of TEN AND 00/100 DOLLARS (\$10.00) as consideration therefor.

2. **AUTHORITY.** Lessor and Lessee covenant, respectively, that each of them is lawfully entitled to enter into this Lease.

3. **RENTAL.** LESSEE covenants and agrees to pay to Lessor the total sum of TEN AND 00/100 DOLLARS (\$10.00) (“**Base Rent**”). The Base Rent shall be and constitute net rent to Lessor and is in addition to the payment of real estate taxes, assessments, insurance premiums for which Lessee is liable in accordance with this Lease and is in addition to other expenses to which Lessee may be obligated pursuant to this Lease (collectively, “**Additional Rent**”). Base Rent and Additional Rent may be collectively referred to in this Lease as “**Rent**” or “**rent**”. No deductions or offsets shall be made from the rent due Lessor.

The Parties further agree that in addition to the Rent set forth above, within five (5) years from the Effective Date, Lessee commits to investing at least TEN MILLION and 00/100 DOLLARS (\$10,000,000.00) on recreational enhancements to the Property, in the manner as will ensure Lessor’s ability to continue engaging in all Lessor’s Uses in accordance with the terms of this Lease.

4. **INSURANCE RESPONSIBILITIES.** Lessee shall, to the extent any of the following occur or arise during the entire term hereof, save and keep Lessor harmless from any and all damages and liability occasioned by all events other than those arising directly from Lessor’s use of the Property and shall indemnify, defend (with counsel acceptable to Lessor) and keep harmless Lessor from and against any loss, cost, damage and expense arising out of and in connection with any building, facilities, fields, or other improvements on the Property, including the approaches, driveways, accessways, sidewalks and other appurtenances of the Property and out of any accident causing injury to any person or property whomsoever and whatsoever and due to events other than those arising directly from Lessor Uses of the Property. Further, Lessee covenants and agrees to provide, at Lessee’s expense, policies of insurance insuring Lessee and Lessor against all claims, damages, injuries, losses and other liabilities contemplated by this

Section, with coverage amounts of not less than \$1,000,000.00 to cover claim or damage from any single or specific clause to any one (1) person and to the extent of not less than \$2,000,000.00 to cover claim or damage in connection with any one (1) particular accident or occurrence. Such policies shall name Lessor as additional insured on a primary basis. Lessee shall also provide Lessor with proof of worker's compensation insurance as required by applicable law and commercial automobile insurance providing a minimum of One Million Dollars (\$1,000,000.00) in liability coverage and shall include "non owned and hired coverage", if applicable. Lessee shall further provide Lessor with a waiver of subrogation for the aforementioned coverages; each policy shall contain a waiver of subrogation. Such insurance policies shall (i) be provided to Lessor promptly upon demand, and (ii) provide that the applicable policies shall not be cancelled without thirty (30) days' advance written notice to Lessor. This paragraph shall survive the termination or earlier expiration of this Lease. The Parties agree that the indemnification provided for in this paragraph does not cover or apply to those periods of time when the Property is being used for the Lessor Uses.

As to all Lessor Uses, Lessor shall, during the entire term hereof, save and keep Lessee harmless from any and all damages and liability occasioned directly by the Lessor Uses of the Property and shall indemnify and keep harmless Lessee from and against any loss, cost, damage and expense arising out of and in connection with any building, or other improvements thereon, and out of any accident causing injury to any person or property whomsoever and whatsoever and due directly to the Lessor Uses of said Property, and Lessor covenants and agrees to provide, at Lessor's expense, policies of insurance insuring Lessor and Lessee against all claims and damages made by any person or persons whomsoever, for injuries received in connection with the Lessor Uses upon the Property, including the approaches, sidewalks and appurtenances thereto and thereof, to the extent of not less than \$500,000.00 to cover claim or damage from any single or specific clause to any one (1) person and to the extent of not less than \$500,000.00 to cover claim or damage in connection with any one (1) particular accident or occurrence.

Notwithstanding the foregoing insurance requirements regarding indemnification of the Parties by each other, neither Party waives its respective limitations on liability as to all other third parties provided for in Florida Statutes § 768.28.

5. **PERSONAL LIABILITY.** Lessee shall be exclusively responsible and liable to any third parties by reason of any damage or personal injury of any kind sustained by them upon a Shared Facility or occasioned by any acts of Lessee or by any breach or default of Lessee, excepting losses or damages occurring during or directly as a result of Lessor Uses.

