RESOLUTION NO. 2026 – 28

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, COMPLYING WITH THE LEGISLATIVE MANDATE TO CREATE A REGISTRY OF PRIVATE PROVIDERS TO SUPPLEMENT CERTAIN ZONING AND PLAT APPLICATION REVIEW FUNCTIONS; MAKING RELATED FINDINGS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter Law 2026-64, Laws of Florida, created Florida Statutes § 163.3169 and amended Florida Statutes § 166.033 to create a new mandate on local governments to establish and operate a private provider program for certain platting and zoning application review functions; and

WHEREAS, more specifically, Florida Statutes § 163.3169(2) provides that by January 1st 2027, all local governments must establish a registry of at least four qualified contractors or two qualified contractor firms which the governing body shall use to supplement the local government's staff resources in ways determined by the governing body upon the written request by an applicant for fulfilling:

- The preapplication consultation services for permits under Florida Statutes § 166.033(1);
- The requirements of Florida Statutes § 177.073 for processing and expediting the review of an application for a preliminary plat or any plans related to such application; or
- The requirements of Florida Statutes § 177.071 requiring the administrative approval of a plat or replat;

and

WHEREAS, Florida Statutes § 166.033 now provides that by January 1st 2027, each municipality with a population of 10,000 or greater shall create and implement a program for the purpose of making available development preapplication consultation services at an applicant's request, where the applicant is applying for a permit as defined in Florida Statutes § 163.3169; and

WHEREAS, while Florida Statutes § 163.3169(j) defines "permit" as an authorization, approval, or grant *by the local governing body* which authorizes the development of land for any site plan or development plan approval, or any subdivision approval, the remainder of the combined statutory provisions indicate only administrative approval items are covered; and

WHEREAS, Florida Statutes § 166.033(2) provides that if an applicant for a permit, plat, or replat is not eligible to use the Village's Qualified Contractor Registry because the application is not a Qualifying Application Type, or because the applicant does not request, or elects not to use the Village's registry program, then the application shall be processed in accordance with the procedures and timelines set forth in Florida Statutes § 166.033(2); and

WHEREAS, the Community Development Department has worked with the Village Attorney to develop a Qualified Contractor Registry Procedure to ensure timely implementation of the new statutory mandates set forth above; and

WHEREAS, the attached procedure has been recommended by staff and the Village Attorney for approval; and

WHEREAS, the Village Council finds that to ensure the Village is compliant with the new statutory mandates, the attached procedure should be adopted.

NOW, THEREFORE BE IT RESOLVED, by the Village Council of the Village of Estero, Florida, that:

Section 1. The Qualified Contractor Registry Procedure attached to this Resolution is hereby adopted. The Village Manager is authorized, moving forward, to make such revisions to the procedure as may be necessary to comply with statutory changes or to allow for operational improvements without further action of Council.

Section 2. The Village Manager shall ensure the Qualified Contractor Registry Procedure, along with the associated registry list and fee schedule, are published on the Village's Community Development web page.

Section 3. The Village Manager is authorized to enter into any written agreements with private professionals, firms, or governments to assemble the Qualified Contractor Registry, including the fees such providers will charge for the work performed.

Section 4. Except as may be required by Florida Statutes § 287.055, pursuant to Village Code § 2-179(b), and given the unique skills and abilities and experiences required to be placed on the Registry, and the limited market for persons or firms willing and able to serve, and because ultimately applicants will pay the costs of the providers, the Village Council waives any competitive solicitation requirements associated with assembling the Registry.

Section 5. In accordance with Florida Statutes § 163.3169(2)(e) and the cost recovery provisions of the Village's adopted Community Development Fee Schedule, when an applicant elects to use a Qualified Contractor Registry provider, the applicant shall pay to the Village all fees and costs associated with the use of the provider. No permit or development order shall be finally issued prior to all such costs being paid.

BE IT FURTHER RESOLVED that if any section, subsection, sentence, clause, provision or word of this Resolution is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Resolution shall not be affected by such invalidity, such that any remainder of the Resolution shall withstand any severed provision, as the Village Council would have adopted the Resolution even absent the invalid part.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon adoption.

DULY ADOPTED with a quorum present and voting this 18th day of November, 2026.

