



Fort Myers Beach Town Council

**Diamondhead Beach Resort
2000 Estero Blvd.
Fort Myers Beach, FL 33931**

Amended Agenda

Monday, March 20, 2023

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF FINAL AGENDA**
- V. PUBLIC COMMENT**
- VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**
- VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS**
- VIII. APPROVAL OF MINUTES**
 - A. Town Council - March 6, 2023
- IX. PRESENTATION**
 - A. The Corradino Group
LDC / Comp. Plan Updates
- X. CONSENT AGENDA**
 - A. Resolutions 23-28 and 23-29; State of Local Emergency
Resolutions 23-28 & 23-29 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

XI. PUBLIC HEARINGS

- A. 6240 and 6230 Estero Blvd - Carousel Residential Planned Development (RPD)

2nd Reading and Public Hearing on proposed Ordinance 23-06 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 18-11, AND AMENDING THE SCHEDULE OF USES FOR THE RESIDENTIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 6240 AND 6230 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the second reading and final adoption of the ordinance.

XII. ADMINISTRATIVE AGENDA

- A. RFQ-20-22-AD Ongoing Miscellaneous Professional Services Amendment #1

Adopt Resolution 23-23 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A FIRST AMENDMENT TO THE AGREEMENTS BETWEEN THE TOWN AND THE FIRMS SELECTED UNDER TOWN SOLICITATION RFQ-20-22-AD FOR ONGOING MISCELLANEOUS PROFESSIONAL SERVICES TO CONFORM TO 2 CFR; AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT BY THE TOWN MANAGER; AND PROVIDING AN EFFECTIVE DATE.

- B. Amended and Updated FY22-23 Town Wide Fee Schedule

Adopt Resolution 23-24 entitled: A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING AND IMPLEMENTING, BY REFERENCE, THE FY2022-2023 TOWN WIDE FEE SCHEDULE. UNLESS PROHIBITED BY STATE LAW OR THE TOWN CHARTER, PROVIDING FOR CODIFICATION, CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE

- C. ITB- 23-06-PW- Town Road Signs

Adopt Resolution 23-25; A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ACCEPTING V&H CONSTRUCTION INC. AS THE TOP RANKED RESPONSIBLE AND RESPONSIVE BIDDER TO ITB-23-06-PW "ROAD SIGNS"; APPROVING AN AGREEMENT BETWEEN THE TOWN AND V&H CONSTRUCTION INC. FOR THE INSTALLATION OF NEW TOWN ROAD SIGNS; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE A FINAL AND BEST OFFER AND EXECUTE THE AGREEMENT, AND EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; AND PROVIDING AN EFFECTIVE DATE

- D. RFQ-20-06-AD; On-Going Professional Services for Environmental Assessments & Marine Engineering
Adopt Resolution 23-27; A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS, FLORIDA, APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE ONE YEAR RENEWALS OF THE PROFESIONAL SERVICES AGREEMENTS BETWEEN THE TOWN AND THE ENVIRONMENTAL ENGINEERING FIRMS SELECTED UNDER RFQ-20-06- AD "ENVIRONMENTAL ASSESSMENTS AND MARINE ENGINEERING"; AND PROVIDING AN EFFECTIVE DATE

XIII. FINAL PUBLIC COMMENT

XIV. TOWN MANAGER'S ITEMS

XV. TOWN ATTORNEY'S ITEMS

XVI. COUNCILMEMBERS ITEMS AND REPORTS

- A. Town Council Policies and Procedures
Adopt Resolution 23-30 entitled: A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING AN AMENDED TOWN COUNCIL POLICIES AND PROCEDURES MANUAL; AND PROVIDING FOR AN EFFECTIVE DATE.

XVII. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.



Fort Myers Beach Town Council

Diamondhead Beach Resort
2000 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes

Monday, March 6, 2023

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King, Council Member Veatch and Council Member Woodson.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Vice Mayor Atterholt moved to approve the final agenda with C. and D. pulled from the Consent Agenda; second by Mayor Allers.

Motion carried unanimously.

V. PUBLIC COMMENT

Mary Rose Spalletta, resident, requested Council deny the dune walkover. She was disappointed that the Marine and Environmental Resources Task Force (MERTF) was not meeting on Wednesday. She suggested that the town rebuild up rather than out and that more beach accesses with porta potties be created at the south end. She questioned whether the churches could combine campuses to free up green space or turn one into an amphitheater. She would like a safe bike lane, plastic-free bags at Publix and CVS and amber lights throughout the town. Madeline Boyd, co-owner of the Beach Bar, requested more trash cans and porta-potties at beach accesses.

Jeanne Guzy thanked Council Members and brought up a pool that was purposely filled with debris and a condemned house that had not been removed.

VI. PROCLAMATIONS

- A. Flood Awareness Week
Flood Awareness Week

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Members Veach and Woodson thanked Town staff who were removing dead fish from the beach.

Council Member King congratulated the hard-working staff regarding the recent Senator's Pride award. He acknowledged Ed from Beach Talk Radio and congratulated Tunaskin and Mid-Island Water Sports for their environmental stewardship awards for cleaning up the beach.

Mayor Allers recognized the town staff for cleaning up the beach. He explained that the Senator's Pride award recognized staff and the town for achievements over the last five months.

No items from other members.

VIII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

LPA Member Patrick Vanasse summarized their last meeting, including recommendations for approval regarding live/work use and the dune walkover. He mentioned streamlining the review and hearing process and the upcoming joint LPA meeting. Consensus was reached to adopt a process to put non-controversial items unanimously supported by the LPA on the consent agenda.

A. Bay Oaks Recreational Campus Advisory Board Appointments

Appoint Members to the FY2022-2023 Bay Oaks Recreational Campus Advisory Board (BORCAB)

Beth Cherry, John Dussliere and David Ennen applied for the vacancy. John Dussliere was chosen to fill the vacancy.

Council Member Woodson moved to waive the full-time residency requirement; second by Council Member King.

Motion carried 4-1 with Council Member Veach dissenting.

IX. APPROVAL OF MINUTES

A. Town Council - February 21, 2023

Council Member King moved to approve the minutes; second by Council Member Woodson.

Motion carried unanimously.

X. CONSENT AGENDA

Council Member Veach moved to approve the consent agenda with items C. and D. pulled for discussion; second by Council Member Woodson. Motion carried unanimously.

A. Resolutions 23-18 and 23-19

Resolutions 23-18 & 23-19 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR

SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Veach moved to approve the resolutions; second by Vice Mayor Atterholt. Motion carried unanimously.

B. Resolution 23-17; WCIND Law Enforcement Grant

Resolution 23-17 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE TOWN MANAGER OR DESIGNEE TO APPLY FOR, EXECUTE UPON AWARD, AND ADMINISTER A GRANT FROM THE WEST COAST INLAND NAVIGATIONAL DISTRICT PROGRAM FOR FUNDS IN THE AMOUNT NOT TO EXCEED \$50,000 FOR ADDITIONAL MARINE PATROL AROUND ESTERO ISLAND; AUTHORIZING THE TOWN MANAGER OR DESIGNEE TO EXECUTE RELATED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE

Council Member Veach moved to approve the resolution; Vice Mayor Atterholt. Motion carried unanimously.

C. Recurring Special Event

Recurring Special Event - Approval of a Reconstruction Center

Interim Town Manager Wilkins clarified that the center would be open for vendors to assemble and offer services. Mayor Allers added that he thought the center was a for-profit venture. A gentleman from ICS Materials explained that his group charged vendors for the rental space and they were not making a profit. He said they would ensure the contractors did not price gouge clients. He distributed information included in the packet and noted he would provide a list of vendors for the town.

Vice Mayor Atterholt moved to approve the permit; second by Council Member Veach. Motion carried unanimously.

D. Special Event

Sunset Celebration in Times Square

Ed Ryan described the March 18, 2023, celebration event and noted no food or alcohol would be served. He reported that two new tents and supplies were donated for the MERTF pop-up events and \$4,000.00 was raised to replace the echo art supplies at Lovers Key.

Vice Mayor Atterholt moved to approve; second by Council Member Veach. Motion carried unanimously.

XI. PUBLIC HEARINGS**A. Ordinance 23-04; Pink Shell CPD Amendment**

2nd Reading and Public Hearing on proposed Ordinance 23-04 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 13-23, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 200 AND 275 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the second public hearing and approve CPD amendment ordinance.

Mayor Allers read the title of the ordinance. Town Attorney Herin, Jr. swore in those providing testimony for items A, C, D, E and F. Ex parte communications: no disclosures since the first hearing.

Community Development Planner Sarah Propst reviewed the background of the request as stated on the blue sheet.

Bill Waichulis, Senior Vice President of Operations, indicated that he could not guarantee they would not purchase boats for short-term rentals in the future.

No public comment.

Vice Mayor Atterholt moved to approve Ordinance 23-04 with conditions; second by Mayor Allers.

Motion carried unanimously by roll call vote.

B. Ordinance 23-05; Temporary Placement of Governmental Uses and Mobile Homes in the Town

1st Reading and Public Hearing on proposed Ordinance 23-05 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE PLACEMENT OF TEMPORARY HOUSING AND TEMPORARY GOVERNMENTAL USE FACILITIES IN SPECIFIED ZONING DISTRICTS OF THE TOWN, PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, SUNSETTING OF THIS ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on March 20, 2023 at 9:00 AM

Mayor Allers read the title of the ordinance. Town Attorney Herin, Jr. clarified that this action was to memorialize what had already occurred. He confirmed that they could add language to prevent short-term rentals. Interim Town Manager Wilkins said he would work with the zoning department for guidelines.

No public comment.

Council Member Veach suggested modifying language to allow contractors to reside in RVs temporarily and to administratively allow two RVs per property. Town Attorney Herin, Jr. agreed to add language.

Mayor Allers moved to schedule the ordinance for a second hearing on March 20, 2023, at 9:00 a.m.; second by Council Member Woodson. Consensus was reached to prohibit the use of tents as temporary housing. Motion carried unanimously by roll call vote.

C. Ordinance 23-06; 6249 Estero Blvd - Carousel Residential Planned Development (RPD)

1st Reading and Public Hearing on proposed Ordinance 23-06 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 18-11, AND AMENDING THE SCHEDULE OF USES FOR THE RESIDENTIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 6249 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on March 20, 2023 at 9:00 AM

Mayor Allers read the title of the ordinance. Planner Propst noted that the request was for an amendment to add a rooftop deck and shade structure. She indicated that staff recommended approval with conditions. She added that the advertisement and ordinance had an incorrect address and it would be corrected before the second hearing. Ex parte communications: none disclosed.

Ken Gallander represented the Carousel beach development and noted that he was in full agreement with the conditions imposed.

No public comment.

Council Member Veach moved to move the ordinance to a second reading on March 20, 2023, at 9:00 a.m.; second by Council Member King.

Motion carried unanimously by roll call vote.

D. VAR20220018 - 8180 Lagoon Road

Adopt Resolution 23-20 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENY VARIANCE VAR20220108 TO ALLOW A POOL SETBACK VARIANCE OF ONE-FOOT FROM THE REQUIRED 15 FOOT SIDE STREET SETBACK FOR THE PROPERTY LOCATED AT 8180 LAGOON ROAD; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Planner Propst described the side street setback request of one foot for a pool. Staff recommended denial because it did not meet all the code-required findings. She noted that the LPA recommended approval and the neighbors did not oppose the request. Planner Propst described the permit review process and Town Attorney Herin, Jr. added that there was a 30-day appeal window with all quasi-judicial items. Ex parte communications: Vice Mayor Atterholt - several conversations and emails and Mayor Allers - a couple of drive-bys. No disclosures from other members.

Janelle Schoonover, applicant, stated they signed a contract with Lucas Lagoons at the end of 2019 and they were still trying to get a permit. She commented that changing the design of the pool would not work with the rest of their property. Ed Schoonover added that their neighbors supported their request.

LPA Member Vanasse explained that the LPA supported the variance request because the pool was set back further than the existing home.

Public comment:

Bruce Butcher, resident, supported the request.

Public comment closed.

Vice Mayor Atterholt moved to approve Resolution 23-20; second by Council Member King.

Motion carried unanimously by roll call vote.

E. SEZ-20220120; 6875 Estero Blvd

Resolution 23-21 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/DENYING APPLICATION SEZ-20220120, FOR A SPECIAL EXCEPTION APPROVAL FOR LIVE/WORK USE FOR THE PROPERTY LOCATED AT 6875 ESTERO BOULEVARD; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Planner Jason Smalley reviewed the request for a work/live special exception as stated on the blue sheet. He noted the applicant requested building a second level for their residence, with their business on the first level. Staff reviewed the application and recommended approval with conditions.

Vice Mayor Atterholt congratulated Planner Smalley and the staff for working with the applicant and coming to a sensible outcome. He suggested making the process easier in the comprehensive plan.

Council Member Veach agreed and added that they were working on making the process easier. He questioned if the owners sold the building could new owners could create short-term rentals. Planner Smalley replied that the occupier of the building was required to live in the residence with the business below. Town Attorney Herin, Jr. stated that Council could impose a condition to prevent short-term rentals.

Ex parte communications: Vice Mayor Atterholt - emails and Mayor Allers - drive-bys. No disclosures from other members.

Ruby Pessotti, applicant, described her request and agreed with the conditions. She added that her neighbors in the community supported the design of her building.

No public comment.

Council Member Veach moved to approve Resolution 23-21; second by Council Member Woodson.

Motion carried unanimously by roll call vote.

F. SEZ 20220104 - Texas Hold'em and Squeeze Me Inn Dune Walkover and Boardwalk

Resolution 23-22 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/DENYING SPECIAL EXCEPTION SEZ20220103 TO ALLOW THE USE OF A SHARED DUNE WALKOVER AND BOARDWALK AT 8150 AND 8170 ESTERO BOULEVARD; AND APPROVING/DENYING VARIANCE VAR20220104 TO ALLOW A ONE FOOT VARIANCE FROM THE MAXIMUM WIDTH OF THE STRUCTURE;AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Ex parte communications: Vice Mayor Atterholt - conversations with applicants and others; Council Member Veach - conversations with Brad Cornell from Audubon, numerous constituents and previous iterations of the request; Council Member Woodson - site visit pre and post-Hurricane Ian, watched meetings, conversations with Audubon and many constituents; Council Member King - conversations with numerous people and Mayor Allers - site visit and numerous conversations with people.

Attorney Seth Behn represented the clients and distributed his presentation. He described the history of the case. The presentation started with Low-Density Residential/Recreation; Zoning: Residential Single Family Environmentally Critical.

Kurt Kroemer, applicant, reviewed Sec. 34 of an ordinance regarding dune walkovers being allowed by right. He stated that he bought a beachfront property and wanted access to the beach. He noted that the LPA (Local Planning Agency) recommended approval at 6-1 and asked the Council to approve their request.

Eddie Rood, applicant, clarified that the ponds behind his house were not part of the Gulf and he had access to the beach until a neighbor put up a fence. He noted that the final order was based on facts, not opinions. He reiterated that it was his right to build a walkover and to enjoy his home.

Attorney Behn returned to Current Use: Residential; CWA Boundary; Dune Walkover Design Location; Survey Recertification; Aerials; Beach Restoration Analysis; Special Exception Criteria; Change Conditions; Accessibility Issue; Consistency with the Comprehensive Plan; Code Performance and Locational Standards; Additional Standards; LPA Requirements; Protection of Natural Resources; Compatible with Surrounding Uses; FDEP (Florida Department of Environmental Protection)

Guidance; Dune Management Plan; Lynn Hall Memorial Dune Walkover Improvement Project; Variance Application Standards and Request.

Planner Propst reviewed the special exception and variance requests and noted that staff found that the special exception request did not meet the requirements because there did not appear to be changed or changing conditions, which would make the request appropriate. She indicated that the staff did not have the opportunity to review the plans for the boardwalk and other documents submitted by the applicants on Thursday afternoon. She noted that the proposed dune walkover created a pathway over a lagoon to a critical wildlife area where pedestrians did not usually traverse, rather than an open beach. The request was unlikely to be compatible with the existing uses, which was a critical wildlife habitat for shorebirds. She explained why the variance request for a five-foot wide dune walkover did not meet the requirements per the staff report. Planner Propst indicated it would take a week to review the documents the applicants submitted last Thursday.

Public comment:

Wendy Herron, stated that Mr. Rood was aware of the CWA (Critical Wildlife Area) when he bought his property and the proposed walkover was not open to the public. She felt it was setting a precedent and did not support the request.