6. **DAMAGE OR DESTRUCTION OF BUILDINGS OR FACILITIES.** The Parties agree and covenant that damage to or destruction of the buildings or recreation facilities or any portion thereof or of the Property at any time by fire, hurricane, or act of God, shall not work a termination of this Lease or authorize Lessee or those claiming by, through or under Lessee, to quit or surrender possession of the Property, or any part thereof, and shall not release Lessee in any way from Lessee's liability to pay to Lessor the rent provided for herein or from any of the agreements, covenants, and conditions of this Lease. In the event of loss, destruction or damage to a building, structure, or other improvement now or hereafter located upon the Property, Lessee agrees and covenants to promptly rebuild or restore a like or better building,

facility, and/or improvement of equal or greater value and quality to the ones destroyed, injured or damaged as often as such destruction or damage may occur; it being understood that Lessor must approve the plans and specifications of all such improvements prior to the commencement of any such rebuilding or restoration, which approval may not be unreasonably withheld, conditioned, or delayed.

7. **TAXES.** Lessee covenants and agrees with Lessor that Lessee will cause to have promptly paid, in addition to the rent, and as a further part of the consideration to be furnished by Lessee, all taxes levied or assessed at any or all times during the term hereof by any and all taxing authorities, including all taxes (including, without limitation, documentary stamp taxes), charges, assessments, and in general, all taxes, tax liens in the nature of taxes which may be assessed against the Property and against the building, fixtures, and improvements thereon, or which may hereafter be placed thereon, including all taxes which are or may be assessed by any governmental authority, including but not limited to the city, state, county, national, special drainage, school or other taxing districts, or other charges which may accrue thereon; provided, however, that in the event that any of the said taxes or assessments are payable according to the terms of their imposition in installments, then Lessee shall have the right to pay the same as such installments fall due. Florida State Sales Tax and/or County surtax on rentals, if applicable to this Lease, shall be paid by Lessee. The terms of this Section shall survive the expiration or earlier termination of this Lease.

8. **UTILITY CHARGES.** Except as may otherwise be provided in the Shared Use Agreement, Lessee agrees and covenants to pay all charges for utilities supplied to the Property, whether they are supplied by a public or private firm, and to pay them monthly, or as they become due. It is contemplated that this will include all charges for water, gas, electricity, telephone, sewer, if any, and any other type of utility or any other type of service charge. Inasmuch as certain utility uses, including lighting and irrigation, may be necessary to Lessor, as an operator of a public school, to facilitate school-related security or maintenance standards, the Parties shall work together with relevant utilities to secure separate metering where possible such that neither Party is obliged to pay for a utility service predominantly needed or required by the other Party.

9. **COMPLIANCE WITH REGULATIONS OF PUBLIC BODIES.** Lessee covenants and agrees that Lessee will, at Lessee's own expense, make such improvements on the Property and perform such acts and do such things as shall be lawfully required by any public body and/or authority having jurisdiction over same in order to comply with sanitary, fire, hazard, zoning, setback and other similar requirements designed to protect the public. The foregoing shall include any improvements, acts or things required by the Florida High School Athletic Association, Florida Department of Education or other similar governing body.

10. **LAWFUL USE OF PROPERTY.** Lessee covenants and agrees that during the term hereof, LESSEE will, and will cause all persons and entities on the Property by, through or under the rights of Lessee to, conform to and observe all ordinances, rules, laws and regulations of all authorities with jurisdiction over the Property, or improvements upon the same, or use thereof, and will not, during such time, permit the same to be used for any illegal or immoral purpose, business or occupation or any purpose other than that expressly contemplated by this

Lease.

11. **INSPECTION OF PROPERTY.** Lessee agrees and covenants that Lessor, or its agent, at all reasonable times and during all reasonable hours, shall have free access to the Property and to any buildings or structures that may at any time be thereon, or any part thereof, for the purpose of examining or inspecting the condition of the same or of exercising any right or power reserved to Lessor under the terms and provisions of this Lease. Lessor shall have no obligation to repair, maintain, rebuild, restore, or otherwise improve the Property during the term of this Lease, except to the extent of damage caused directly by Lessor Uses of the Property during the term of this Lease.

12. **LIENS CREATED BY LESSEE.** Lessee covenants and agrees that Lessee has no power give or grant a security interest in or a right to a lien of any kind or character upon the right, title and interest of Lessor in and to the Property or Lessee's leasehold interest in this Lease, and that no person shall ever be entitled to any lien directly or indirectly derived through or under Lessee, or Lessee's agents, or on account of any act or omission of Lessee. All persons contracting with Lessee for furnishing materials or labor to Lessee or Lessee's agents, as well as all persons whomsoever, shall be bounded by this provision of this Lease. Should any such lien be filed, within ten (10) days of such filing, Lessee shall discharge the same by paying it or by filing a bond or otherwise as permitted by law.