Attest:

_____
Joanne Ribble, Mayor

_____
Carol Sacco, Village Clerk

Village of Estero Qualified Contractor Registry Procedure

Registry Establishment and Maintenance. The Community Development Department shall establish and maintain a registry of at least four Qualified Contractors or two Qualified Contractor Firms which will be available to supplement the Village's staff resources for the review of Qualifying Application Types upon the written request by an applicant.

Registry Composition. Pursuant to Florida Statutes § 163.3169(1), a "Qualified Contractor" shall mean the individual or firm that has demonstrated knowledge of and experience with the Eligible Application Types identified in this policy. The term includes, but is not limited to, any of the following:

1. An engineer or engineering firm licensed under chapter 471.

2. A surveyor or mapper, or a surveyor's or mapper's firm, licensed under chapter 472.

3. An architect or architecture firm licensed under part I of chapter 481.

4. A landscape architect or a landscape architecture firm registered under part II of chapter 481.

5. A planner certified by the American Institute of Certified Planners with at least 5 years of relevant government experience or at least 10 years of experience as an urban planner if not certified.

and a "qualified contractor firm" shall mean:

1. A business organization, including a corporation, partnership, business trust, or other legal entity, which offers qualified contractor services to the public through licensees who act as agents, employees, officers, or partners of the firm.

2. A person who is licensed as an engineer under chapter 471;

3. A surveyor or mapper licensed under chapter 472;

4. An architect licensed under part I of chapter 481;

5. A landscape architect licensed under part II of chapter 481; or

6. A person who is certified by the American Institute of Certified Planners with at least 5 years of relevant government experience, or at least 10 years of relevant experience as an urban planner if not certified, may act as a qualified contractor for an agent, employee, or officer of the qualified contractor firm.

Pursuant to Florida Statutes § 163.3169(2)(c), the Village may enter into an agreement with another local government for the purpose of using public employees who meet the requirements

for a qualified contractor to satisfy the minimum numerical requirements for qualified contractors for the registry.

Pursuant to Resolution 2026-05, except as may be required by Florida Statutes § 287.055, the Village Manager may negotiate and execute registry participation agreements with qualified contractors or qualified contractor firms without conducting a competitive process.

Definitions. For purposes of this procedure, the following terms shall have the following meaning:

> "*Applicant*" means a person or legal entity having a legal or equitable ownership interest in real property, or an authorized agent acting on behalf of such person or entity, which applies for a land development approval from the Village pursuant to this procedure.
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> "*Application*" means a properly completed and submitted request for a permit, as defined herein, on behalf of an applicant which includes an affidavit from a qualified contractor as required by this procedure. The term does not include plans or permits as reviewed under Florida Statutes § 553.791.
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> "*Development services office*" means the Community Development Department.
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> "*Development services official*" means the individual in the development services office of the Village who is responsible for the direct regulatory administration or supervision of the review and approval process required to indicate compliance with applicable land development regulations. The term includes any duly authorized designee of such person.
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> "*Final plat*" has the same meaning as in Florida Statutes § 177.073.
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> "*Land development regulations*" has the same meaning as in Florida Statutes § 163.3164, but excludes building permits and plans subject to Florida Statutes § 553.791.
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> "*Plans*" has the same meaning as in Florida Statutes § 177.073.
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> "*Plat or replat*" has the same meaning as in Florida Statutes § 177.031(14).
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> "*Preapplication review*" means the analysis of a permit conducted by a qualified contractor to ensure compliance with a comprehensive plan, Florida Statutes Chapter 177, and applicable land development regulations, and which is part of the application as authorized under this procedure.
>
> "*Preliminary plat*" has the same meaning as in Florida Statutes § 177.073.
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> "*Site plan or development plan approval*" means a site development proposal, or its functional equivalent, including a modification to an existing development approval, which is expressly designated by the Village for administrative review and approval by Community Development staff, without the requirement of approval by the Planning, Zoning, and Design Review Board or the Village Council and which does not materially

increase density, intensity, traffic, infrastructure demand, environmental impacts, or significant offsite impacts, and therefore does not require full site plan review or discretionary policy review. The term includes approvals or permits governed by objective, nondiscretionary standards that are designated by the Village for administrative approval by Community Development staff and which also includes, but is not limited to approvals or permits related to trees, signs, landscaping, and minor modifications.