Cindy Johnson, resident, pointed out that it was not a dune walkover but a boardwalk over the water. She noted that that section of the boardwalk was closed when nesting storks were present at Corkscrew Swamp. She questioned whether the proposed path would be closed during shorebird nesting season. She described the stressful situation in the area and noted that the FWC (Fish & Wildlife Conservation Commission) instituted further protections for the birds starting in September.

Steve Johnson, resident, described the environmentally critical (EC) zone versus the state-owned CWA. Allowing a 300-foot structure through the EC's natural buffer was wrong; no one wanted to see an unattractive bridge crossing a pristine wildlife area. The basis of the decision should not be a popularity contest but a determination of compliance with the LDC (Land Development Code) and the comprehensive plan. He noted that the Town Council's previous decision trumped the state's DEP permitting ability. He added that it was the Council's responsibility to explain how the case was consistent with the LDC and comprehensive plan if they approved the requests.

Brad Cornell from Audubon Florida, described the Lee Shorebird Stewardship Program and the species of birds on the beach. He noted the development would hurt the species. He asked to be recognized as a party to the quasi-judicial proceeding to present on Audubon's behalf and question witnesses.

Rochelle Streker, Southwest Florida Shorebird Manager for Audubon, worked on the beach and was there to answer questions from Mr. Cornell. Town Attorney Herin, Jr. stated that it was up to the Council to decide whether Audubon had party status at the hearing. He noted that case law

suggested that groups for individuals had party status and could make a more detailed presentation like the applicant. Attorney Behn agreed with granting them time to present further evidence, but he objected to the back and forth to question witnesses. He noted that Audubon was a named party when they sued the applicant regarding the environmental permits. Town Attorney Herin, Jr. explained the legality of party status and noted litigation was possible regardless of the Council's decision. He did not think allowing Audubon party status would result in litigation regarding standing. He added that Audubon could state their questions and then Council could decide on party status.

Attorney Behn stated that if Audubon were given party status, he would request the right to cross-examine witnesses. Town Attorney Herin, Jr. responded that was his right.

A majority of members agreed to give Audubon party status and Town Attorney Herin, Jr. recommended continuing with public comment before making decisions.

Larry DenHerder, resident, listed all the reasons he supported the project. Barbara Hill, resident, commented that the long bridge would be built on public land and requested that they deny the application. She added that the FDEP order ultimately deferred to the beach. She explained that no dunes in the area required a walkover and questioned how they could allow the owners the right to build an unprecedented private structure on that part of the beach. She questioned what would happen when the beach changed and whether others would be allowed to do the same. She described threatening wildlife species and urged denial of the request.

Bruce Butcher, resident, described the south end and the mucky lagoon. He commented that the birds that nested in the area were not near the walkover. John Cameron, resident, supported the request for a beach walkover and noted that if the town filled in the area with sand, they would not be there today.

Dennis Prock, resident, was familiar with the beach and stated the birds did not nest in front of the area because of the mangroves. He reviewed his history with the FWC and FDEP and said he had a permit to trim mangroves. He noted that traffic in the CWA was ongoing and felt that a designated area would help the environment. He supported the request.

LPA Member Vanasse noted they based their decision on the information and testimony provided. The LPA felt the final order by the FDEP met the environmental and public interest tests, and the majority believed that it met all the criteria and recommended approval.

Mary Rose Spalletta, resident, felt that the people who bought the land knew what they were facing and the structure was a boardwalk, not a dune walkover. Public use did not mean a handful of houses and she thought it was a land-grab issue by the applicants. She stated that the entire island was very environmentally sensitive and structures did not protect the beach and the boardwalk would attract more people. She felt they should deny the request because the town was the beach steward.

Mr. Cornell thanked Council for allowing Audubon party status and Audubon appreciated the years-long relationship with the town. Audubon agreed with the majority of the staff report but had further questions. He questioned whether staff reaffirmed their findings to deny the request. Planner Propst replied affirmatively. Mr. Cornell asked whether reviewing the documents submitted last Thursday would change their recommendation of denial.

Planner Propst responded that she thought the applicants provided the requested additional documentation, but she did not know that it would cause them to conclude that staff would say that they recommended approval based on the criteria. Mr. Cornell questioned what was in the documents.

Planner Propst responded that the packet was 55 pages and she did not recall everything included, but a letter submitted on Friday stated that all documents requested by the town were submitted.

Mr. Cornell requested that Ms. Streker answers questions. Ms. Streker reviewed her education and experience as the Southwest Florida Shorebird Manager and her involvement with other conservation groups. She described the areas she was responsible for managing. Mr. Cornell shared a letter from the FWC to the DEP with Ms. Streker regarding the impact of the proposed structure on birds in the area and increased pedestrian traffic. Ms. Streker shared her concerns about the Little Estero CWA and the private land surrounding the area. She noted that the area was crucial to the nesting birds and agreed with the letter. She described the FWC's shore mapper tool and noted that several species were not included in the map. She explained that she was concerned regarding the Wilson's Plover and Snowy Plover chicks because they foraged in the lagoon. She listed the protected species that utilize the habitat year-round. Mr. Cornell entered the letter from the FWC into the record.

Council Member King questioned what would happen if the private property owners decided not to participate with the FWC. Ms. Streker stated that the birds were protected regardless of the landowners. Council Member King questioned how far the proposed structure was from the roped-off area. Ms. Streker replied that in 2022, there were Snowy Plovers within a couple of feet of the proposed structure and the Colonial nesting was about 300 feet away.

Mr. Cornell discussed special exception number eight and the applicant's other options for beach access without building the proposed structure. He described harm to the species and the environment and Audubon requested that the Council deny the request. Ms. Streker described the CWA and noted the intent was to protect all species of birds.

Attorney Behn asked Mr. Cornell several questions concerning his and the FWC's involvement in a previous Audubon hearing. He asked Planner Propst questions regarding her experience with the town and whether she agreed with the dimensional criteria of the walkover. She reiterated that she was unable to review all the documentation. Attorney Behn encouraged the Council to review all the materials in front of them and he stood behind his testimony.

Council Member Veach questioned how he could call a 300-foot structure a dune walkover since it ended before the dune. Attorney Behn replied that the

code did not clearly distinguish between walkover and boardwalk and that the area was a dune beach system. He added that the state would tell them where to end the structure. Council Member Veach brought up safety issues concerning the lack of guardrails, especially for someone with mobility issues. Attorney Behn responded that it was part of their justification for the five-foot width and that it was a private facility. Council Member Veach questioned whether he was making an ADA claim that it was a compliance issue. Attorney Behn replied that the ADA issue was undecided and they were there under the zoning code standards. He added it was a fact that one of the applicants had trouble getting around. Council Member Veach questioned ongoing ownership issues with the state. Attorney Behn responded that they were moving forward under the assumption that the state owned the land and the applicants would continue to lease from the state. Council Member Veach brought up the structure being detrimental to the environment.

Attorney Behn disagreed and referred to the FDEP findings at the hearing. Council Member Veach pointed out that the former pier at the Leonardo Arms fell apart and created an obstruction. He wondered whether they would remove part of the structure if the beach eroded and Attorney Behn agreed the request was acceptable.

Council Member Woodson questioned whether Environmental Project Manager Chadd Chustz had any concerns. Project Manager Chustz did not disagree with the accretion rate as stated in the FDEP report. He acknowledged that he spoke with Mr. Rood regarding minimizing the structure.

Interim Town Manager Wilkins was sworn in and described his experience with the Deepwater Horizon disaster regarding negative impacts on the birds and environment.

Council Member Veach questioned whether the League of Cities insurance would cover the town if someone were to sue the town if the request was approved. Town Attorney Herin, Jr. replied negatively and explained why. He commented that the cost to the town regarding the applicants was less than \$10,000.00. Council Member King remarked that when he checked, the cost was over \$104,000.00 plus the cost of the annual liability insurance of \$300,000.00. Town Attorney Herin, Jr. responded that some of the expenses occurred before he was employed by the town. Council Member Veach questioned what it cost the town to defend the TPI lawsuit and Town Attorney Herin, Jr. thought it was around \$30,000.00 or less.

Public comment closed.

Town Attorney Herin, Jr. reviewed the quasi-judicial process and noted it was up to Council to make a decision. He commented that there was an initial court action that stated the property owners had to go through the special exception process to obtain approval to build the structure.

Council Member Veach brought up the conflict between the LPA and staff, compatibility with the environment without causing damage and the fact that Audubon spent time and effort advocating for the birds. He felt the request failed the test.

Council Member Woodson noted previous instances where the LPA and staff disagreed.

Council Member King understood both sides of the issue.

Mayor Allers read a portion of the final order regarding the boundaries of the CWA.

Council Member Veach understood the private property rights issue but noted that someone was building a private structure for private use on public property. Town Attorney Herin, Jr. remarked that the state gave the applicants the right to build the structure across state land. He questioned whether the Council wanted to impose conditions if they approved the request and whether Council wanted the applicants to reiterate and confirm their prior public statements regarding the dismissal of pending litigation and threats of litigation.

Council Member King moved to approve Resolution 23-22; second by Council Member Woodson.

Motion carried 3-2 by roll call vote with Vice Mayor Atterholt and Council Member Veach dissenting.

Eddie Rood, applicant, stated that they would not appeal the ADA decision and they were willing to accept the lease with the state and drop the ownership lawsuit and the Bert Harris issue. He thanked Council.

XII. ADMINISTRATIVE AGENDA

No items.

XIII. FINAL PUBLIC COMMENT

No comment.

XIV. TOWN MANAGER'S ITEMS

Interim Town Manager Wilkins stated that Steve Poposki accepted the Director of Community Development position. The emergency berm project was delayed until early May. Leadership Lee was meeting in Town Hall on Friday. Ten tons of dead fish have been removed so far, with three more tons scheduled to be removed today and the stormwater system cleanout was underway.

XV. TOWN ATTORNEY'S ITEMS

No items.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Vice Mayor Atterholt reported that the beach school ad hoc group was trying to assemble language for an interlocal agreement. He asked that the Council give the Town Attorney and interim Town Manager the authority to move forward with negotiations and bring back a product for the meeting on March 20, 2023. Mayor Allers was concerned about the Bay Oaks project and reimbursement from FEMA,

but he supported negotiations. Town Attorney Herin, Jr. stated that they would have to determine how the existing interlocal agreements with the school board would be affected by new agreements. Council Member Veatch questioned whether Council could receive a detailed presentation on the issue by Thursday's meeting. Vice Mayor Atterholt responded that they were waiting for a response from the school board, but he would provide whatever information was available. Council Member King indicated the MPO (Metropolitan Planning Organization) still needed a citizen to participate in the meetings.

Mayor Allers noted that Commissioner Ruane received approval from the County Commission to start the Lee County Recovery Task Force with Mayors or elected officials. He had concerns about participating due to Sunshine Laws and restrictions regarding contacting other officials. Council Member Veatch volunteered to participate, and Council Member Woodson volunteered to fill the alternate position.

No items from other members.

XVII. ADJOURNMENT

Council Member King moved to adjourn; second by Mayor Allers.
Motion carried unanimously.

The meeting was adjourned at 2:42 p.m.

1. **Requested Motion:**

Meeting Date: March 20, 2023

Resolutions 23-28 & 23-29 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Extending the local state of emergency provides the Town with the needed flexibility to respond to the catastrophic disaster caused by Hurricane Ian and maintains the Town's eligibility for federal and state reimbursement funding for the costs of recovery.

What the action accomplishes:

Extends the Town's Declaration of state of local emergency.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Hurricane Ian has caused a catastrophic disaster in the Town, causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas. Approving and ratifying these Resolutions will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 22-34.

Attachments:

1. 23-28, Extending Declaration of Local Emergency 3.20.23-3.26.23
2. 23-29, Extending Declaration of Local Emergency 3.27.23-4.2.23

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Keith Wilkins , Interim Town Manager

Created/Initiated - 3/15/2023
Approved - 3/15/2023
Approved - 3/16/2023
Final Approval - 3/17/2023

RESOLUTION 23-28

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 252, *Florida Statutes*, authorizes the waiver of procedures and formalities, otherwise required of municipalities, and to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in the event of a state of emergency; and

WHEREAS, Section 252.38 *Florida Statutes*, specifically authorizes municipalities to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions required by law pertaining to performance of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community such as but not limited to entering into contracts; incurring obligations; employing permanent and temporary workers; utilizing volunteer workers; renting of equipment; acquiring and distributing supplies, materials and facilities with or without compensation, and appropriating and expending public funds; and

WHEREAS, the Town of Fort Myers Beach, Florida (Town), pursuant to its inherent home rule powers under Florida Constitution and otherwise has adopted certain emergency procedures set forth in Chapter 12, Article II – “Emergency and Disaster Planning” of the Code of Ordinances, Town of Fort Myers Beach, Florida (“Code”), and is otherwise authorized to activate the Town’s emergency plan; and

WHEREAS, the State of Florida and Lee County have declared a state of local emergency due to the catastrophic impacts of Hurricane Ian to Lee County; and

WHEREAS, as defined in the Code, Hurricane Ian has caused a catastrophic disaster in the Town causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas; and

WHEREAS, Section 12-21 of the Code provides that where it is not possible to obtain a quorum to convene an emergency meeting to proclaim a state of local emergency, or extend or rescind such a proclamation, the Mayor, Vice-Mayor, or Town Manager are authorized to proclaim, extend, or rescind a local state of emergency.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing whereas clauses are true and correct and hereby adopted as the legislative and administrative findings of the Town Council and made a specific part of this Resolution; all exhibits attached hereto are incorporated herein and made a specific part of this Resolution.

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 20th day of March 2023.

Section 3. The amendment and extension of the proclamation of a state of local emergency set forth in Resolution 22-35 is an emergency measure necessary for the protection of the public safety, due to the catastrophic disaster caused by Hurricane Ian.

Section 4. As provided in Section 252.38(3)(a), *Florida Statutes* and Chapter 12, Article II of the Code, the Town hereby waives the procedures and formalities otherwise required by law of a municipality as set forth in said State law and the Code.

Section 5. The Town Manager or designee is hereby designated as the declaring official for purposes of implementing the emergency and disaster regulations of the Town. The Town Manager or designee will exercise all powers necessary to protect the health and safety of the public set forth in any Executive Order that may be issued by the Governor, Chapter 252, Fla. Stat., and Chapter 12, Article II of the Code. This proclamation also authorizes the Town Manager or designee to utilize government employees and volunteers to assist in securing private property to minimize the overall damage to the Town.

Section 6. The state of local emergency shall remain in effect until terminated as provided in Section 12-21 of the Code. However, the mandatory curfew and prohibition regarding the use of fresh water supplied by the County or local water company for any purpose other than cooking, drinking, or bathing set forth in Section 12-24 of the Code are hereby waived at this time.

Section 7. As provided in Section 12-21(a) of the Code, the Mayor, Vice-Mayor, or Town Manager may extend the proclamation of a state of local emergency as the "responsible official" of the Town.

Section 8. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. Any scrivener or typographical errors that do not affect intent of this Resolution may be corrected with notice to and authorization of the Town Attorney and Town Manager without further process.

Section 10. If any clause, section, other part, or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 11. This Resolution shall become effective upon the signature of the Mayor.

This Resolution was ADOPTED this 20th day of March 2023 upon the signature of the Mayor at 9:00 a.m.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of March 2023.

RESOLUTION 23-29

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 252, *Florida Statutes*, authorizes the waiver of procedures and formalities, otherwise required of municipalities, and to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in the event of a state of emergency; and

WHEREAS, Section 252.38 *Florida Statutes*, specifically authorizes municipalities to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions required by law pertaining to performance of public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community such as but not limited to entering into contracts; incurring obligations; employing permanent and temporary workers; utilizing volunteer workers; renting of equipment; acquiring and distributing supplies, materials and facilities with or without compensation, and appropriating and expending public funds; and

WHEREAS, the Town of Fort Myers Beach, Florida (Town), pursuant to its inherent home rule powers under Florida Constitution and otherwise has adopted certain emergency procedures set forth in Chapter 12, Article II – “Emergency and Disaster Planning” of the Code of Ordinances, Town of Fort Myers Beach, Florida (“Code”), and is otherwise authorized to activate the Town’s emergency plan; and

WHEREAS, the State of Florida and Lee County have declared a state of local emergency due to the catastrophic impacts of Hurricane Ian to Lee County; and

WHEREAS, as defined in the Code, Hurricane Ian has caused a catastrophic disaster in the Town causing extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas; and

WHEREAS, Section 12-21 of the Code provides that where it is not possible to obtain a quorum to convene an emergency meeting to proclaim a state of local emergency, or extend or rescind such a proclamation, the Mayor, Vice-Mayor, or Town Manager are authorized to proclaim, extend, or rescind a local state of emergency.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing whereas clauses are true and correct and hereby adopted as the legislative and administrative findings of the Town Council and made a specific part of this Resolution; all exhibits attached hereto are incorporated herein and made a specific part of this Resolution.