Lessor and Lessee acknowledge and agree Lessor may execute and record a Notice of Lien Prohibition pursuant to Section 713.10 (as amended from time to time) containing confirmation the interest of Lessor shall not be subject to liens for improvements made by Lessee to the Property. In accordance with Florida Statute Section 713.10, Lessor and Lessor's interest in the Property shall not be subject to liens for improvements or alterations to the Property made by the Lessee or anyone acting on behalf of the Lessee. Nothing contained in this Lease shall be construed as a consent on the part of the Lessor to subject the Lessor or the Lessor's ownership interest in the Property to liability under the Construction Lien Law of the State of Florida. Lessee shall promptly notify each contractor and potential lienor who undertakes to make improvements to the Property of these provisions exculpating the Lessor's liability for any such liens. Lessee agrees Lessor may record a notice in the Public Records to notify third parties of the terms of this paragraph.

13. **INDEMNIFICATION AGAINST CLAIMS.** Lessee shall indemnify and save harmless Lessor from and against any and all claims, suits, actions, damages, and/or causes of action arising during the term of this Lease for any personal injury, loss of life and/or damage to property sustained in or about the Property or the appurtenances thereof and from and against all costs, counsel fees, expenses and liabilities incurred in and about any such claims, investigations thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgements, or decrees which may be entered in respect thereto, except resulting directly from any Lessor Uses. Lessee is expressly not required to indemnify or defend Lessor for any claims or losses resulting directly from any Lessor Uses, unless such claim or loss is a result of Lessee's negligence or intentional act.

Notwithstanding the indemnification of the Parties by each other, neither Party waives its respective limitations on liability as to all other third parties provided for in Florida Statutes § 768.28.

14. **ACCEPTANCE OF PROPERTY.** Lessee covenants and agrees that Lessee, in acquiring this Lease, has done so as a result of a personal inspection of the Property and that no warranties or representations of any kind or nature whatsoever have been made by Lessor, except as expressly set forth in this Lease. Lessee agrees to take the Property in its physical condition, "AS IS, WHERE IS, WITH ALL FAULTS" as of the Effective Date, subject to the terms of this Lease.

15. **WAIVER.** It is covenanted and agreed that no waiver of a breach of any of the covenants, terms or conditions of this Lease shall be considered to be a waiver of succeeding breach of the same covenant. It is further agreed that any waiver must be in writing to be a valid waiver.

16. **TRANSFER OF LESSOR'S INTEREST; RIGHT OF FIRST REFUSAL.** Lessor shall have the right to sell the Property and to assign its rights and obligations under this Lease to others. During the term of this Lease, provided this Lease has not been earlier terminated or expired and that Lessee is not at such time in default of the terms of this Lease, Lessee shall have a right of first refusal to purchase the Property on the same terms and conditions as those offered by a third party and accepted by Lessor subject to this right of first refusal. Lessor shall notify Lessee in writing of any such third-party offer and the terms thereof, and Lessee may exercise its right of first refusal by providing Lessor with written notice of its exercise of such right, which notice of exercise must be received by Lessor within thirty (30) days of the date Lessee receives notice of the third-party offer from Lessor; otherwise, Lessee shall be deemed to have waived its right of first refusal as to such third-party's offer. Terms of the purchase will be full payment in cash within one hundred twenty (120) days after Lessee delivers such exercise notice, with no due diligence period or conditions precedent to Lessee's obligation to close, other than Lessor's ability to deliver marketable title. However, if Lessee has declined to exercise (or is deemed to have declined to exercise) its right of first refusal to purchase the Property and the Property is sold by Lessor to a third party, Lessee's right of first refusal as to the Property is extinguished and cannot again be exercised.

17. **INTEREST.** All sums of money required to be paid by Lessee to Lessor shall bear interest from the due date at the rate of TEN PERCENT AND 00/100 (10%) per annum until paid, which interest shall be due and payable to Lessor upon Lessor's written demand.

18. **EVENTS OF DEFAULT.** Should Lessee at any time during the term of this Lease be adjudged bankrupt or directly or indirectly suffer or permit an involuntary or voluntary petition in bankruptcy to be filed against Lessee and remain pending for a period of seventy-five (75) days, or should a Receiver or Trustee be appointed for any of Lessee's property and not be discharged within seventy-five (75) days, or should any order of any court of competent jurisdiction be entered and remain in effect for a period of seventy-five (75) days continuing Lessee in possession of the Property, or should Lessee's leasehold interest be levied upon and said levy be not discharged within forty-five (45) days thereafter, or should Lessee fail to promptly make the necessary return and reports required by state and federal law, or should Lessee fail to promptly pay when due all taxes of whatsoever kind required to be paid to the