"*Subdivision approval*" or its functional equivalent, including a modification, means an administrative review process applicable to the division of land into a limited number of lots which does not create new public streets or require significant public infrastructure improvements and does not materially increase development impacts. The term applies only to approvals expressly designated by the Village for administrative review and approval by Community Development staff <u>without the requirement of approval by the Planning, Zoning, and Design Review Board or the Village Council</u>. A subdivision qualifies under this definition if it involves a number of lots as specified by the Village, complies with all applicable zoning, dimensional, access utility, and environmental standards, and can be served by existing public facilities or approved private systems, allowing the subdivision to be reviewed for compliance with objective standards of land development code and approved by Village staff without requiring discretionary policy determinations.

Qualifying Application Types. Pursuant to Florida Statutes § 163.3169, an applicant may elect to use a registry provider only for the following qualifying application types:

1. The preapplication consultation services for permits under Florida Statutes § Florida Statutes § 166.033(1) including Site Plan or Development Plan Approval and Subdivision Approval;

2. The requirements of Florida Statutes § 177.073 for processing and expediting the review of an application for a preliminary plat or any plans related to such application; or

3. The requirements of Florida Statutes § 177.071 requiring the administrative approval of a plat or replat.

Pursuant to Florida Statutes § 163.3169(1), for purposes of this procedure, a permit application shall mean only administrative authorizations, approvals, or grants which authorize development of land for any site plan or development plan approval, or any subdivision approval. <u>Applications for development approvals which under law, or the Village's Comprehensive Plan or Land Development Code, require approval by the Planning, Zoning and Design Review Board or the Village Council are not included as Qualifying Application Types</u>.

Applicant's Election to Use Registry Provider. In the event an applicant elects to use a registry provider for review of a Qualifying Application Type, the applicant shall make a written application to the Village. The application shall include, at a minimum:

1. Payment of the Village's application fee (apart from costs to use the registry provider which would be separately calculated).

2. The minimum information the applicant must submit in an application for a permit as defined in s. 163.3169, or for the approval of a plat or replat as the case may be.

3. The completion of the relevant application form developed by the Village.

4. The submission of all documents necessary to allow the provider to complete the review process.

Staff Review of Application. Upon receipt of an application to use a registry provider, Community Development staff shall:

1. Confirm receipt of the application.

2. Review the application for completeness, including that payment has been made, that all information has been provided, and all necessary documents have been submitted. Once staff has verified completeness, the Village shall issue a written notification to the applicant indicating that all required information has been submitted.

3. In the event staff's review of the application to use a registry provider is incomplete or otherwise deficient, the Village shall specify in writing with particularity any deficiencies within 5 business days from the date the application has been submitted. If the Village staff fails to issue a written notification within 5 business days, the application is deemed complete by operation of law without conditions, and the Village must process the application.

4. If the application is deemed deficient, the applicant has 30 days from the date of the notice of deficiency to address the deficiencies by submitting the required information.

Staff Processing of Complete Application to Use Registry Provider.

1. Once Village staff has received an applicant's application and determined it is complete, the Village, aided by the registry provider, must process the application for final action and must approve, approve with conditions, or deny the application within 45 days after the application is found to be complete.

2. If the Village, aided by the registry provider, fails to take final action to approve, approve with conditions, or deny the application within the 45 days, the applicant shall notify the Village in writing.

3. If the Village fails to respond within 10 days, the application is deemed approved by operation of law without conditions, and the applicant is entitled to proceed with the proposed activity or development as though the Village had granted unconditional approval. Approval pursuant to this subsection may not be construed to relieve the

applicant of the obligation to comply with all other applicable federal, state, and local laws, regulations, and Village Codes.

Payment of Costs for Registry Provider. In accordance with Florida Statutes § 163.3169(2)(e) and the cost recovery provisions of the Village's adopted Community Development Fee Schedule, when an applicant elects to use a Qualified Contractor Registry provider, the applicant shall pay to the Village all fees and costs associated with the use of the provider. No permit or development order shall be finally issued prior to all such costs being paid.

Processing of Development or Plat Applications Where Registry Not Used. If an applicant for a permit, plat, or replat is not eligible to use the Village's Qualified Contractor Registry because the application is not a Qualifying Application Type, or because the applicant does not request, or elects not to use the Village's registry program, then the application shall be processed in accordance with the procedures and timelines set forth in Florida Statutes § 166.033(2).