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 27th day of March 2023.

Section 3. The amendment and extension of the proclamation of a state of local emergency set forth in Resolution 22-35 is an emergency measure necessary for the protection of the public safety, due to the catastrophic disaster caused by Hurricane Ian.

Section 4. As provided in Section 252.38(3)(a), *Florida Statutes* and Chapter 12, Article II of the Code, the Town hereby waives the procedures and formalities otherwise required by law of a municipality as set forth in said State law and the Code.

Section 5. The Town Manager or designee is hereby designated as the declaring official for purposes of implementing the emergency and disaster regulations of the Town. The Town Manager or designee will exercise all powers necessary to protect the health and safety of the public set forth in any Executive Order that may be issued by the Governor, Chapter 252, Fla. Stat., and Chapter 12, Article II of the Code. This proclamation also authorizes the Town Manager or designee to utilize government employees and volunteers to assist in securing private property to minimize the overall damage to the Town.

Section 6. The state of local emergency shall remain in effect until terminated as provided in Section 12-21 of the Code. However, the mandatory curfew and prohibition regarding the use of fresh water supplied by the County or local water company for any purpose other than cooking, drinking, or bathing set forth in Section 12-24 of the Code are hereby waived at this time.

Section 7. As provided in Section 12-21(a) of the Code, the Mayor, Vice-Mayor, or Town Manager may extend the proclamation of a state of local emergency as the "responsible official" of the Town.

Section 8. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. Any scrivener or typographical errors that do not affect intent of this Resolution may be corrected with notice to and authorization of the Town Attorney and Town Manager without further process.

Section 10. If any clause, section, other part, or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

Section 11. This Resolution shall become effective upon the signature of the Mayor.

This Resolution was ADOPTED this 20th day of March 2023 upon the signature of the Mayor at 9:00 a.m.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day of March 2023.

1. **Requested Motion:**

Meeting Date: March 20, 2023

2nd Reading and Public Hearing on proposed Ordinance 23-06 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 18-11, AND AMENDING THE SCHEDULE OF USES FOR THE RESIDENTIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 6240 AND 6230 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the second reading and final adoption of the ordinance.

Why the action is necessary:

The maximum height limit and approved uses are codified within the ordinance of the Residential Planned Development. In order to develop uses or exceed the height limit, an amendment to the RPD is required.

What the action accomplishes:

Allows the property owner to develop a rooftop deck above the roofline of the approved building.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

5. **Background:**

The Carousel multifamily project, approved as Resolution 18-11, is requesting the addition of a rooftop deck and an increase in the maximum height permitted within the development standards of the planned development. The maximum height does not change the height of the building, but allows for the use of the roof for a roof deck, which is above the maximum height originally permitted in the original ordinance.

Attachments:

1. Ordinance 23-06
2. Staff Report
3. Exhibit A
4. Exhibit B Master Concept Plan
5. Exhibit C 18-11, DCI17-0008 Carousel Inn RPF
6. Exhibit D Application & Supporting Docs
7. Exhibit E Rendering
8. Exhibit F Postcards

Financial Impact:

6. **Alternative Action**

Amend language or add conditions and approve the request.

7. **Management Recommendations:**

Approve

8. Recommended Approval:

Sarah Propst, Planning & Zoning
Steve Poposki, Community Development Director
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Keith Wilkins , Interim Town Manager

Created/Initiated - 3/14/2023
Approved - 3/14/2023
Approved - 3/14/2023
Approved - 3/14/2023
Final Approval - 3/17/2023

ORDINANCE 23-06

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 18-11, AND AMENDING THE SCHEDULE OF USES FOR THE RESIDENTIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 6240 AND 6230 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Carousel Beach Redevelopment LLC ("Applicant"), the owner of the property generally located at 6230 & 6240 Estero Blvd. and identified by STRAP numbers 33-46-24-W3-00013.0020 & 33-46-24-W3-00013.0030 ("Property"), filed an application to amend the Property's Residential Planned Development ("RPD") to allow rooftop shade structures to extend no more than 10 feet above the allowed roof height of 45 feet above base flood elevation; and

WHEREAS, the Property is in the Mixed Residential and Recreation Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach, and is under common control of the Applicant as listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on January 18, 2023, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 6-0 to recommend approval of the CPD amendment with conditions, and

WHEREAS, on March 6, 2023 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the Fort Myers Beach Land Development Code ("LDC"); and

WHEREAS, the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on March 20, 2023; at which time the Town Council gave full and complete consideration to the request of the Applicant,

the recommendation of the LPA, the recommendation of staff, including the consideration and findings in the staff report, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, the Town Council finds the proposed RPD amendment with conditions of approval are **consistent/not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested zoning amendment **does/does not** meet the requirements of the Town Comprehensive Plan and LDC and approving the request to allow accessory rooftop shade structures and an additional 10 feet of height above the allowed 45 feet above base flood elevation. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES/DENIES** the requested amendment to the RPD zoning of the Property.

Section 3. Town Ordinance 18-11 is repealed and replaced by this Ordinance and the schedule of uses, deviations and conditions of approval for the Property's RPD set forth in Exhibit A, attached hereto and incorporated herein by this reference is approved.

Section 4. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 5. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 9. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 10. This Ordinance will take effect immediately upon adoption by the Town Council.

THE FOREGOING ORDINANCE was adopted by the Town Council upon a motion by _____ and seconded by _____, and upon being put to a vote, the result was as follows:

DULY PASSED AND ADOPTED on this ____ day of March 2022.

Dan Allers, Mayor _____
Jim Atterholt, Vice Mayor _____
John R King, Council Member _____
Bill Veach, Council Member _____
Karen Woodson, Council Member _____

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

John R. Herin, Jr., Town Attorney

Exhibits

Exhibit A Schedule of Conditions, Uses and Deviations
Exhibit B Master Concept Plan



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: PD Amendment

CASE NUMBER: MCP-20220100

CASE NAME: 6230 and 6240 Estero Boulevard; requesting an amendment to the use table and maximum permitted height for an existing residential PD (approved as a Master Concept Plan on June 18, 2018 and Ordinance 18-11) to allow accessory use of decking on the rooftop to support a private outdoor living/amenity area with shades and canopies extending no more than additional 10 feet.

TOWN COUNCIL
2nd HEARING DATE: March 20, 2023 at 9 AM
1st HEARING DATE: March 6, 2023 at 9 AM

LPA
HEARING DATE: January 18, 2023 at 9 AM

STAFF
RECOMMENDATION: APPROVAL of the proposed accessory use and additional height request

**PREPARED/
SUBMITTED BY:** Jason Smalley/ Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Matthew Arminio/ Carousel Beach Redevelopment LLC

Request: Request for an amendment to the use table and maximum permitted height for an existing residential PD to allow accessory use of decking on the rooftop to support a private outdoor living/amenity area with shades and canopies extending no more than additional 10 feet.

Subject property: See attached site plan

Physical Address: 6230 and 6240 Estero Boulevard

STRAP #: 33-46-24-W3-00013.0020 and

33-46-24-W3-00013.0030

FLU: Mixed Residential and Recreational

Zoning: Residential Planned Development (RPD) and
Environmental Conservation (EC)

Adjacent zoning and land uses:

North: COMMERCIAL RESORT (CR)
Resort

South: RESIDENTIAL MULTI-FAMILY (RM)
Condominium complex

East: COMMERCIAL BOULEVARD (CB)
Restaurant

West: Gulf of Mexico
Open Space

II. BACKGROUND AND ANALYSIS

Background:

Carousel Beach Redevelopment LLC, owner of 6230 and 6240 Estero Blvd, Carousel Inn, is requesting an amendment to the existing Master Concept Plan, resolution 18-11 (Exhibit B), to allow two changes:

- 1) To allow accessory use of decking on the rooftop to support a private outdoor living/amenity area, and;
- 2) To increase the maximum permitted height of 45 feet above base flood elevation to allow shades and canopies extending no more than additional 10 feet on rooftop decking.

On June 18, 2018, the Fort Myers Beach Town Council approved the subject MCP, Carousel Inn, and adopted an ordinance (ordinance no. 18-11) to allow a two phased, 12-unit multifamily development with conditions and deviations.

The existing approved Master Concept Plan allows the following uses:

Residential

Principal:

Dwelling units: multi-family, limited to twelve (12)(Phase 1 maximum 4 units, Phase 2 maximum 8 units)
Storage Shed <100 sq. ft.
Recreation Facility, Private on -site

Accessory (for occupants and guests only):

Garages (under building) Gazebos
Patios
Pools (2)
Pool Deck(S)
Cabana
Screen Enclosure (balconies) Fence
Walls
Dumpster Enclosure
Tot lot

Lodging

Rental of any permitted dwelling unit to a single family for periods of one week or longer

Office

Administrative Office (to support the Association)
Home Occupation (no outside help)

Civic

Public Beach Access
Essential Services
Hidden Path
Essential Service
Equipment

Analysis:

The applicant proposes an accessory use of decking to utilize the roof of the existing building as an outdoor living and amenity area. The access will be limited to the residents and their guests, and the proposed use will provide an outdoor experience with rooftop views of the Gulf and town. This rooftop amenity area will consist of the following:

- Decorative decking, extending above the decking by more than 10 feet,
- Sitting and lounging areas,
- Landscaping/landscape planters,
- Fire pits and other patio/deck accessories,
- Deck/patio umbrellas, shade sails/canopies, and/or
- Specialized ambient and accent lighting, and
- Pergola, with no shade or
- Architecturally integrated privacy walls between the
- sail/canopy supports

outdoor living/amenity area
and building infrastructure

(AC units, etc.).

The existing multi-family structure is 44'-10" above the base flood elevation. The Applicant is requesting additional height to allow shades and canopies extending no more than additional 10 feet on rooftop decking.

At this time, Applicant has proposed no commercial grade amplified sound system, outdoor kitchen or grill, water features, splash pool or whirlpool, or bathrooms for the rooftop amenity area. A rendering of the rooftop outdoor living/amenity area is provided as Exhibit D.

The proposed accessory use of decking not only repurposes the roof for recreation, but also, help reduce carbon footprint of the project by introducing landscaping on the roof. This change will, therefore, make the project more environment friendly.

Neighborhood Compatibility:

The proposed addition of decking on roof as an outdoor amenity area, will likely have little impact on adjacent uses and will not likely cause any additional negative impacts.

Considerations, Findings and Conclusions:

LDC Sec. 34-85 and 34-216 sets forth the required findings and conclusions for the approval of a Planned Development Ordinance Amendment:

Sec. 34-85. Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

(1) Whether there exists an error or ambiguity which must be corrected.

There is no error or ambiguity regarding the allowed uses for this development.

(2) Whether there exist changed or changing conditions which make approval of the request appropriate.

Decking on the roof and additional height of 10 feet for shade and canopy structures, will allow the Applicant multi-use of the roof as an outdoor living and amenity area for its residents and their guests. This will also enhance the user experience via views of the Gulf and the town.

(3) The impact of a proposed change on the intent of this chapter.

No additional impact of the proposed accessory use and height is anticipated.

(4) The testimony of any applicant.

To be heard at the public hearing.

(5) The recommendation of staff and of the local planning agency.

Provided in this staff report and associated presentation.

(6) The testimony of the public.

To be heard at the public hearing.

(7) Whether the request is consistent with the goals, objectives, policies, and intent, and with the densities, intensities, and general uses as set forth in the Fort Myers Beach Comprehensive Plan.

This proposed amendment is consistent with the goals, objectives, policies and intent of the Comprehensive Plan.

(8) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.

The proposed uses meet or exceed all environmental quality and creation of nuisance performance standards and locational standards.

(9) Whether urban services are, or will be, available and adequate to serve a proposed land use change.

Urban services are available and adequate for these uses.

(10) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.

The request will not cause any damage to the environment or natural resources.

(11) Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.

The proposed uses are compatible with existing uses and will not cause damage, nuisance or other detriment.

(12) Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

The proposed uses are not anticipated to have any effect on transportation facility capacity.

The request is in compliance with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code.

Sec. 34-216. The recommendation made to the town council must be supported by the guidelines set forth in Sec. 34-85 of this chapter. In addition, the findings must address whether the following criteria can be satisfied:

a. The proposed use or mix of uses is appropriate at the subject location;

The proposed decking will be limited to the roof of the existing building with access restricted to the residents and their guests. The proposed accessory use of decking not only repurposes the roof for recreation, but also, help reduce carbon footprint of the project by introducing landscaping on the roof. This change will, therefore, make the project more environment friendly.

b. Sufficient safeguards to the public interest are provided by the recommended special conditions to the concept plan or by other applicable regulations;

Conditions have been added to safeguard the public interest.

c. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development;

The proposed conditions are related to the visible impact of the use to the beach, from the right of way and any noise concerns associated with the proposed accessory use adjacent to residential properties.

d. The proposed use meets all specific requirements of the comprehensive plan that are relevant to the requested planned development, such as the following:

1. Policies 4-B-4 and 4-C-3 on commercial uses in the "mixed residential" category.

The proposed use is a minor modification to the existing multi-family use. The impacts of the decking will be extremely minor because it will be located on the roof of the existing building, and will be accessible only to the residents and their guests. There are no proposed changes to the height of the building

III. RECOMMENDATION

Staff finds that the amendment to the Master Concept Plan meets the required findings and conclusions for the approval of a Planned Development Ordinance Amendment found in Sec. 34-85 and 34-216 of the land development code. At the January 18, 2023 LPA Hearing, the LPA recommended approval of the request with the addition of a condition that the rooftop shade structures may not be enclosed.

Staff recommends approval of MCP-20220100 to allow accessory use of decking on the rooftop to support a private outdoor living/amenity area with shades and canopies extending no more than additional 10 feet with the following conditions.

IV. CONDITIONS OF APPROVAL

1. The terms and conditions of all previous resolutions shall continue in full force except as expressly altered by this amendment.
2. All development must be consistent with the Master Concept Plan (MCP) titled "Carousel Inn" and marked with a revision date of June 18, 2018, attached as Exhibit A.
3. The Applicant must provide a floor plan for the layout of the roof for Town review that is in compliance with the approved MCP of Fort Myers Beach's LDC.
4. An exterior lighting plan that meets the lighting standards found in Chapter 34, Article IV Supplemental Regulations, Technical Standards for Lighting, must be submitted to the Town of Fort Myers Beach and approved. All lighting shall be sea turtle compliant and consistent with all local, state, and federal requirements.

V. APPROVED DEVIATIONS

Amending the deviation to the height limit specified within the RPD approval Ordinance. The amendment to the height is for a roof deck only. No changes to the building height are permitted.

Staff Report Exhibits:

- A – List of Conditions, Uses and Deviations
- B – Master Concept Plan
- C – Ordinance 18-11
- D – Application Documents
- E – Rendering of the Rooftop Amenity area
- F – Letters to Adjacent Properties

EXHIBIT A
Schedule of Conditions, Uses and Deviations

CONDITIONS

1. The development of the project must be substantially consistent with Master Concept Plan (MCP) entitled Carousel Inn RPO Master Concept Plan received as part of the "response to insufficiency letter," which is dated March 29, 2018. The development must comply with all current requirements of the Ft. Myers Beach Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation or condition as part of this residential planned development and MCP. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.
2. All conditions and approvals included with this MCP approval replace any previous approvals, including, but not limited to, all conditions and MCP or exhibits related to Resolution 05-10 and Resolution 18-11.
3. The MCP boundary shall include the area designated for dune restoration, but remain zoned EC. The Schedule of Uses does not apply to the EC and dune restoration area. The following provisions apply to the dune restoration area:
 - a. A dune walkover for both the public access area and the owner's access may be required as part of the final dune restoration plan and are permitted as part of the MCP approval. Final design and location approval will be given by the Community Development Director based on compliance with local regulations. The proposed dune restoration detail provided in the MCP is not of sufficient detail to be approved at this time.
 - b. Any dune walkovers shall be designed to be compatible with each other and the project. Prior to issuance of any temporary or Certificate of Completion or Occupancy for the project, the dune restoration and walkover(s) must be constructed.
 - c. Plant quantities must be calculated on minimum 1-gallon container size plants, 3-foot on center. Plant quantities may be adjusted when larger container size plants are used.
 - d. All plants shall be installed and maintained consistent with the Town's code and best management practices for dune restoration, including temporary irrigation.