State or Federal governments or any subdivision thereof, if this Lease specifically requires such payment by Lessee hereunder, or if Lessee fails to comply with the terms, covenants, and conditions of this Lease, then and upon the happening of any of the aforesaid events, Lessee shall be deemed to be in default under this Lease. In the event of Lessee default, Lessor shall have the right at its election to consider the same a material default on the part of Lessee. In the event of an event of default, Lessor shall have the option of (1) declaring this Lease terminated and the interest of Lessee forfeited, (2) bring the Property into compliance with the terms of this Lease and charge Lessee the costs incurred by Lessor to do so, plus an administrative fee of 20% on the aggregate amount of such costs, or (3) Lessor may exercise any other option available to it at law or in equity. All revenues derived or accruing from the Property subsequent to the date of the termination of the Lease shall constitute the property of Lessor, and the same is hereby declared to be a trust fund and shall not constitute any asset of Lessee or any trustee or receiver appointed for Lessee's property.

19. **DEFAULT.** If any of the sums of money herein required to be paid by Lessee to Lessor shall remain unpaid for a period of fifteen (15) days from the date it becomes due, or if Lessee shall otherwise be in default under this Lease (and/or the Shared Use Agreement) Lessor shall have the option and privilege as follows:

- (A) To recover from Lessee in action at law (distress for rent or otherwise) for each installment of rent as the same matures or for the whole unpaid balance when it matures.
- (B) To utilize such statutory remedy as may be afforded landlords under the laws of the State of Florida.
- (C) To terminate this Lease and retain all improvements to the Property as Lessor's sole property; Lessee hereby waiving and relinquishing all right, title, and interest it may have to such improvements or the Property in the event of such a termination of this Lease.
- (D) To file suit for specific performance and enforcement, including, without limitation, the imposition of a restraining order or injunction.

20. **NOTICES.** All notices required by law and this Lease to be given by one party to the other shall be in writing and the same may be served as follows:

- (A) Upon Lessor, by personal delivery or by certified mail addressed to Lessor at the address first delineated above, or at such other address as Lessor may, by notice in writing, designate to Lessee.
- (B) Upon Lessee, by personal delivery or by certified mail addressed to Lessee at the address first delineated above, or at such other address as Lessee may, by notice in writing, designate to Lessor.

21. **CONDEMNATION PROVISION.** It is understood and agreed that:

- (A) If at any time during the continuance of this Lease the legal title to the Property, or the improvements or building located thereon, or any portions thereof, be taxed or appropriated or condemned by reason of eminent domain, there shall be such division of the proceeds and awards in such condemnation proceeds and such abatement of rent and other adjustments made as shall be just and equitable under the circumstances. If Lessor and Lessee are unable to agree upon what division or other adjustments are just and equitable within thirty (30) days after such award has been made, then the matters in dispute shall by appropriate proceedings be submitted to a court having jurisdiction of the subject matter of such controversy in Lee County, Florida, for its decision and determination of the matters in dispute. If the legal title to the entire Property be wholly taken by condemnation, the Lease shall be cancelled.
- (B) For the purpose of condemnation, the deprivation of Lessee and Lessor of the use of such buildings and improvements shall be an item of damage in determining the portion of the condemnation award to which Lessee is entitled. In general, it is the intent of this Paragraph that upon condemnation, the parties herein shall equitably share their awards to the extent that their interests respectively are depreciated, damaged or destroyed by the exercise of the right of eminent domain.
- (C) Notwithstanding the above and foregoing provisions, in the event of condemnation or taking of the whole of the Property, the amount of the condemnation award due to Lessor shall, between Lessor and Lessee, in no event be less than the amount of the entire condemnation award (including the amount awarded to Lessor and Lessee).

22. **USE.** Except for and subject to the Lessor Uses, the Property, any improvements now or hereafter situate thereon, shall be used for recreation purposes only by Lessee and those parties Lessee authorizes to make use of such recreation facilities.

23. **POTENTIAL FUTURE EXPANSION.** The Parties recognize that in the future, Estero High School may require expansion of its current classroom, office, and/or common area spaces to accommodate growth in student population. In light of the foregoing, the Parties share a goal of preservation of current open lands so as to preserve the portions of the Estero High School campus which are currently open to sports and recreation uses. Lessee also has an interest in assisting Lessor in the design and construction of a future expansion to ensure the exterior architectural elements are in harmony with the distinct architectural style prevalent in the Village of Estero. Lessee, therefore, desires to have the ability to enhance the design and financially contribute to any future Estero High School expansion project to further these recreation land preservation and architectural harmony goals.

