

**AGREEMENT BETWEEN THE VILLAGE OF ESTERO AND  
THE ESTERO FOREVER FOUNDATION FOR MANAGEMENT  
OF THE HAPPEHATCHEE COMPLEX**

This Agreement is entered into between the Parties this \_\_\_ day of November, 2024 (the “Effective Date”) by and between the Village of Estero, a Florida municipal corporation (hereinafter referred to as the “Village”) located at 9401 Corkscrew Palms Circle, Estero, FL 33928, and the Estero Forever Foundation, Inc., a Florida not for profit corporation, FEIN: 84-2466890 (hereinafter referred to as the “Foundation”), located at 20791 Three Oaks Parkway, Unit 763, Estero, FL 33929.

**WHEREAS**, on April 3<sup>rd</sup> 2024, the Village entered into a Framework of Cooperation (the Framework) with the Foundation, the purpose of which was to allow the Village to leverage the community work of the Foundation in ways which would allow both the Foundation and Village to fulfill their respective missions in efficient and innovative ways; and

**WHEREAS** the Framework established a general agreement between the Parties related to financial support and management, and contemplated future agreements between the Parties related to specific projects or initiatives; and

**WHEREAS** the Village owns certain largely undeveloped real property consisting of subtropical forest, located at the addresses 8661, 8701, 8751, 8761, 8791, and 8801 Corkscrew Rd., Estero, Florida, 33928, and south of the Estero River (hereinafter collectively referred to as “the Property”); and

**WHEREAS**, the parcel located at 8791 Corkscrew Rd., Estero, Florida, 33928 (commonly referred to as the Happehatchee Center property and hereinafter referred to as “the Center”), has unique historical significance and unique operational requirements; and

**WHEREAS** the Center has, in past decades, been used by individuals and groups in the community of what is now the Village of Estero for access to nature, as well as to attend programs related to wellness, ecological and environmental education, scouting, crafts, and other similar programs; and

**WHEREAS**, the Village is in the process of making certain physical improvements to the Property, and additional property it owns north of the Estero River; and

**WHEREAS**, the Village’s general vision is the development of more active recreational facilities on its property north of the Estero River, while maintaining more passive park and recreational opportunities and facilities on the Property south of the Estero River; and

**WHEREAS**, until that larger evolutionary change occurs, the Village has determined that the Property (including the Center) requires continued management and daily oversight and maintenance, as well as incremental programming improvements to allow the public to gain better use of the Center, with priority being the creation of a place where community groups can meet; and

**WHEREAS**, the Village has determined that the Foundation is well-situated to assume the duties of management of the Center and the 8801 parcel under the terms of this Agreement, which the Foundation has agreed to.

**NOW, THEREFORE**, the Parties hereto agree as follows:

1. The Foundation will assume the management of the Property (including the Center) as of a Transition Date. The Transition Date shall be agreed to between the Foundation and the Village Manager, and shall coincide with the termination date of the agreement between the Village and the entity currently managing the Center.
2. The Village shall pay the Foundation \$1,500 per month. The funds paid to the Foundation by the Village for the Foundation's operation of the Center shall be treated as Village Derived Funds, as that term is used in the Framework, and shall be used in the manner and for the purposes set forth in the Framework related to Village Derived Funds.
3. The Initial Term of this Agreement shall be from the Effective Date through close of business on Friday, August 1<sup>st</sup> 2025. The Parties may mutually agree to successive ninety-day terms. This Agreement may be terminated upon thirty-days written notice.
4. The Foundation's management of the Property shall include:
  - Light landscape maintenance including clearing of plant debris
  - Light maintenance of the structures on the Center (maintenance and repair efforts by the Foundation shall be coordinated with the Village Manager or designee in terms of the scope and schedule of the work, as well as the qualifications of the person(s) performing the work)
  - Monitoring of the structures on the Property and report to the Village Manager any maintenance or safety issues which may become known to the Foundation which would require Village resources to address
  - Training and overseeing Foundation volunteers who provide volunteer services at the Property
  - Overseeing access to the Property by individuals and groups, including ensuring persons and vehicles do not enter areas which are not authorized as open to the public or public driving/parking (where necessary, law enforcement may be summoned to assist in such efforts)
  - Coordinate with the Village Manager or designee on parking and property access rules and procedures
  - Development of fee-based and other programming for community groups geared

toward attracting greater use of the Center by individuals or groups while allowing the Center to recognize some added revenue (all such programming to be approved by the Village Manager prior to implementation)