4. The following uses apply to this project:

Schedule of Uses

Residential

Principal:

Dwelling units: multi-family, limited to twelve (12)(Phase 1 maximum 4 units, Phase 2 maximum 8 units)
Storage Shed <100 sq. ft.
Recreation Facility, Private on -site

Accessory (for occupants and guests only):

Garages (under building) Gazebos
Patio
Pools (2)
Pool Deck(S)
Cabana
Screen Enclosure (balconies) Fence
Walls
Dumpster Enclosure
Tot lot
Decking on rooftop and unenclosed rooftop shade structures

Lodging

Rental of any permitted dwelling unit to a single family for periods of one week or longer

Office

Administrative Office (to support the Association)
Home Occupation (no outside help)

Civic

Public Beach Access
Essential Services
Hidden Path
Essential Service Equipment

5. Prior to commencement of Phase 2, the property owner will combine the property into one lot of record in accordance with LDC Section 10-217 and record the requisite deed.
6. Prior to issuance of a local development order for the project, the property owner will execute and record the appropriate legal instrument creating the five (5) foot wide perpetual pedestrian beach access easement in a form acceptable to the Town Attorney, and as indicated on the MCP. The easement shall be recorded prior to Town approval of a temporary certificate of occupancy. The ultimate design of the beach access will be agreed upon by the Community Development Director and the property owner prior to or during the development order review process. Improvements will be consistent with

all applicable ADA requirements. The beach access shall contain flags and public access signage and be numbered, a bollard rope shall be placed at the beach access along the Outrigger property line.

7. The storage shed shall be limited to a disposable structure, built with flood resilient materials, unfinished inside, and less than 100 square feet, to be used for storage only.
8. If the project and/or phases are not completed within the timeframes established ins. 34-220 (2) a and b, then the Town reserves its right to complete a rezoning to an appropriate district.
9. Approval of this zoning request does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Fort Myers Beach Comprehensive Plan ("Plan") and Land Development Code. Where deviations and conditions do not address specific issues, any local development order shall address requirements in place at the time of submittal.
10. Any violation of the RPD conditions of approval or deviations on the part of the applicant shall constitute an appealable to special magistrate \$500 per day per incident civil violation.
11. Prior to filing a development order for phase 2, the applicant will confirm with Lee County whether subject property is appropriate location for transportation stop structure. If appropriate, the development order shall include a transit stop structure. If County plans do not include a transit stop, this condition is null and void.
12. All development must be consistent with the Master Concept Plan (MCP) titled "Carousel Inn" and marked with a revision date of June 18, 2018, attached as Exhibit A.
13. The Applicant must provide a floor plan for the layout of the roof for Town review that is in compliance with the approved MCP of Fort Myers Beach's LDC.
14. An exterior lighting plan that meets the lighting standards found in Chapter 34, Article IV Supplemental Regulations, Technical Standards for Lighting, must be submitted to the Town of Fort Myers Beach and approved. All lighting shall be sea turtle compliant and consistent with all local, state, and federal requirements.

DEVIATONS

Rezoning to an RPD requires that the building placement, size, design, and all other property development regulations shall be the same as for the RM zoning district, unless the zoning resolution specifies otherwise. The MCP applied to this property includes one

deviation, which was previously approved with Resolution 05-10 and the applicant has revised the MCP and requested a deviation to that approved deviation.

1. Deviation from Table 34-3, which limits stories to three and height to 30 feet, and from previously approved deviation (Res 05-10) to limit stories to four and height to 45 feet above base flood elevation; to allow a limitation of five stories and 45 feet in height above base flood elevation. Unenclosed, uninhabitable shade structures on the rooftop are permitted no more than 10 additional feet above the 45 feet primary structure height.

DEVELOPED BY:
6240 HOLDINGS, LLC.
174 WEST STREET, #212
LITCHFIELD, CT 06759



RWA
ENGINEERING

Florida Certificates of Authorization EB 7663 LB 6952
6610 Willow Park Drive, Suite 200 | Naples, FL 34109
Office: 239.597.0575 Fax: (239) 597-0578
www.consult-rwa.com

CLIENT:	6240 HOLDINGS, LLC.
PROJECT:	CAROUSEL
TITLE:	COVER SHEET

DATE: APR, 2018			DESIGNED: MCP		
SEC: 33	TWP: 46	RGE: 24E	DRAWN: DW		
PROJECT NO.: 030020.01.P0					
SHEET NUMBER: 1 OF 6					

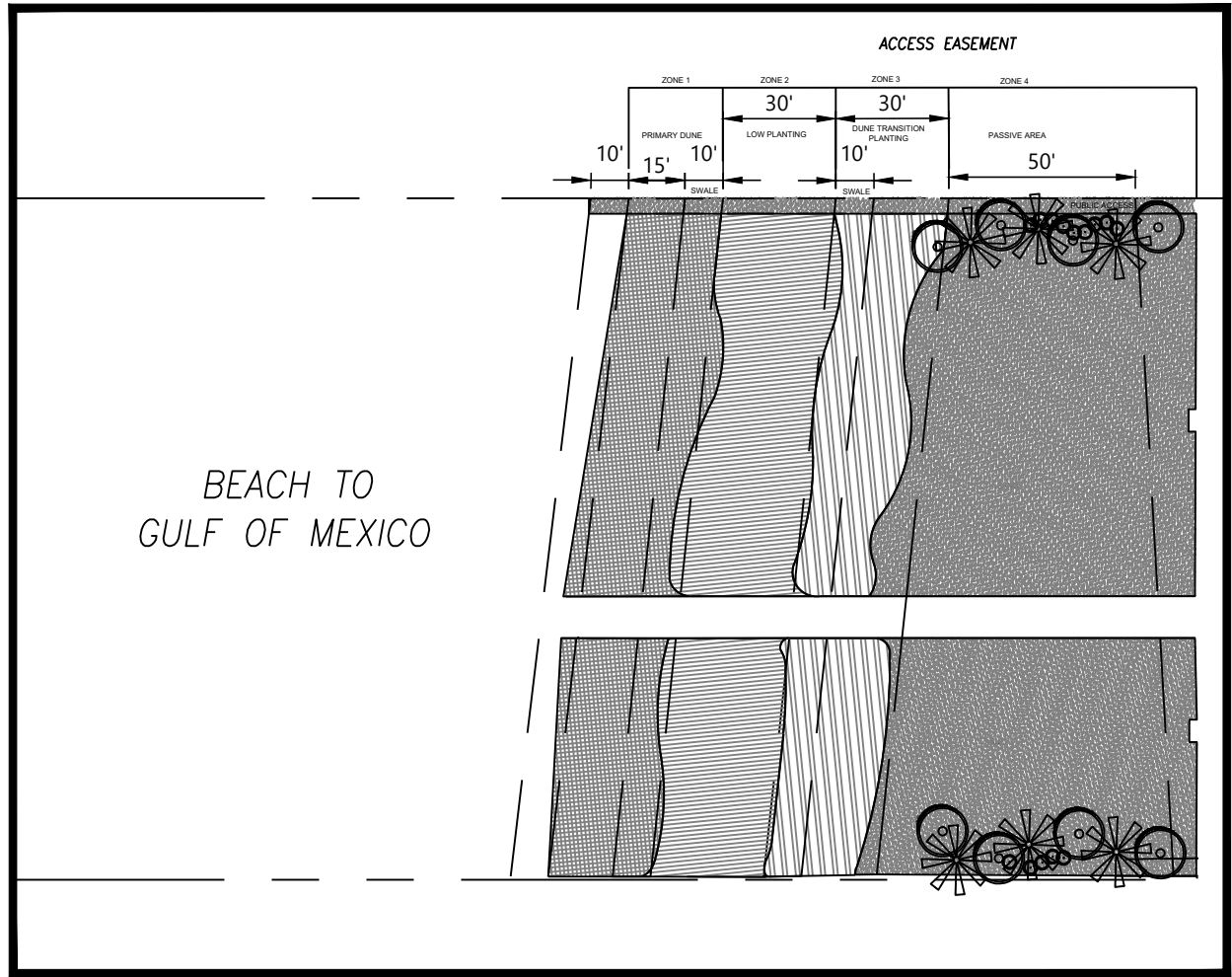
RESIDENTIAL
DWELLING UNIT, MULTIPLE FAMILY,
LIMITED TO 12 TOTAL UNITS (PHASE 1
MAXIMUM 4 UNITS; PHASE 2 MAXIMUM 8
UNITS)
RECREATION FACILITY, PRIVATE ON SITE

GARAGES (UNDER BUILDING)
 GAZEBO
 PATIO
 POOL DECK
 CABANA
 SCREEN ENCLOSURE (BALCONIES)
 FENCE
 WALLS
 DUMPSTER ENCLOSURE
 RECREATION FACILITIES (TOT-LOT)
 STORAGE SHED/MAINTENANCE STRUCTURE
 ROOFTOP DECK

RENTAL OF ANY PERMITTED DWELLING UNIT TO A SINGLE FAMILY FOR PERIODS OF ONE WEEK OR LONGER

ADMINISTRATIVE OFFICE
HOME OCCUPATION (NO OUTSIDE HELP)

BEACH ACCESS
ESSENTIAL SERVICES
HIDDEN PATH
ESSENTIAL SERVICE EQUIPMENT



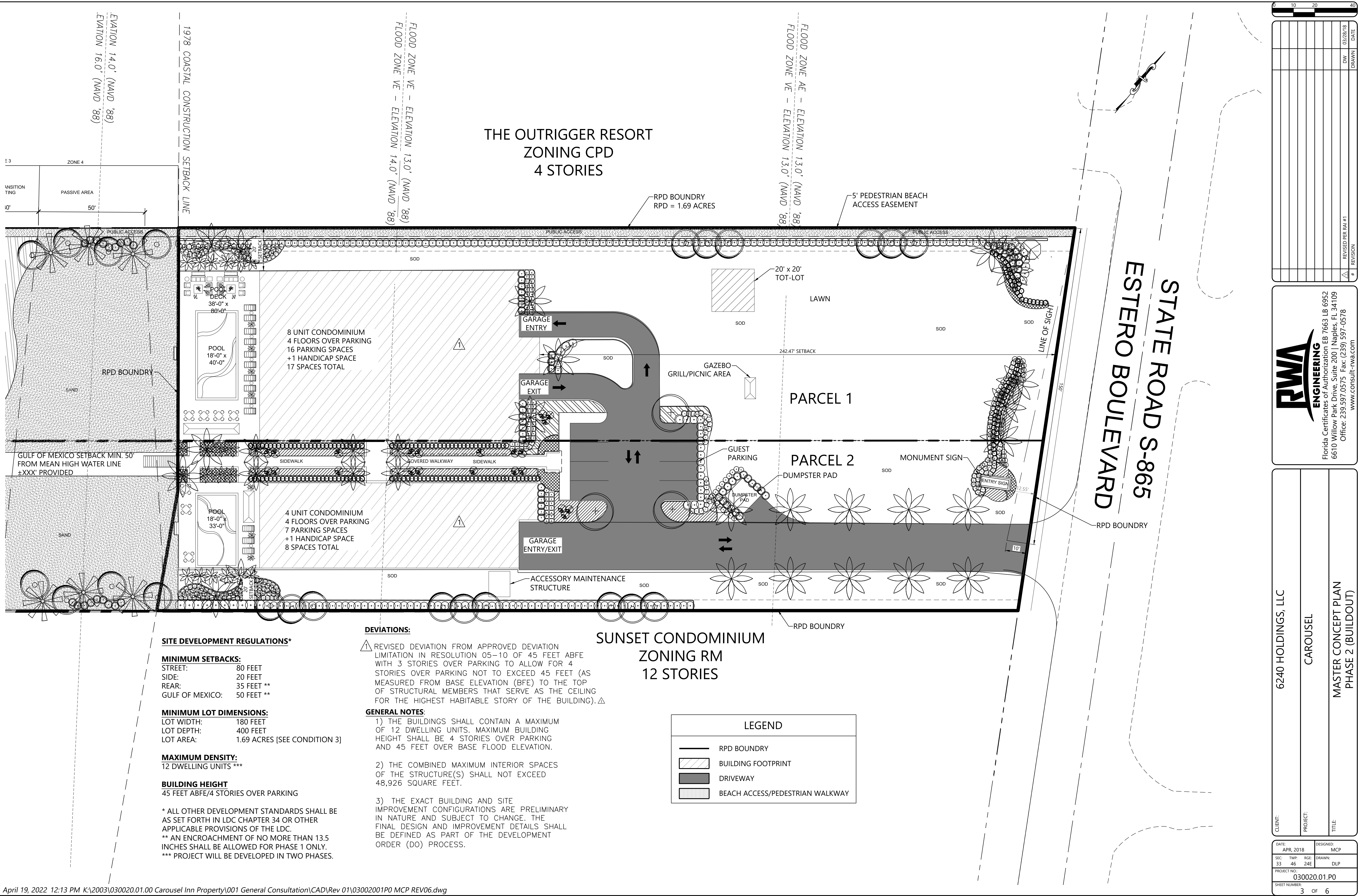
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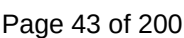
BEGINNING AT A POINT OF INTERSECTION OF A LINE 790 FEET (MEASURED ON A PERPENDICULAR) SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, MCPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. S-865 RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 80.87 FEET TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, MCPHIE SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTHWESTERLY ALONG SAID WATERS TO AN INTERSECTION WITH A LINE PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, MCPHIE PARK SUBDIVISION PASSING THROUGH THE POINT OF BEGINNING; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

RWA
ENGINEERING

Florida Certificates of Authorization EB 7663 LB 6952
6610 Willow Park Drive, Suite 200 | Naples, FL 34109
Office: 239.597.0575 Fax: (239) 597.0578
www.consult-rwa.com

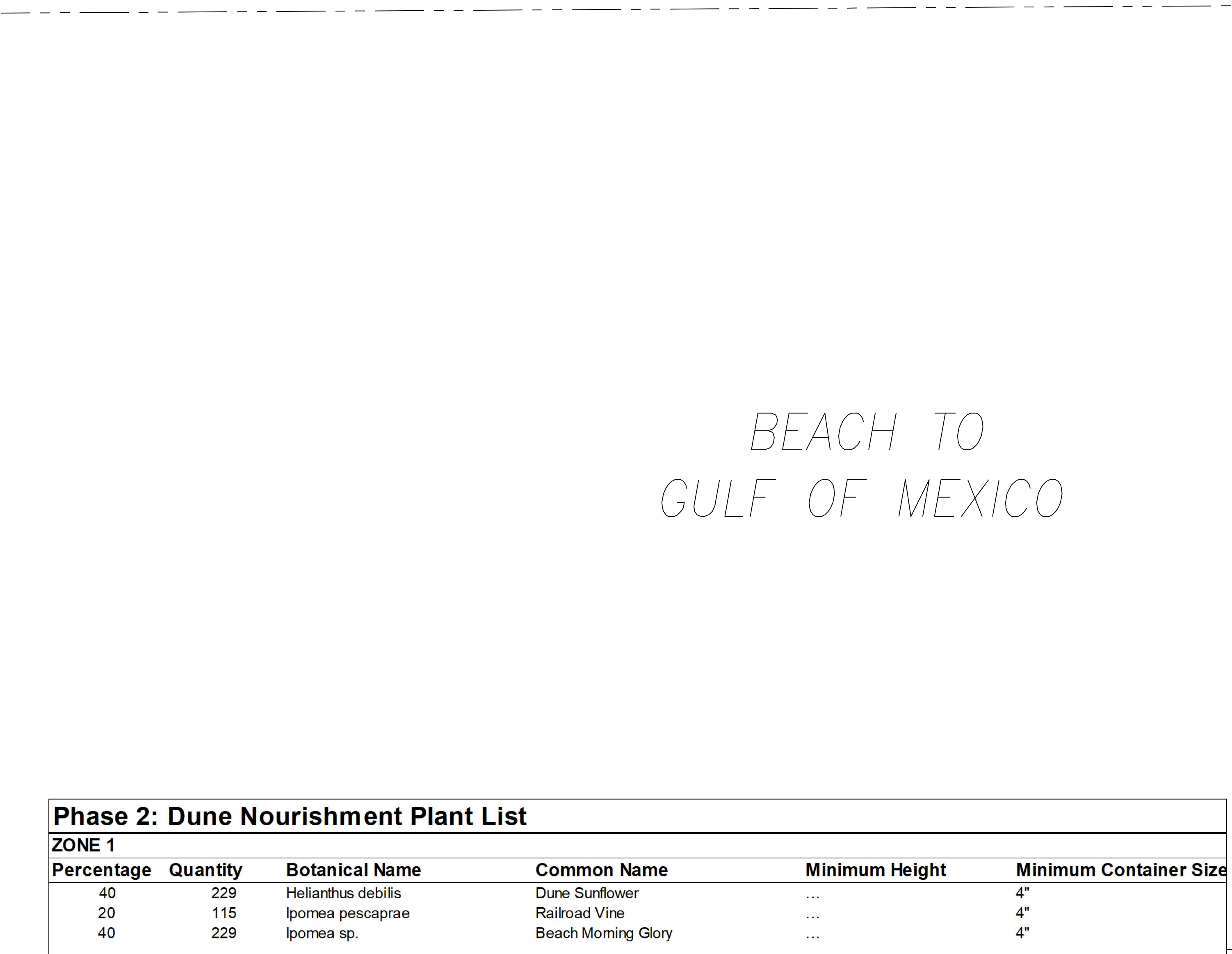
DATE: APR, 2018	DESIGNED: MCP
SEC: TWP: RGE: 33 46 24E	DRAWN: DLP
PROJECT NO.: 030020.01.P0	
SHEET NUMBER: 2 OF 6	