In the event Lessor delivers written notice to Lessee of the need to expand Estero High School (an "**Expansion Certification**") on or after January 1st 2028, Lessee shall have the right

to require the Lessor to incorporate certain architectural enhancements reasonably desired by Lessee and the right to contribute up to two million dollars (\$2,000,000.00) toward these enhancements. Such right may be exercised by Lessee only by Lessee delivering written notice to Lessor of Lessee's election to participate in the architectural enhancement process, which notice (an "**ARC Election Notice**") must be delivered within forty-five (45) days of Lessor's delivery of the Expansion Certification to Lessee. The complete cost, including, without limitation, design and construction, of any architectural enhancements requested by Lessee, will be at Lessee's expense and paid by Lessee to Lessor within thirty (30) days of Lessor's written demand. If Lessor fails to timely receive funds from Lessee to cover the cost of said enhancements, Lessor will have the right to refuse to install such enhancements and/or remove the unfunded features; however, in either such event, Lessee shall remain liable to Lessor for costs incurred by Lessor with respect to Lessee's enhancements prior to the date Lessor notifies Lessee of Lessor's election to either refuse to install and/or remove the unfunded improvements (a "**Revocation Notice**"). In the event Lessee timely delivers an ARC Election Notice to Lessor, then Lessor shall allow Lessee to participate in the planning and design of the architectural enhancement features of the expansion improvements such that Lessee's financial contribution would ensure Lessee's aesthetic and recreation open space priorities are reflected in the final plans, specifications and construction, subject to Lessor's rights to deliver a Revocation Notice as provided above.

Notwithstanding the foregoing, the Parties understand and agree that Lessee's right to require Lessor to incorporate architectural enhancements into the expansion project shall be with respect to aesthetic elements only, and Lessee shall have no rights with respect to structural elements or any elements under the purview of the State Requirements for Educational Facilities or regulatory bodies with oversight over public schools.

Notwithstanding the limitations on the monetary and design involvement of Lessee recited above, if and when an Expansion Certification and an ARC Election Notice are timely delivered, the Parties are free to make separate agreements with respect to the level and nature of the Lessee's participation in the planning and design of the expansion improvements and the timing of the payment of Lessee's contribution related thereto.

In the event the future expansion contemplated above requires the use of a portion of the Property, this Lease shall be deemed automatically amended, without the need for further signature, approval or consent of either Party, to remove from the definition of the "Property" the area of land upon which the expansion is built, which amendment will go into effect on the date a development order, or similar development approval document, is issued in connection with the expansion project.

25. **EXISTING USE AGREEMENT WITH LEE COUNTY.** The Parties acknowledge that there is an existing interlocal agreement between Lessor and Lee County ("**County**") that allows County to lease the baseball and softball fields to Perfect Game ("**Perfect Game ILA**"). Lessor hereby assigns its rights and obligations under the ILA to Lessee.

26. **OTHER USE AGREEMENTS.** Lessor shall not grant to any other third party the right to use or possess the Property during the Initial Term or Renewal Term of this Lease

absent the prior written approval of the Lessee.

27. **COVENANTS TO BIND SUCCESSORS AND ASSIGNS.** The covenants and agreements contained in this Lease shall be binding upon and shall inure to the benefit of Lessor and its successors and assigns, and Lessee and Lessee's successors and assigns, and all persons claiming by, through and under Lessor and Lessee, and the same shall be construed as covenants running with the land during the term of this Lease. Notwithstanding the foregoing, in no event may Lessee assign, convey, or otherwise transfer all or any portion of its right, title, or interest under this Lease; it being stipulated by both parties that any such assignment, conveyance, or transfer by Lessee without Lessor's prior written consent, which may be withheld in Lessor's sole discretion, shall be an immediate event of default, not subject to any grace or cure period, and, at Lessor's sole option, shall result in an immediate termination of this Lease. All terms of this Lease which are intended to survive the termination or earlier expiration of this Lease shall survive, whether or not such survival is expressly provided herein as to such particular term.

28. **KNOWLEDGE OF CONTENTS.** BOTH OF THE PARTIES TO THIS LEASE BY THE SIGNING AND EXECUTION HEREOF, ADMIT AND ACKNOWLEDGE THAT THEY HAVE READ THIS INSTRUMENT, INCLUDING EVERY PARAGRAPH. THEY FURTHER ADMIT AND ACKNOWLEDGE THAT THE FACT THAT THIS RECREATION LEASE IS A LONG INSTRUMENT OF MANY WORDS, PHRASES AND PARAGRAPHS, HAS NOT PREVENTED THEM FROM READING THIS LEASE AND HAVING EXPRESS AND EXPLICIT KNOWLEDGE OF EVERY MATTER AND THING SET FORTH IN THIS LEASE. FURTHERMORE, EACH PARTY HERETO ADMITS THAT DESPITE THE SMALL TYPE USED IN THE PRINTED BODY OF THIS LEASE, THEY HAVE BEEN ABLE TO READ AND HAVE READ EACH AND EVERY PARAGRAPH HEREOF.