5. In exercising its management of the Center, the Foundation agrees to adhere to any Village operating policies applicable to the Center, as well as to any covenants which may apply to the Center.
6. The Village agrees to:
  - Pay for all current utility services
  - Provide through contracted resources mowing and major debris clearing services
  - Providing repair of buildings or equipment where the Village determines such work should be done (at the Village's option, the Foundation may be asked to acquire bids for certain repairs for which reimbursement to the Foundation would be provided)
  - Installing any infrastructure related to securing the Property and access thereto
7. Foundation shall comply with all applicable requirements contained in the Florida Public Records Law, including but not limited to any applicable provisions in Florida Statutes § 119.0701. Pursuant to that statute, the Foundation shall:
  - (a) Keep and maintain public records required by the Village to perform the services provided hereunder.
  - (b) Upon request from the Village's custodian of public records, provide the Village with a copy of the requested records or allow the records to be inspected or copied within a reasonable time 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 for the duration of the term of this Agreement and following completion of this Agreement if the Foundation does not transfer the records to the Village.
  - (d) Upon completion of the Agreement, transfer, at no cost, to the Village all public records in the possession of the Foundation or keep and maintain public records required by the Village to perform the service. If the Foundation transfers all public records to the Village upon completion of the Agreement, the Foundation shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Foundation keeps

and maintains public records upon completion of the Agreement, the Foundation shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Village, upon request from the Village's custodian of public records, in a format that is compatible with the information technology systems of the Village.

If the Foundation fails to comply with the requirements in this Article 7, the Village may enforce these provisions in accordance with the terms of this Agreement. If the Foundation fails to provide the public records to the Village within a reasonable time, it may be subject to penalties under Florida Statutes § 119.10.

**IF THE FOUNDATION HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE FOUNDATION'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE FOUNDATION SHOULD CONTACT THE VILLAGE'S CUSTODIAN OF PUBLIC RECORDS: BY PHONE (239.221.5035), E-MAIL ([records@estero-fl.gov](mailto:records@estero-fl.gov)), OR MAIL (VILLAGE OF ESTERO, OFFICE OF THE VILLAGE CLERK, 9401 CORKSCREW PALMS CIRCLE, ESTERO, FLORIDA 33928).**

8. The performance of this Agreement shall be in compliance with all applicable local, state and federal laws and regulations. Additionally, the Foundation agrees that when performing under this Agreement it and its agents shall refrain from discriminating against any person on the grounds of race, religion, color, disability, national origin, gender, age or marital status.
9. The relationship of the Foundation to Village shall be that of an independent contracting entity. Nothing herein contained shall be construed as vesting or delegating to the Foundation or its officers, employees, agents, or subcontractors, any rights, interest or status as an employee of the Village. The Village shall not be liable to any person, firm or corporation that is employed by, contracts with, or provides goods or services to the Foundation in connection with the performance of this Agreement or for debts or claims accruing to such parties. The Foundation shall promptly pay, discharge or promptly take such action as may be necessary and reasonable to settle such debts or claims. In order to ensure it is capable of meeting its obligations under this Agreement.
10. The Foundation may not assign, transfer, subcontract, or encumber this Agreement, or any right or interest in this Agreement, without the express prior written consent of the Village.

11. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting with regard to any breach of any provision of this Agreement shall be construed to be a waiver of such breach. Every right and remedy of each of the Parties shall be cumulative and either Party, in its sole discretion, may exercise any and all rights or remedies stated in this Agreement or otherwise available at law or in equity.
12. This Agreement, together with the documents incorporated by reference, constitutes the entire agreement between the Parties and supersedes any prior understanding or agreement between the Parties, either verbal or written, respecting the same subject. This includes that certain assignment of activities issued by the Village Manager on July 18<sup>th</sup> 2023.
13. The insurance and indemnification provisions of the Framework are incorporated herein and are applicable to this Agreement.
14. This Agreement is subject to formal approval of the Village Council and the Board of the Foundation, and shall be effective as of the Effective Date, notwithstanding the actual date(s) of execution.
15. To the extent notice is required under this Agreement, it shall be provided by either hand delivery or U.S. Mail as follows:

To the Foundation:

Estero Forever Foundation, Inc.  
 Attn: President  
 20791 Three Oaks Parkway, Unit 763  
 Estero, FL 33929

To the Village:

Village of Estero  
 Attn: Village Manager  
 9401 Corkscrew Palms Circle  
 Estero, FL 33928

A Party may amend the place of delivery of notice to that Party by written notice to the other Party without need of amending this Agreement.

**WHEREFORE**, the Parties hereto have executed this Agreement as of the Effective Date.

**Estero Forever Foundation, Inc.**

**Village of Estero**

By: \_\_\_\_\_  
 John Quin, President

By: \_\_\_\_\_  
 Jon McLain, Mayor