BEACH TO GULF OF MEXICO					
Phase 2: Dune Nourishment Plant List					
ZONE 1					
Percentage	Quantity	Botanical Name	Common Name	Minimum Height	Minimum Container Size
40	229	Helianthus debilis	Dune Sunflower	...	4"
20	115	Ipomea pescaprae	Railroad Vine	...	4"
40	229	Ipomea sp.	Beach Morning Glory	...	4"

1, 2018 2:57 PM K:\2003\030020.01.00 Carousel Inn Property\001 General Consultation\CAD\Rev 01\03002001P0 LP.dwg





NOTE: BUILDING HEIGHTS REPRESENT APPROXIMATE
HEIGHT ABOVE GRADE TO THE TOP OF THE
ELEVATOR STRUCTURE OR ROOF AND DO NOT
REPRESENT HEIGHT AS DEFINED BY SECTION
34-631 OF THE CITY OF FT. MEYERS BEACH
ZONING CODE

REVISIONS	
2/23/2022	

CONSTRUCTION DOCUMENTS FOR
GULFSIDE 6240 CONDOMINIUM
6230 ESTERO BLVD. FORT MYERS BEACH, FL
TDKL ENTERPRISES

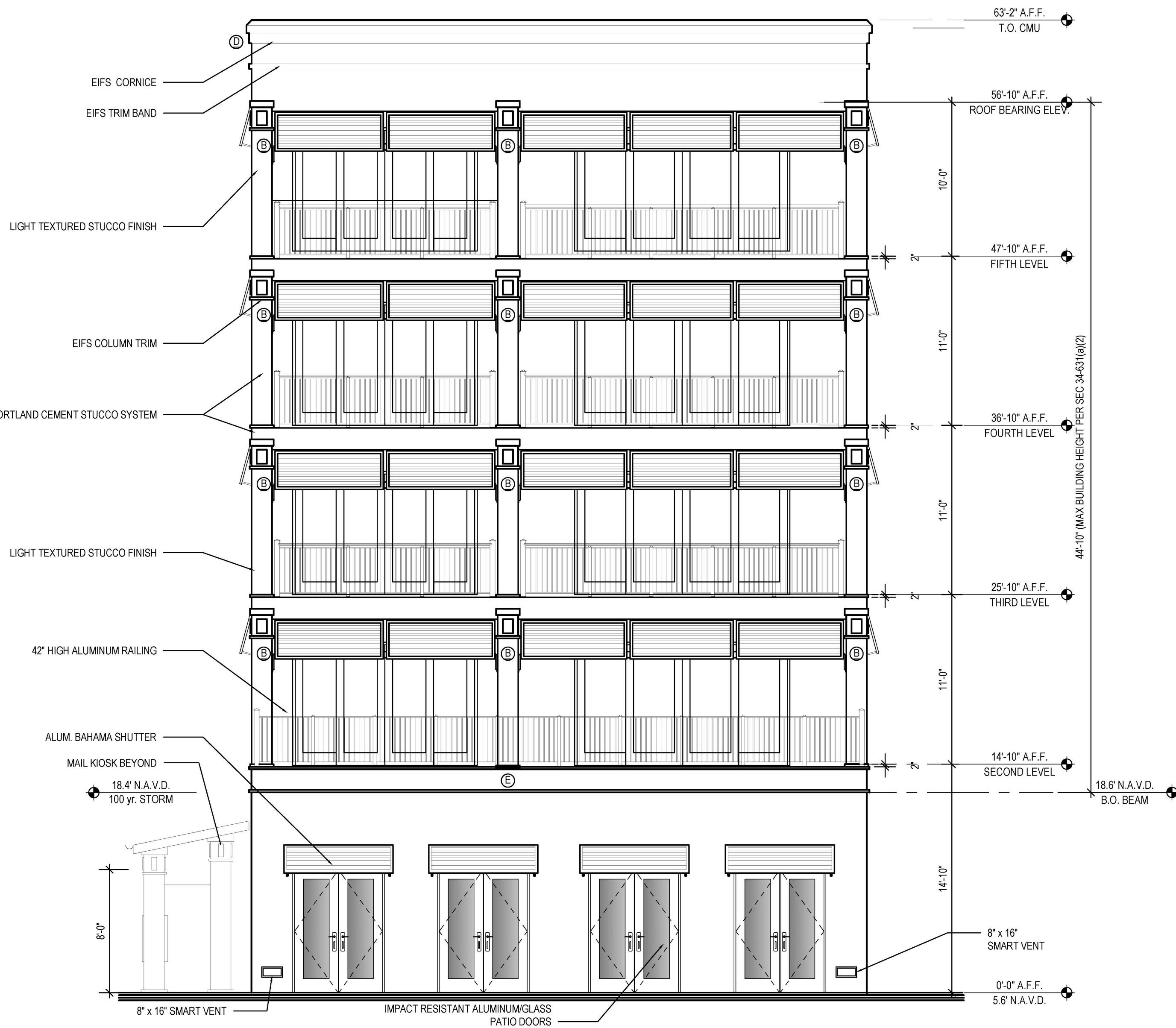
PDS ARCHITECTURE INC.
PH: 239.437.8090 12800 UNIVERSITY DR. SUITE 402
FX: 865.835.2733 FT MYERS, FL 33907
INFO@PDSinonline.com FL LICENSE # AA26002474



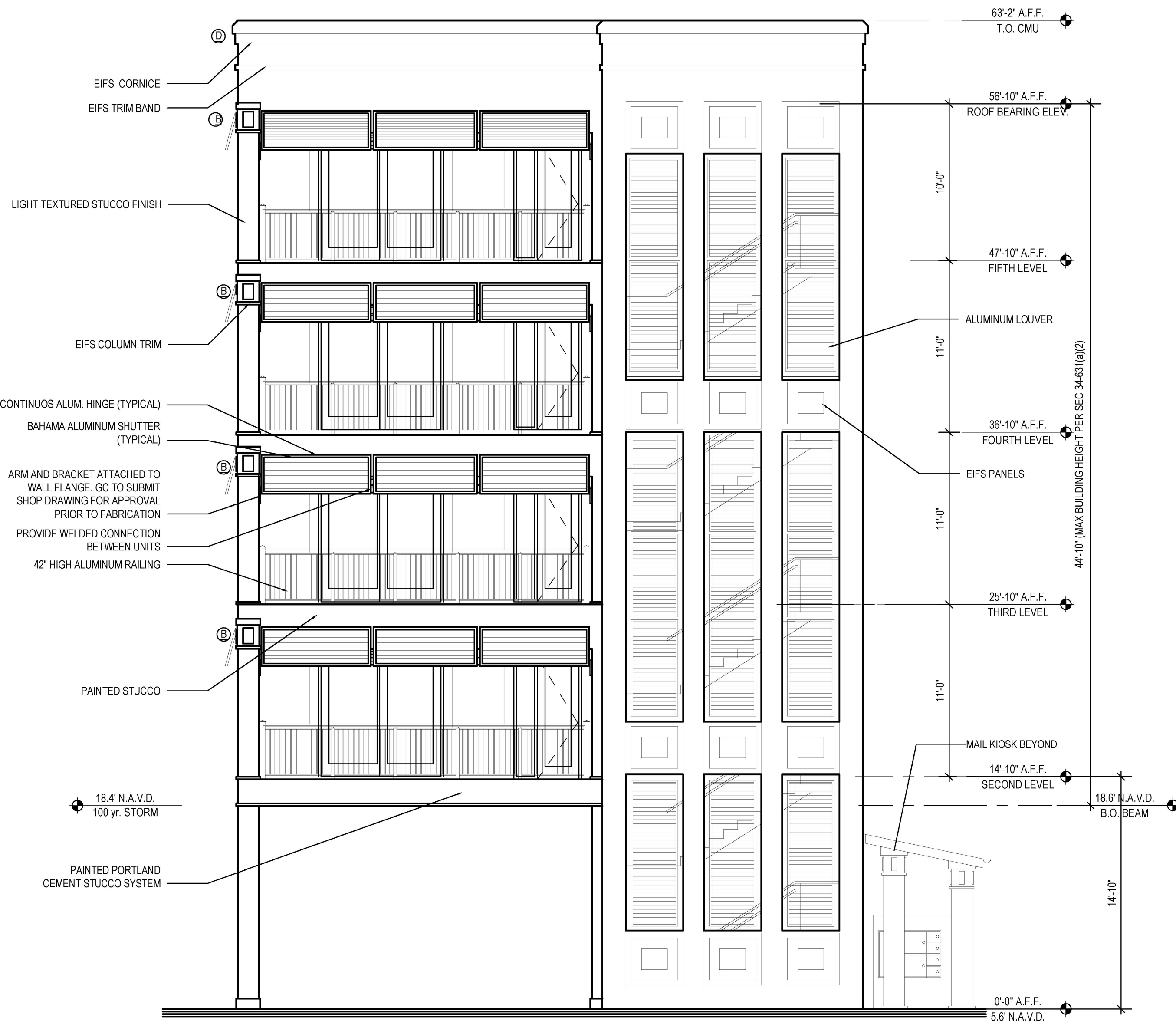
DATE: 11-23-21
TITLE: ELEVATION



SHEET NO.
A4.1



SOUTH WEST ELEVATION
SCALE: 3/16" = 1'-0"



NORTHEAST ELEVATION
SCALE: 3/16" = 1'-0"

REVIEWED FOR COMPLIANCE WITH
THE FLORIDA BUILDING CODE

ROGER W. SANDERS - PX 651
ECS FLORIDA, LLC

ORDINANCE 18-11

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING A MASTER CONCEPT PLAN FOR A PROPERTY LOCATED AT 6230 AND 6240 ESTERO BOULEVARD FORT MYERS BEACH ZONED RESIDENTIAL PLANNED DEVELOPMENT (RPD) FOR A TWO PHASED, TWELVE UNIT MULTIFAMILY DEVELOPMENT WITH CONDITIONS AND WITH DEVIATIONS TO THE LDC LIMITS OF HEIGHT AND STORIES; CONTAINING 1.69+/- ACRES (RPD), GENERALLY IDENTIFIED AS STRAP NUMBERS 33-46-24-W3-00013.0020 AND 33-46-24-W3-00013.0030; PETITION DCI17-0008; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, 6240 Holdings, LLC, applicant filed application for a Master Concept Plan for the property currently zoned RPD with an expired Master Concept Plan (MCP), in order to develop a twelve-unit multifamily development of two buildings; and

WHEREAS, the request includes a schedule of uses and a requested deviation to stories, where the requested height deviation is consistent with the previously approved MCP (Res 05-10), but the request for five stories is one greater than previously approved; and

WHEREAS, the project consists of 1.69+/- acres of land zoned RPD, as provided in Exhibit A, while the remaining 2.5+/- acres will remain zoned as EC; and

WHEREAS, the subject property is located in the Mixed Residential Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the subject property is under control of 6230 Carousel, LLC and 6240 Holdings, LLC, listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on May 8, 2018; and

WHEREAS, at the May 8, 2018 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons; and

WHEREAS, at the May 24, 2018 public hearing the LPA again gave consideration to the applicants request and voted 7-0 to recommend approval of the Master Concept Plan, schedule of uses, and deviation to allow five stories, four of which are over parking and within a height of 45 feet above base flood elevation; and

WHEREAS, on June 4th, 2018 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the

Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on June 18th, 2018; at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85; and

WHEREAS, the Town Council considered all relevant factors and made formal findings and conclusions based on the findings and conclusions outlined in the staff report for items 1 a-c and 2 a-g before its final decision on the requested application;

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

The Town Council votes to **APPROVE** the request to approve an MCP for the RPD zoning district, subject to the deviations and conditions set forth with specificity.

CONDITIONS

1. The development of the project must be substantially consistent with Master Concept Plan (MCP) entitled Carousel Inn RPD Master Concept Plan received as part of the "response to insufficiency letter," which is dated March 29, 2018. The development must comply with all current requirements of the Ft. Myers Beach Land Development Code (LDC) at time of local development order approval, except as may be granted by deviation or condition as part of this residential planned development and MCP. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.
2. All conditions and approvals included with this MCP approval replace any previous approvals, including, but not limited to, all conditions and MCP or exhibits related to Resolution 05-10.
3. The MCP boundary shall include the area designated for dune restoration, but remain zoned EC. The Schedule of Uses does not apply to the EC and dune restoration area. The following provisions apply to the dune restoration area:
 - a. A dune walkover for both the public access area and the owner's access may be required as part of the final dune restoration plan and are permitted as part of the MCP approval. Final design and location approval will be given by the Community Development Director based on compliance with

local regulations. The proposed dune restoration detail provided in the MCP is not of sufficient detail to be approved at this time.

- b. Any dune walkovers shall be designed to be compatible with each other and the project. Prior to issuance of any temporary or Certificate of Completion or Occupancy for the project, the dune restoration and walkover(s) must be constructed.
 - c. Plant quantities must be calculated on minimum 1-gallon container size plants, 3-foot on center. Plant quantities may be adjusted when larger container size plants are used.
 - d. All plants shall be installed and maintained consistent with the Town's code and best management practices for dune restoration, including temporary irrigation.
4. The following uses apply to this project:

Schedule of Uses

Residential

Dwelling units: multiple-family, limited to twelve (12)(Phase 1 maximum 4 units, Phase 2 maximum 8 units)

Storage Shed <100 sq. ft.

Recreation Facility, Private on -site

Residential Accessory Uses (for occupants and guests only)

Garages (under building)

Gazebos

Patios

Pools (2)

Pool Deck(S)

Cabana

Screen Enclosure (balconies)

Fence

Walls

Dumpster Enclosure

Tot lot

Lodging

Rental of any permitted dwelling unit to a single family for periods of one week or longer

Office

Administrative Office (to support the Association)

Home Occupation (no outside help)

Civic

Public Beach Access

Essential Services
Hidden Path
Essential Service Equipment

5. Prior to commencement of Phase 2, the property owner will combine the property into one lot of record in accordance with LDC Section 10-217 and record the requisite deed.
6. Prior to issuance of a local development order for the project, the property owner will execute and record the appropriate legal instrument creating the five (5) foot wide perpetual pedestrian beach access easement in a form acceptable to the Town Attorney, and as indicated on the MCP. The easement shall be recorded prior to Town approval of a temporary certificate of occupancy. The ultimate design of the beach access will be agreed upon by the Community Development Director and the property owner prior to or during the development order review process. Improvements will be consistent with all applicable ADA requirements. The beach access shall contain flags and public access signage and be numbered, a bollard rope shall be placed at the beach access along the Outrigger property line.
7. The storage shed shall be limited to a disposable structure, built with flood resilient materials, unfinished inside, and less than 100 square feet, to be used for storage only.
8. If the project and/or phases are not completed within the timeframes established in s. 34-220 (2) a and b, then the Town reserves its right to complete a rezoning to an appropriate district.
9. Approval of this zoning request does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Fort Myers Beach Comprehensive Plan ("Plan") and Land Development Code. Where deviations and conditions do not address specific issues, any local development order shall address requirements in place at the time of submittal.
10. Any violation of the RPD conditions of approval or deviations on the part of the applicant shall constitute an appealable to special magistrate \$500 per day per incident civil violation.
11. Prior to filing a development order for phase 2, the applicant will confirm with Lee County whether subject property is appropriate location for transportation stop structure. If appropriate, the development order shall include a transit stop structure. If County plans do not include a transit stop, this condition is null and void.

DEVIATIONS:

Rezoning to an RPD requires that the building placement, size, design, and all other property development regulations shall be the same as for the RM zoning district, unless the zoning resolution specifies otherwise. The MCP applied to this property includes one deviation, which was previously approved with Resolution 05-10 and the applicant has revised the MCP and requested a deviation to that approved deviation.

1. Deviation from Table 34-3, which limits stories to three and height to 30 feet, and from previously approved deviation (Res 05-10) to limit stories to four and height to 45 feet above base flood elevation; to allow a limitation of five stories and 45 feet in height above base flood elevation.