29. **RECORDATION.** This Lease shall not be filed for public record.

30. **[Reserved.]**

31. **COMPLETE AGREEMENT.** This Lease merges all prior negotiations and understandings between the parties and constitutes their complete agreement which is binding upon Lessor and the heirs, executors, administrators, successors and assigns of Lessor when executed by Lessor, and is binding upon binding upon Lessee and the heirs, executors, administrators, successors and assigns of Lessee when executed by Lessee. This Lease may only be amended by written agreement signed by Lessor and Lessee.

32. **RADON GAS.** RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE OR MAY HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT.

33. **NO JOINT VENTURE.** For tax, accounting, and other similar legal purposes, Lessee acknowledges and agrees that Lessor is not a venture, co-venturer, insurer, guarantor or partner of Lessee in Lessee's development of or construction upon the Property. The provisions of

this Section shall survive Closing.

34. **NO THIRD PARTY BENEFICIARY.** The provisions of this Lease are and will be for the benefit of Lessor and Lessee only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Lease.

35. **SEVERABILITY.** If any provision of this Lease is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Lease shall remain in full force and effect.

36. **REMEDIES GENERALLY.** Mention in this Lease of any particular remedy of either party does not preclude such party from any other remedy, whether available at law or in equity or by statute or expressly provided for in this Lease. No remedy will be exclusive or dependent upon any other remedy, and the remedies are cumulative and not alternative.

37. **LICENSED CONTRACTORS.** Lessee shall use only appropriately licensed and insured contractors in the making and/or installation of any repairs, alterations or improvements.

38. **CROSS-DEFAULT & CROSS TERMINATION.** Notwithstanding anything in this Lease to the contrary and without intention to modify the term “Lease” as used herein, (1) a default by Lessee under this Lease shall constitute a default under the Shared Use Agreement, and a default by Lessee under the Shared Use Agreement shall constitute a default under this Lease; and (2) a termination of this Lease shall constitute a termination of the Shared Use Agreement, and a termination of the Shared Use Agreement shall constitute a termination of this Lease.

39. **PUBLIC RECORDS.** Both Parties are subject to Florida’s Public Records Act, Chapter 119, Florida Statutes. Each party shall keep and maintain public records in connection with this agreement and shall ensure that public records that are exempt or confidential shall not be disclosed except as authorized by law. Upon request from the respective party’s custodian of records, the other party shall provide the requested records or allow for inspection within a reasonable time as provided by law.

For the Village:

IF THE SCHOOL BOARD HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO SCHOOL BOARD’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-221-5035, records@estero-fl.gov or by mail Village of Estero – Village Clerk, 9401 Corkscrew Palms Circle, Estero, FL 33928

For the Board:

IF VILLAGE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VILLAGE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-461-8420, PublicRecords@leeschools.net OR BY MAIL: Lee County School Board – Public Information Coordinator, 2855 Colonial Blvd., Fort Myers, FL 33966.

40. COUNTERPART EXECUTION. This Lease may be signed in counterparts with the same force and effect as if all required signatures were contained in a single, original instrument. Any counterpart delivered by electronic transmission shall be deemed to have been properly executed and delivered for all purposes; and a signed counterpart delivered by electronic transmission shall be deemed to have the same legal effect as an original “hard copy” signed counterpart.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, Lessor has hereunto set Lessee's hand and seal as of the day and year first above written.

Signed, sealed and delivered in our presence.

THE SCHOOL BOARD OF LEE COUNTY, FLORIDA

By: _____

Witness Name: _____

Printed Name: Samuel Fisher

Witness Address: _____

Title: School Board Chair

Witness Name: _____

Witness Address: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [X] physical presence or [] online notarization this _____ day of _____, 2024, by _____, as _____ of THE SCHOOL BOARD OF LEE COUNTY, FLORIDA, a body corporate. He/she [] is personally known to me or [] has produced a _____ as identification.

NOTARY PUBLIC

Signed, sealed and delivered in our presence.