CODIFICATION AND SCRIVENER'S ERRORS.

Upon second reading approval, the Town Council intends that this ordinance will not be made part of the Fort Myers Beach Code of Ordinances. Typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing. Only the specific deviations granted by the Town Council and associated plan sheets reflecting those approvals with or without conditions are so incorporated.

EFFECTIVE DATE.

This ordinance becomes effective immediately upon its adoption.

THE FOREGOING ORDINANCE was enacted by the Town Council upon a motion by Vice Mayor Shamp and seconded by Council Member Cereceda and, upon being put to a roll call vote, the result was as follows:

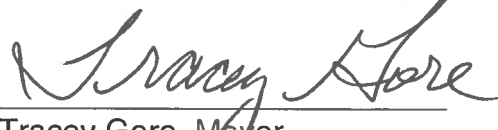
Tracey Gore, Mayor	AYE	Bruce Butcher	AYE
Anita Cereceda	AYE	Joanne Shamp, Vice Mayor	AYE
Dennis Boback	AYE		

DULY PASSED AND ENACTED this 18TH day of June, 2018.

ATTEST:

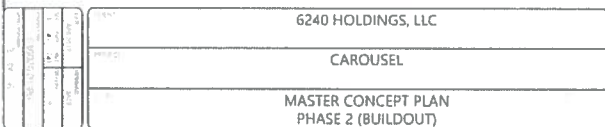
TOWN OF FORT MYERS BEACH

By: 
Michelle D. Mayher, Town Clerk

By: 
Tracey Gore, Mayor

Approved as to form by:

By: 
Peterson Law Group, Town Attorney





September 1, 2022

Town of Fort Myers Beach
Community Development Department
2525 Estero Blvd.
Ft Myers Beach, FL 33931

Subject: Carousel Inn Residential Planned Development (RPD) - Amendment to a Planned Development – *Submittal #1*

Intake Team:

The Neighborhood Company is pleased to submit on behalf of our client, Carousel Beach Redevelopment LLC, an Application for a Planned Development Amendment associated with the subject property located at 6240 and 6230 Estero Blvd., Ft Myers, FL 33931. The proposed request is to seek the following:

- To allow for the accessory use of decking on the rooftop to support an outdoor living/amenity area for unit owner(s) and their guests.

Please find attached the following items to assist with the review and approval process based on the latest application submittal requirement checklist:

1. Application Filing Fee
2. Application for Public Hearing:
 - a) Exhibit 3-1 Application Waiver;
 - b) Disclosure of Interest Form
 - c) Exhibit 5-1 Property Owners List
 - d) Exhibit 5-2 Property Owners Map
 - e) Affidavit of Authorization & Letter of Authorization;
 - f) Exhibit 6-1 Legal Description;
 - g) Exhibit 6-2 Boundary Survey;
 - h) Exhibit 6-3 Area Location Map;
 - i) Exhibit 6-6 List of Surrounding Property Owners within 500’;
 - j) Exhibit 6-7 Surrounding Property Owners Map;
3. Supplement PH-D for Amending a Planned Development Zoning;
 - a) Request Narrative with Attachment(s);
 - b) Master Concept Plan – Amended;
 - c) Architectural Elevations;
 - d) Schedule of Uses



We look forward to your review and are available to answer questions related to this application.

Sincerely,

The Neighborhood Company

A handwritten signature in blue ink, appearing to read 'Kenrick Gallander', written in a cursive style.

Kenrick Gallander, AICP
Vice President, Partner

Attachments: Application Submittal Requirements (listed above)

cc: Matthew Arminio
Gavin Donaghy
File: #220011.01.02



Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
Filing Fee

Town Fee Schedule 2022:

- PD Amendment = \$6,500

TOTAL: \$6,500.00



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 6230 and 6240 Estero Blvd., Ft Myers, FL 33931

STRAP Number: 33-46-24-W3-00013.0030 and 33-46-24-W3-00013-0020

Applicant: CAROUSEL BEACH REDEVELOPMENT LLC Phone: 517-599-7723

Contact Name: Matthew Arminio Phone: _____

Email: matt@gulfsidetwelve.com Fax: _____

Current Zoning District: RPD

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: 12 Units Max Per RPD Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

☐ Special Exception

☐ Variance

☐ Conventional Rezoning

☒ Planned Development ☐ Commercial ☒ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PART I – General Information

A. Applicant*: CAROUSEL BEACH REDEVELOPMENT LLC Phone: 517-599-7723

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.*

Please see PART III to complete the appropriate Affidavit form for the type of applicant.

Applicant Mailing Address: 815 N East Ave., Oak Park, IL 60302

Email: matt@gulfsidetwelve.com Fax: _____

Contact Name: Matthew Arminio Phone: 517-599-7723



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|---|---|---|
| ☒ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☒ Contract Purchaser* |
| ☐ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: Kenrick Gallander, AICP Phone: 850-803-5621
Address: 5618 Whispering Willow Way, Ft Myers, FL 33908
Email: kg@theneighborhood.company Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☒ Amendment. List the project number: Not yet assigned.
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

- ☐ Appeal of Administrative Action
- ☐ Vacation ☐ Right-of-Way ☐ Easement
- ☐ Other. Please Explain: _____
- _____
- _____

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: LDC Section 10-286 Description: TIS

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

- ☐ Single Owner (individual or husband and wife)
- Name: N/A Phone: _____
- Mailing Address: _____
- Email: _____ Fax: _____

AFFIDAVIT APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, N/A swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Printed Name

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical

presence OR ____ online notarization, this ____ day of _____, 20____, by

_____, ☐ who is personally known to me OR ☐ who has produced

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

☒ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☒ Complete Disclosure of Interest Form (see below) **SEE ATTACHED**
- ☒ Attach list of property owners as Exhibit 5-1
- ☒ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

_____ Signature	_____ Printed Name
--------------------	-----------------------

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, SEE ATTACHED (name), as _____ (title) of _____ (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ☐ online notarization, this ____ day of _____, 20____, by _____, ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 33-46-24-W3-00013.0030 and 33-46-24-W3-00013-0020

Property Address: 6230 and 6240 Estero Blvd., Ft Myers, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☒ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 6-2.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 181.5+/- feet

Depth (please provide an average width if irregular in shape) 1,052.5+/- feet

Frontage on street: 181+/- feet. Frontage on waterbody: 182+/- feet

Total land area: 4.34+/- ☒ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

Approximately 2 miles west of Big Carlos Pass Bridge on Estero Blvd.

☒ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

☒ There are no deed restrictions and/or covenants on the subject property.

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.

☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.

☒ Attach a map showing the surrounding property owners as Exhibit 6-7.

☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

☐ Low Density

☒ Mixed Residential

☐ Boulevard

☐ Pedestrian Commercial

☐ Marina

☐ Recreation

☐ Wetlands

☐ Platted Overlay



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

Please submit required applications, supplemental information, exhibits and documents to zoningpermits@fmbgov.com.

Application fees are set by resolution of the Town Council of the Town of Fort Myers Beach and must be paid before any materials submitted will be considered an application.

The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant. Decisions regarding requests to waive submittal requirements are at the discretion of the Community Development Director and may not be appealed.

All information submitted with the application becomes a part of the public record and will be a permanent part of the file.

All attachments and exhibits must be legible, suitable for recording, and of a size that will fit or conveniently fold into a letter size (8 ½ by 11) folder.

Explanatory Notes – Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to property: Indicate if the applicant is the property owner, and if so, the type of ownership. If the applicant is not the owner of the property, indicate the relationship of the applicant to the owner and submit a notarized authorization from the owner(s) to the applicant.
- C. Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Other agents: Provide contact information for any other agents that may be involved in the request.

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

If waiver of any application requirement has been approved by the Community Development Director, attach a copy of the approval. Please request waivers prior to applying. Exhibit 3-1

Explanatory Notes – Part IV

- A. If the property owner is an individual or husband and wife, check the box and provide the information.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

- A. If there are multiple property owners exhibit 5-1, complete the disclosure form and include the names and mailing addresses of all persons or entities having an ownership interest in the property, including the names of all stockholders and trust beneficiaries. Disclosure is not required of any entity whose interests are solely equity interests that are regularly traded on an established securities market in the United States or another country.
- B. If more than one parcel is involved, submit a list of all property owners and their mailing addresses. Provide a map keyed to the list of property owners showing their interests. The applicant is responsible for the accuracy of the list and map Exhibit 5-2
- C. Where the property is a condominium or timeshare condominium, the application must be initiated by both the condominium association and no less than 75% of the total number of unit owners. To verify ownership, the list of property owners must be identified by unit number and/or timeshare period as applicable, along with proof that the owners who did not join in the application were given actual written notice of the application by the applicants, who must verify the list and the notice by sworn affidavit. Attach this affidavit as Exhibit 5-3.
- D. In addition, a letter of opinion from an attorney licensed to practice law in the State of Florida addressing the considerations in LDC Section 34-201(a)(1)b.3. must be attached as Exhibit 5-4.

Explanatory Notes – Part VI

- A. Include the street address of the subject property. List STRAP number. If more than one parcel is involved, list all STRAP numbers. If you don't know the STRAP number, you can look up the property in the records of the Lee County Property Appraiser at <http://www.leepa.org>. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. If multiple parcels are involved, the metes and bounds legal description must describe the perimeter of the entire property subject to the request. The initial point in the description must be related to at least one established identifiable real property corner, such as a government corner or a recorded corner. The bearings used in the description must be clearly referenced to a well-established and monumented line. Exhibit 6-1
- B. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, etc) that are relevant to your request. The perimeter boundary of the entire subject property should be indicated clearly with a heavy



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

- C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
- D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
- E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
- F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
- G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a “variance report” from the Map Sales Office at the Lee County Property Appraiser’s Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
- H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan’s Future Land Use Map, and whether the property is located in the “platted overlay” on the map.
- I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

The applicant must sign and submit either of the affidavits in Part V & VI, as applicable.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

- ☒ General Requirements
- ☐ DRI
- ☒ Planned Development
- ☐ Conventional Rezoning
- ☐ Special Exception
- ☐ Variance
- ☐ Appeal
- ☐ Other

Administrative Action

- ☐ General Requirements
- ☐ Planned Dev. Amendment
- ☐ Commercial Antenna
- ☐ Consumption on Premises
- ☐ Forced Relocation of a Business
- ☐ Interpretation of LDC
- ☐ Minimum Use Determination
- ☐ Setback Variance
- ☐ Other

Name of Project: Carousel Inn Residential Planned Development
Applicant: Carousel Beach Redevelopment LLC
Strap Number: 33-46-24-W3-00013.0030; 33-46-24-W3-00013-0020
Street Address: 6240 Estero Blvd., Ft Myers, FL 33931
Phone Number: 850-803-5621
Email: kg@theneighborhood.company



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Specific requirements from which waiver is sought

Section Number	Requirement
10-286	TIS

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

See attached Waiver Narrative.

I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.

Kenrick S. Gallander

Digitally signed by Kenrick S. Gallander
Date: 2022.07.22 15:06:30 -04'00'

Signature

Date

Director's Decision ☒ Approved ☐ Denied

Comments:

Signature

Date

Revised 1/6/2017

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 2 of 2

SUBMIT



**Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
WAIVER JUSTIFICATION NARRATIVE**

On June 18, 2018, the Fort Myers Beach Town Council unanimously adopted Ordinance No. 18-11 approving a Master Concept Plan (MCP) for a property located at 6230 and 6240 Estero Boulevard in Fort Myer Beach Florida that is partially zoned Residential Planned Development (RPD) (1.69+/- acres) to allow for a two-phased, 12-unit multifamily residential development with conditions and deviations.

The proposed planned development amendment request to be submitted is to allow for the amenitized use of the rooftops for unit owner(s) and their guests by amending the Master Concept Plan, Schedule of Uses, and Deviation #1 to seek additional height over the current 45 feet maximum allowed over base flood elevation. The Neighborhood Company, on behalf of our client, Carousel Beach Redevelopment LLC, is submitting a Waiver Request for the following submittal requirement to the Planned Development Amendment application requirements:

- LDC 10-286 – Traffic Impact Statement (TIS)

The waiver is requested due to the fact the proposed amendment does not increase the density of the project as approved under the conditions within DCI17-0008 Therefore, there will be no impact on the roadway level of service and the project will remain consistent with DCI17-0008 with regards to roads level of service standards.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature

Printed Name

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical

presence OR ____ online notarization, this ____ day of _____, 20____, by

_____, ☐ who is personally known to me OR ☐ who has produced

_____ as identification.

(SEAL)

Notary Public Signature

PART V

Property Ownership (Multiple Owners)

☒ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

- ☒ Complete Disclosure of Interest Form (see below)
- ☒ Attach list of property owners as Exhibit 5-1
- ☒ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership
<u>Carousel Beach Redevelopment LLC</u>	<u>Parent Florida LLC</u>
<u>CBR Limited Partners LLC</u>	<u>75%</u>
<u>CBR Developers LLC</u>	<u>25%</u>
<u>Address: 815 N East Ave, Oak Park, IL 60302</u>	_____

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office	Percentage of Stock
<u>Carousel Beach Redevelopment LLC</u>	<u>Purchased by Parent FL LLC</u>
<u>Matthew Arminio, Managing Member of LLC</u>	_____
<u>Vito DiMaso, Officer of LLC</u>	_____
<u>CBR Limited Partners LLC</u>	<u>75%</u>
<u>CBR Developers LLC</u>	<u>25%</u>
<u>Address: 815 N East Ave, Oak Park, IL 60302</u>	_____



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

Date of Contract: 10/08/2021

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
6230 Carousel, LLC a Delaware limited liability company	174 West Street, Suite 212, Litchfield, CT 06759
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

	dotloop verified 08/10/22 2:29 PM CDT DSFE-LPNV-RCSK-RLHD
Signature	

Matthew Arminio

Printed Name

Managing Member, Carousel Beach
 Redevelopment LLC

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, SEE ATTACHED (name), as _____ (title)
 of _____ (company), swear or affirm under oath, that I am the
 owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



Carousel Inn Residential Planned Development (RPD)

Planned Development Amendment

EXHIBIT 5-1: Property Owner List

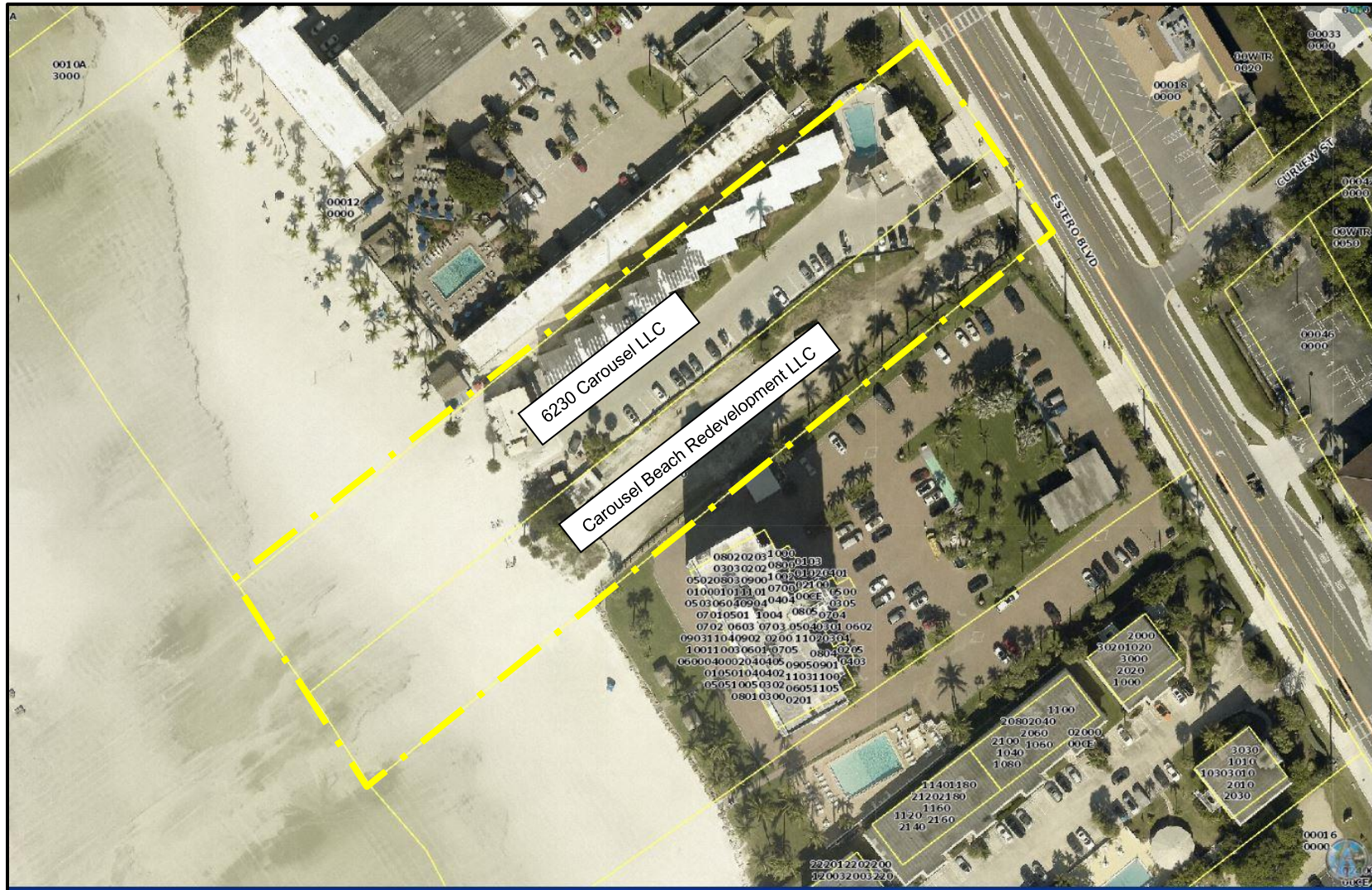
STRAP#:

- 33-46-24-W3-00013.0030 – Carousel Beach Redevelopment LLC
- 33-46-24-W3-00013-0020 – 6230 Carousel LLC



THE NEIGHBORHOOD COMPANY

Carousel Inn Residential Planned Development (RPD) Planned Development Amendment EXHIBIT 5-2: Property Owner Map





COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

PART V

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, Matthew Arminio (name), as Manager (title)
of Carousel Beach Redevelopment LLC (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Carousel Beach Redevelopment LLC

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Matthew Arminio

Typed or Printed Name

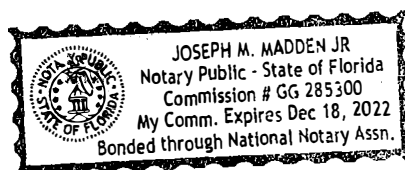
Manager

Title

Date

STATE OF FL COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 18 day of April 2022 by MATTHEW ARMINIO ☒ who is personally known to me OR ☐ who has produced _____ as identification.



Notary Public Signature

LETTER OF AUTHORIZATION

TO TOWN OF FORT MYERS BEACH COMMUNITY DEVELOPMENT

I, Michael P. Keilty, as authorized member of 6230 CAROUSEL, LLC, owner of 6230 Estero Boulevard, Fort Myers Beach, Florida, STRAP No. 33-46-24-W3-00013.0020, hereby authorizes CAROUSEL BEACH REDEVELOPMENT, LLC to represent 6230 CAROUSEL, LLC regarding the above-referenced property for an amendment to Carousel Inn Residential Planned Development (RPD) to add the use of roof-top deck (The Use) as set forth in Exhibit A attached hereto and related amendment to the MCP to add The Use.

6230 CAROUSEL, LLC, a Delaware limited liability company

By: Michael P. Keilty
Print Name: Michael P. Keilty
Title: Member

STATE OF Connecticut
COUNTY OF Litchfield

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 29th day of August, 2022 by Michael P. Keilty, as Member of 6230 CAROUSEL, LLC, a Delaware limited liability company, on behalf of the company, who ☒ is personally known to me OR ☐ has produced a(n) _____ driver's license as identification.

[NOTARY SEAL/STAMP]

Tania L. Drobny
Notary Public, State of Connecticut
Print Name: Tania L. Drobny
My Commission Expires: 11/30/2023



EXHIBIT A

**THE NEIGHBORHOOD
COMPANY**

**Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
Schedule of Uses**

Schedule of Uses

Residential

Dwelling units: multiple-family, limited to twelve (12)(Phase 1 maximum 4 units, Phase 2 maximum 8 units)

Storage Shed <100 sq. ft.

Recreation Facility, Private on-site

Residential Accessory Uses (for occupants and guests only)

Garages (under building) Gazebos

Patios

Pools (2)

Pool Deck(s)

Cabana

Screen Enclosure (balconies) Fence

Walls

Dumpster Enclosure

Tot lot

Rooftop Deck

Lodging

Rental of any permitted dwelling unit to a single family for periods of one week or longer

Office

Administrative Office (to support the Association)

Home Occupation (no outside help)

Civic

Public Beach Access

Essential Services

Hidden Path

Essential Service Equipment

Page 1 of 1

5618 Whispering Willow Way, Fort Myers, FL 33908 | 239.398.2016
www.theneighborhoodcompany.com



**Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
LEGAL DESCRIPTION**

PARCEL 1:

A LOT OR PARCEL OF LAND 100 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM ESTERO BOULEVARD (STATE ROAD S-865) TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF A LINE 690 FEET, MEASURED ON A PERPENDICULAR SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. S-865 RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 101.06 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 790 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTHWESTERLY ALONG SAID WATERS TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF BEGINNING, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

PARCEL 2:

A LOT OR PARCEL OF LAND 80 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, AND GOVERNMENT LOT 1, SECTION 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM ESTERO BOULEVARD (STATE ROAD S-865) TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF A LINE 790 FEET (MEASURED ON A PERPENDICULAR) SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. S-865 RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 80.87 FEET TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTHWESTERLY ALONG SAID WATERS TO AN INTERSECTION WITH A LINE PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHIE PARK SUBDIVISION PASSING THROUGH THE POINT OF BEGINNING; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

*Taken from Boundary Survey by D&W dated 12/18

MAP OF BOUNDARY & TOPOGRAPHIC SURVEY
OF A PARCEL OF LAND CURRENTLY KNOWN AS THE CAROUSEL HOTEL
LYING IN SECTIONS 33 & 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA

LEGEND

- | | |
|--|--|
| | REINFORCEMENT SET FOR MAIN AND DOOR - 13 @ 666" |
| | COLL. FIN - FOUND BRUSH CONC. SETTING AS SHOWN |
| | FOUND 1" HOLE IN CONCRETE - NO IDENTIFICATION |
| | FOUND FIN. NAIL IN SKULLT - NO IDENTIFICATION |
| | SET 5/8" REBAR AND CH - "IN" CON LA 666" |
| | CORER FIN - FOUND 3" ROUND CONCRETE INCREMENT SETTING AS SHOWN |
| | FOUND 1/4" REBAR - NO IDENTIFICATION |
| | FOUND 4" x 4" CONCRETE INCREMENT WITH 1/4" REBAR |
| | FOUND 3/4" CONCRETE INCREMENT - NO IDENTIFICATION |
| | LEAKY REBAR DETECTION |
| | FIELD MEASURED DATA |
| | PERMANENT REFERENCE INCREMENT |
| | CORNER, CONSTRUCTION CORNER, LINE |
| | CORNER, CONSTRUCTION STRUCK LINE |
| | SPOT LOCATION, MARK 0588 |
| | WOOD STUDY PALE |
| | CONCRETE STUDY PALE |
| | WATER METER |
| | ADDITIONAL PARAMETERS |
| | SOUNDING STRAPS CLEAN-CUT |
| | CATCH BASIN WITH PLEAT MESH |
| | DECOMPOSED LOFT PALE |
| | PALE RESE |

SURVEYOR'S NOTES

1. BEHAVIORS SHOWN HEREON ARE GRID BEHAVIORS BASED UPON THE NORTH AMERICAN DATUM OF 1983. DISTANCES MEASURED IN FEET CORRESPOND TO THE DISTANCES MEASURED IN METERS BASED UPON DEPARTMENT OF NATURAL RESOURCES CONTROL MOVEMENTS 12-83-43-2 (1988) AND 12-83-43-2 (1988).
2. ALL UNDERGROUND IMPROVEMENTS OR FOUNDATIONS WERE LOCATED UNDER THE SCOPE OF THIS SURVEY. ANY OTHERS NOT SHOWN HEREON ARE THE PROPERTY OF THE SURVEYOR AND ARE NOT TO BE LEFT BY OTHERS. NO UTILITIES WERE EXAMINED FOR THIS SURVEY. ALL UNDERGROUND UTILITIES SHOWN HEREON ARE SUBJECT TO FIELD VERIFICATION.
3. ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAD 1988). ELEVATIONS ARE BASED UPON BENCHMARK 1-745 1965 HAVING A RECORD ELEVATION OF 2.50' (NAD 1988) AS FLOORED BY THE MARIOTT CIRCLE STREET (NOS).
4. THIS PARCEL LIES IN FLOOD ZONE "X". ZONES ARE BASED ON LEE COUNTY SPATIAL INFORMATION SYSTEM LINC IN FLOOD INSURANCE RATE MAP 120100066R & 120100067R, DATED 04-28-2008.
5. BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON THE RECORD PLAT AND LEGAL DESCRIPTION PROVIDED BY SEARCH OF THE PUBLIC RECORDS WAS PERFORMED BY THIS SURVEYOR. EXCEPTION NUMBER, TO THE EXTENT THAT SUCH MATTERS CAN BE LOCATED, AT EASEMENTS AND RIGHTS-OF-WAY SHOWN AS EXCEPTIONS ON THE MORTGAGE TITLE INSURANCE ORDER #01051060A WRITTEN BY THIS COMPANY.
6. THE 1991 COASTAL CONSTRUCTION CONTROL LINE SHOWN HEREON IS AS RECORDED IN PLAT BOOK 48, PAGES 1-3.
7. THE 1978 COASTAL CONSTRUCTION CONTROL LINE SHOWN HEREON IS AS RECORDED IN PLAT BOOK 48, PAGES 1-3.
8. THE 1978 COASTAL CONSTRUCTION STRIPBACK LINE SHOWN HEREON IS AS RECORDED BY ORDINANCE 76-3 RECORDED PARCEL 71, 1978 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
9. THIS SURVEY IS FOR THE USE OF THE PARCELS LISTED IN THE CERTIFICATION BY SURVEYOR SHALL NOT BE WHICH COMPLETES WITH THE REQUIREMENTS OF RULE 62B-33.009, FLORIDA ADMINISTRATIVE CODE.
10. THE STREET ADDRESS IS 10000 WILLOWDALE ROAD, FORT MYERS BEACH, FLORIDA 33931
11. PARCELS 1 AND 2 ARE CONTIGUOUS PARCELS OF LAND THAT FORM ONE PARCEL OF LAND AS SHOWN HEREON.

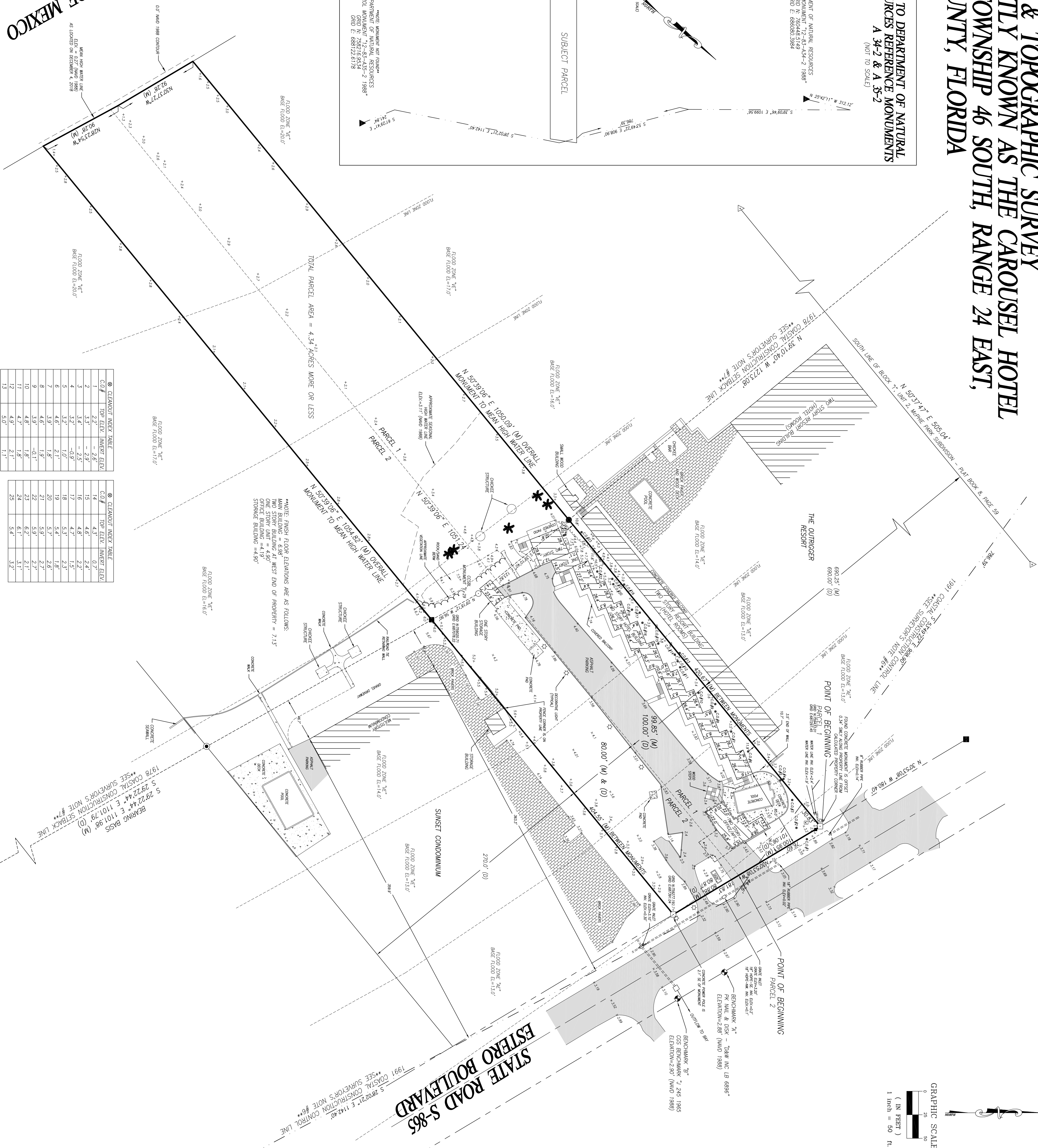
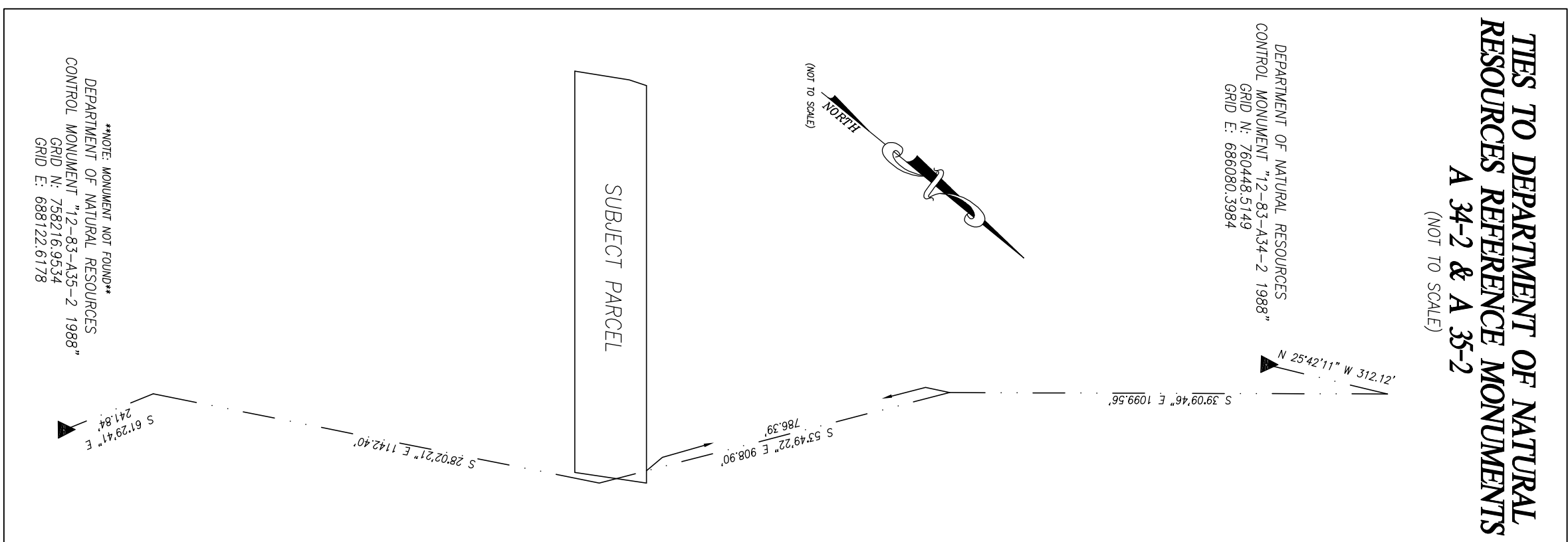
LEGAL DESCRIPTION

A LOT ON PARCEL LAND LIES EAST WIDE IN CONVERSE LOT 4, SECTION 38, TOWNSHIP 46 SOUTH, RANGE 20 EAST EXTENDING FROM CISTRO BOLLWADLAND GRIFFIN ROAD S-38-65) TO THE MATERS OF THE STATE OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF A LINE 650 FEET, MEASURED ON A PERPENDICULAR SUBTENSURE FROM AND PARALLEL WITH THE SOUTHERLY LINE OF BLOCK "7", UNIT 2, MICHIGAN PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK "7", UNIT 2, MICHIGAN PARK SUBDIVISION, S-38-65; ALONG SAID SOUTHERLY LINE AND NORTH-WAY LINE FOR 101.06 FEET MORE OR LESS TO AN INTERSECTION WITH A LINE 790 FEET SOUTHERLY FROM AND PARALLEL WITH SAID SOUTHERLY LINE OF BLOCK "7", UNIT 2, MICHIGAN PARK SUBDIVISION; THENCE RUN SOUTHERLY ALONG SAID PARALLEL LINE OF BLOCK "7", UNIT 2, THROUGH THE POOR OF BECKMAN ADMINISTRATION AND SOUTHERLY TO THE CORNER WITH ALL BEYOND RAILS APPROPRIATE HERETO.