THE SCHOOL BOARD OF LEE

COUNTY, FLORIDA

By: _____

Printed Name: Christopher S. Bernier, Ed.D.
Title: Superintendent of Schools

Witness Name: _____
Witness Address: _____

Witness Name: _____
Witness Address: _____

Approved as to Form and Legal Sufficiency
As to The School Board of Lee County, Florida, Only:

By: _____
Printed Name: Kathy Dupuy-Bruno, Esq.
Title: School Board Attorney and General Counsel
Date: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [X] physical presence or [] online notarization this _____ day of _____, 2024, by _____, as _____ of THE SCHOOL BOARD OF LEE COUNTY, FLORIDA, a body corporate. He/she [] is personally known to me or [] has produced a _____ as identification.

NOTARY PUBLIC

IN WITNESS WHEREOF, Lessee has hereunto set Lessee’s hand and seal as of the day and year first above written.

Signed, sealed and delivered in our presence.

VILLAGE OF ESTERO,
a Florida municipal corporation

By: _____
Steven R. Sarkozy, Village Manager

Witness Name: _____
Witness Address: _____

Witness Name: _____
Witness Address: _____

ATTEST:

Village Clerk

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [X] physical presence or [] online notarization this ____ day of _____, 2024, by Steven R. Sarkozy, Village Manager of VILLAGE OF ESTERO, a Florida municipal corporation. He [X] is personally known to me or [] has produced a _____ as identification.

NOTARY PUBLIC

EXHIBIT A
LEGAL DESCRIPTION

The Property made subject to this Lease is described as follows:

PARCEL I:

The South one-half (S 1/2) of Lots 21 and 22, Block C, FLORIDA GULF LAND COMPANY'S SUBDIVISION, according to the plat thereof, as recorded in Plat Book 1, Page 59, of the Public Records of Lee County, Florida.

Property Address: 9350 Block Lane, Estero, FL 33928

STRAP: 34-46-25-E4-0100C.0210 / Folio ID: 10275765

PARCEL II:

The South 1/2 of Lot 23, Block C, FLORIDA GULF LAND COMPANY'S SUBDIVISION, according to the plat thereof, as recorded in Plat Book 1, Page 59, of the Public Records of Lee County, Florida.

Together with an easement over the following described properties:

Parcel 1:

The North 33 feet of the South 1/2 of Lot C 17 to and including Lot C 28; the South 33 feet of the North 1/2 of Lot C 17 to and including lot C 28; the North 33 feet of Lot C 30, all being in the Florida Gulf Land Co.'s Subdivision of Section 34, Township 46 South, Range 25 East, as recorded in Plat Book 1, Page 59, of the Public Records of Lee County, Florida.

Parcel 2:

Commencing 33 feet South of the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 35, Township 46 South, Range 25 East, Lee County, Florida, the Point of Beginning, thence run Easterly to a point 33 feet South of the Northeast corner of the Southeast 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section, thence North 66 feet to a point 33 feet North of the Southeast corner of the Northeast 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section, thence Westerly to a point 33 feet North of the Southwest corner of the Northwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section, thence South 66 feet to a point 33 feet South of the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section and the Point of Beginning.

Parcel 3:

The West 33 feet of Lots No. C 6 and C 27 and the East 33 feet of Lots C 31 and

C 7, Less that part of Lots C 26, C-27 and C-31 previously dedicated in the Florida Gulf Land Co.'s Subdivision as platted and filed in Plat Book 1, Page 59, of the Public Records of Lee County, Florida.

Parcel 4:

Commencing at a point 33 feet East and 33 feet North of the Southeast corner of the Southwest 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 34, Township 46 South, Range 25 East, Lee County, Florida, being the Point of Beginning, thence North to a point on the North boundary of the Southwest 1/4 of the Northeast 1/4 of said Section 34, thence West on the North boundary of the Southwest 1/4 of the Northeast 1/4 of said Section 34 for 66 feet, thence South to the North line of Lot C 31 of the Florida Gulf Land Co.'s Subdivision as platted and filed in Plat Book 1, Page 59, of the Public Records of Lee County, Florida, thence East 33 feet to the Northeast corner of the aforesaid Lot C 31, thence South along the East boundary of Lot C 31 to a point on the South boundary of Lot C 31, thence East 33 feet to the Point of Beginning.

Property Address: 9400 Block Lane, Estero, FL 33928

STRAP: 34-46-25-E4-0100C.0230 / Folio ID: 10275778

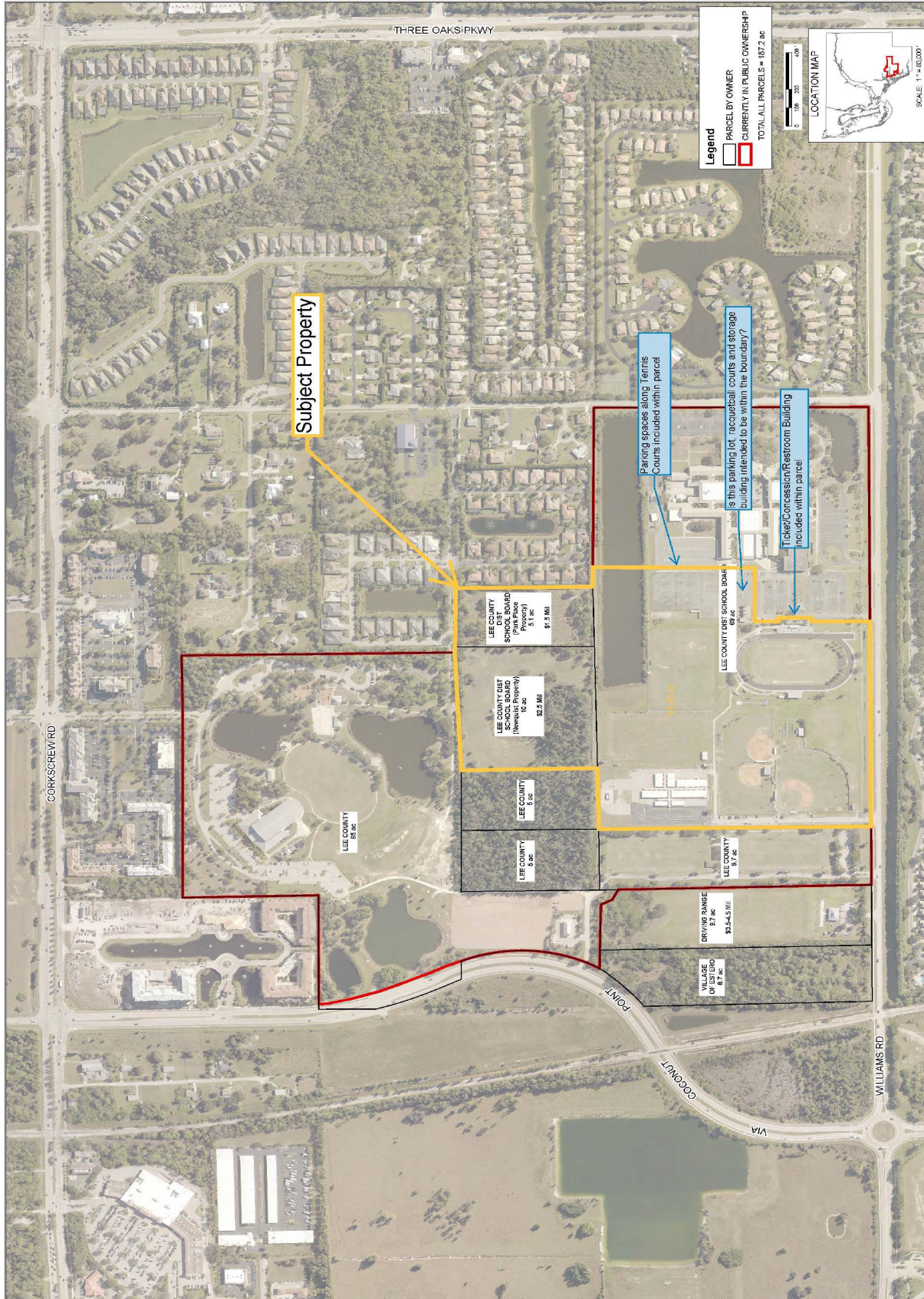
PARCEL III:

THAT PORTION OF THE FOLLOWING LAND, AS SHOWN ON THE MAP OF AREA OF ESTERO HS LEASED PROPERTY ATTACHED HERETO AND MADE A PART HEREOF:

Lots 7, 8, 9, 10, 11, 12 and 13, Block C, FLORIDA GULF LAND COMPANY'S SUBDIVISION, according to the plat thereof, as recorded in Plat Book 1, Page 59, of the Public Records of Lee County, Florida.

Property Address: 21900 River Ranch Road, Estero, FL 33928

STRAP: 34-46-25-E4-0100C.0070 / Folio ID: 10275770



SCALE: 1" = 200'
 DRAWN BY: EJR
 CHECKED BY:
 DATE: 3/20/21
 SHEET: 1 OF 1



ESTERO HIGH SCHOOL AND PARK COMPLEX
 VILLAGE OF ESTERO

NOTES:
 1. 2020 AERIAL IMAGES FROM LEE COUNTY
 2. COORDINATE SYSTEM AND THE STATE PLANE FLORIDA WEST TIPS PROJEKT

8001 CORKSCREW PALMS CIRCLE
 SUITE 100
 P. 239.221.5535
<http://estero.fl.gov>

Schedule 1
Shared Use Agreement
[See attached]