SECTION 30 OF PARCER OF LAND NO. 871 WERE INDEED IN POSSESSION OF LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM EIGHTH BOULEVARD (STATE ROUTE 5-986) TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PLATS IS DESCRIBED AS FOLLOWS:

BEING PART OF A POINT OF INTERSECTION OF A LINE 790 FEET (MEASURED ON A PERPENDICULAR) SOUTHERLY FROM AND PARALLEL WITH THE SOUTHERLY LINE OF BLOCK "T", UNIT 2, MEMPHIS SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC SURVEY NO. 3-865, RAIL SOUTHERLY ALONG AND NORTH-WEST BY THE FOR SOLE USE TO AN INTERSECTION WITH A LINE 870 FEET SOUTHERLY FROM AND PARALLEL WITH THE SOUTHERLY LINE OF BLOCK "T", UNIT 2, MEMPHIS PARK SUBDIVISION; THENCE RUN NORTHEASTERSY ALONG SAID PARALLEL LINE TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTHEASTERSY ALONG SAID WATERS TO AN INTERSECTION WITH THE LINE OF BLOCKS 1 AND 2, MEMPHIS PARK SUBDIVISION; THENCE RUN NORTHEASTERSY THROUGH THE POINT OF BEGINNING; THENCE RUN NORTHEASTERSY ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING, TOGETHER WITH ALL PRAIRIES RIGHTS APPURTENANT THERETO.



C.O.#	CLEANOUT INDEX TABLE	
	TOP ELEV.	INVERT ELEV.
1	2.2'	-2.6'
2	3.3'	-2.9'
3	3.4'	-2.5'
4	3.2'	-0.9'
5	3.2'	1.0'
6	4.6'	2.1'
7	3.9'	1.6'
8	4.6'	1.9'
9	3.9'	-0.1'
10	4.8'	1.8'
11	4.7'	1.8'
12	4.9'	2.1'
13	5.0'	1.1'

C. #	CLEANOUT INDEX TABLE		
	TOP ELEV.	INVERT ELEV.	
14	4.3'	0.2'	
15	4.6'	2.4'	
16	4.8'	2.2'	
17	4.7'	1.5'	
18	5.3'	2.3'	
19	5.4'	1.8'	
20	5.7'	2.6'	
21	5.9'	2.7'	
22	5.9'	2.7'	
23	6.2'	2.1'	
24	6.1'	3.1'	
25	5.4'	3.2'	

COMPUTER FILE:
16264 11-29-18

SURVEY DATE:
12-4-18

SIGNATURE DATE:
12/17/18

DRAWING SCALE:
1"=50'

REVISION DATE:

REVISED BY:

D&W DAGOSTINO & WOOD, INC.
Professional Surveying & Mapping
5415 Jaeger Road Suite A Naples, FL 34109
Phone: (239) 352-6085 Website: www.dwsurveys.com

DRAWN BY:
TIM

CHECKED BY:
DSD

FIELD BOOK:
N/A

CERTIFIED TO: 6230 ESTERO, LLC, A FLORIDA LIMITED LIABILITY COMPANY;
6240 ESTERO, LLC, A FLORIDA LIMITED LIABILITY COMPANY;
6230 CAROUSEL, LLC, A DELAWARE LIMITED LIABILITY COMPANY;
6240 HOLDINGS, LLC, A DELAWARE LIMITED LIABILITY COMPANY;
FIDELITY NATIONAL TITLE INSURANCE COMPANY;
BUCHANAN INGERSOLL & ROONEY PC;

JOB NO.:
15-045

SHEET NO.:
1 OF 1



July 25, 2022

Air Photos: 2022 Hi-Res (4 inch)

--- County Boundary	US 41	Parcels Far
Major Roads Medium	Other Highways	
I - 75	Other Roads	

1:53,325

0	2,450	4,900	9,800 ft
0	700	1,400	2,800 m

This map is NOT a legal land survey and should not be used or relied upon as such. No warranties, express or implied, are provided with the data, use, accuracy or interpretation.

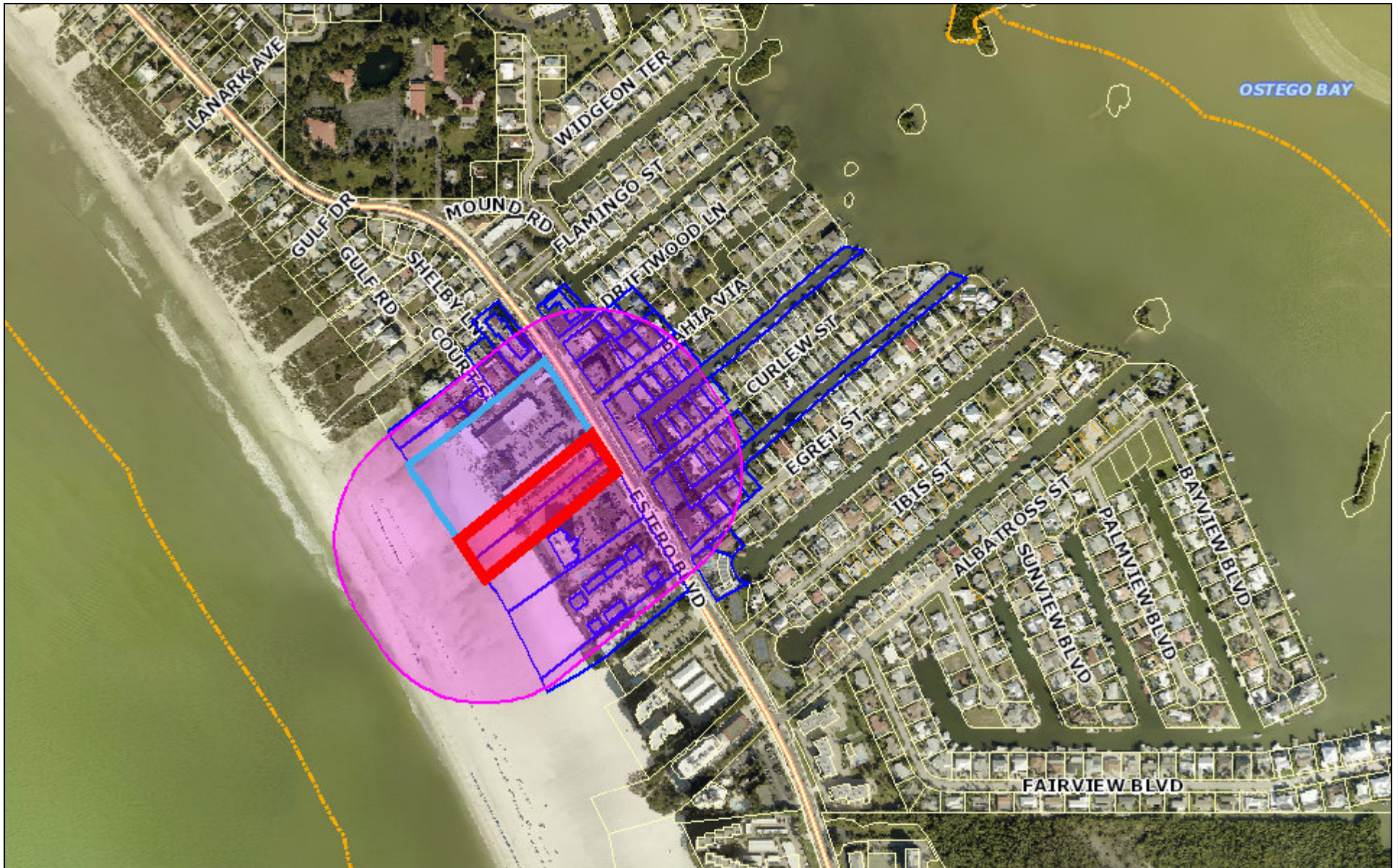
FOLIO	OWNER NAME	ADDRESS1	CITY	STATE	ZIP
10230714	COLORADO SOUTHERN INC	6200 ESTERO BLVD	Fort Myers Beach	FL	33931
10230715	SOUTHLAND CORPORATION	2711 N HASKELL AVE	DALLAS	TX	75204
10230716	6231 ESTERO LLC	500 KINGS TOWN DR	NAPLES	FL	34102
10230717	6230 CAROUSEL LLC	174 WEST ST #212	LITCHFIELD	CT	6759
10230718	CAROUSEL BEACH REDEVELOPMENT L	815 N EAST AVE	OAK PARK	IL	60302
10230719	ESTERO 4148 LLC	4517 BRYNWOOD DR	NAPLES	FL	34119
10230722	KLEDZIK CARY & LAURA	2006 STIERS CT	BATAVIA	IL	60510
10230723	JOHNSON DIANNE D TR	6160 COURT ST	FORT MYERS BEACH	FL	33931
10230724	JOHNSON DIANNE D TR	6160 COURT CT	FORT MYERS BEACH	FL	33931
10230725	OSFS REAL ESTATE TRUST	2200 KENTMERE PKWY	WILMINGTON	DE	19806
10230727	STEVENS FAMILY VENTURES LP	1170 MASSEY ST	NAPLES	FL	34120
10230779	FELDMANN GARY	3 TIMBERLINE DR	ALEXANDRIA	KY	41001
10230780	LUCAS MORRIS D & MISTY	4124 RAINTREE BLVD	GREENWOOD	IN	46143
10230781	WIMBERLY & WIMBERLY	PO BOX 694	RICHMOND	KY	40476
10230782	ZAPP DAVID P &	1626 BELFIELD ST	INDIANAPOLIS	IN	46217
10230783	HAWLEY BRUCE &	6500 ESTERO BLVD #A301	FORT MYERS BEACH	FL	33931
10230784	ROWE DONN A TR	220 LOOP AVE	MANSON	WA	98831
10230785	BELFORD JAMES R TR	526 PINEHURST LN	SCHERERVILLE	IN	46375
10230786	LEFRANCE JANICE S TR	6500 ESTERO BLVD #C115	FORT MYERS BEACH	FL	33931
10230787	IMMKE JAMES L	11989 PRINCESS GRACE CT	CAPE CORAL	FL	33991
10230788	O'CONNELL JOHN & JEAN	27 GREEN BRIAR DRIVE	SUFFIELD	CT	6078
10230789	RASH BRENDA L TR	5726 E 800 N	SYRACUSE	IN	46567
10230790	BREDBERG DOUGLAS J &	7785 CLYDESDALE SE	ADA	MI	49301
10230791	M&D FLORIDA LLC	1687 SUGARMAPLE DR	COLUMBUS	OH	43229
10230792	WALTMAN MICHAEL & JEAN	6500 ESTERO BLVD #C219	FORT MYERS BEACH	FL	33931
10230793	TAYLOR WILLIAM DAVID &	1885 OAKES BLVD	NAPLES	FL	34119
10230794	RUDY MARLENE Y & JOEL	19 ROXBURY DR	ATHENS	OH	45701
10230795	HOOBLER NEIL E & SHERRY T	231 STECKLER RD	STONEBORO	PA	16153
10230796	SMITH RICHARD R TR	3420 CTH NN	WEST BEND	WI	53095
10230797	WILKERSON ALAN R & RHONDA M	4310 N RIVERSIDE DR	COLUMBUS	IN	47203
10230798	MARTIN JOHN D & MARY A TR	6877 HARDWOOD DR	GALLOWAY	OH	43119
10230799	JEWETT HAROLD D TR	10932 SHIREGREEN LN	FORT WAYNE	IN	46814
10230800	KIRSCH HAROLD A + DIANE S TR	47165 JAMES DR	MACOMB	MI	48044
10230801	WYSKIEL JEAN & STEPHANIE	608 STANLEY BLVD	BIRMINGHAM	MI	48009
10230802	KRUSE STACY & NORMAN	9351 KIOWA TRAIL	CHANHASSEN	MN	55317
10230803	OSUCHOWSKI WILLIAM & SHARON	300 EUCLID AVE STE 12	SYRACUSE	NY	13210
10230804	BARACUTEY LLC	3958 ASHENTREE CT	FORT MYERS	FL	33916
10230805	WALSH TERRENCE A &	6679 N HIAWATHA	CHICAGO	IL	60646
10230806	HOLZENDOFT RUTH EVANS TR	756 HOLLAND LANE	ROMEOVILLE	IL	60446
10230807	SNEDDON JOY B TR	4790 GOEBLE RD	FORT MYERS	FL	33905
10230808	WIEN DAVID P & JANICE K	708 GREENBANK RD	WILMINGTON	DE	19808
10230809	HOSKINS BRIAN K & SUSAN B	801 W COLISEUM BLVD	FORT WAYNE	IN	46808
10230810	HENRY KATHRYN & TED	16176 LAKESIDE AVE SE	PRIOR LAKE	MN	55372
10230811	3RC BUTTERCUP LLC	404 EAST COLUMBUS ST	CRAWFORDSVILLE	IA	52621
10230812	GENZINK RETHA	2085 112TH AVE	HOLLAND	MI	49424
10230813	PELLETIER SCOTT & JUDY TR	11802 FAR EDGE PATH	COLUMBIA	MD	21044
10230814	BARTLETT ROBERT M & LILA F	3396 MAPLE LEAF LOOP SOUTH	FARGO	ND	58104
10230815	FLORY SUSAN E TR	6500 ESTERO BLVD #G108	FORT MYERS BEACH	FL	33931
10230816	WALLIS LISA S TR	28270 INSULAR WAY	BONITA SPRINGS	FL	34135
10230817	RICHARDSON JACK D & DONNA L	8303 MERLOT LN	LAUREL	MD	20723
10230818	SCHMIDT MARTIN S	1307 SHORELINE DRIVE	WAYZATA	MN	55391
10230819	DELANEY GARY L + KATHRYN TR	112 PRAIRIE DR	MINOOKA	IL	60447
10230820	ALVES A DACOSTA & SANDRA J	4543 CATALINA LANE	BONITA SPRINGS	FL	34134
10230821	KNIBBE DAVID J & GAYLE E	2530 W G AVE	KALAMAZOO	MI	49009
10230822	RUSSELL WILLIAM G IV &	119 COMMERCE ST	CLINTON	CT	6413
10230823	BROUGHER DOUGLAS E &	1220 HALF MOON LN	CICERO	IN	46034
10230824	GIERSEWSKI STEPHEN T	6500 ESTERO BLVD #H202	FORT MYERS BEACH	FL	33931

10230825 ZDEB DIANE D TR	1697 WHITCOMB AVE	DES PLAINES	IL	60018
10230826 GREIG LUCIA	10737 FIRST LINE NASSEGEWAYA	MILTON	ON	LOP 1J0
10230828 SUNSET 100 LLC	PO BOX 30	DECATUR	IN	46733
10230829 MCCARTY RONALD G + JENNIFER TR	18292 DEEP PASSAGE LN	FORT MYERS BEACH	FL	33931
10230830 RUSSELL ROBERT M &	3 WYCLIFFE RD	EAST WALPOLE	MA	2032
10230831 FANCHER SHANE R &	4160 S LAKE CT	DECATUR	IL	62521
10230832 STONER JONATHAN & LEESA	3631 SILVER BROOK LN	GAINESVILLE	GA	30506
10230833 PARRISH GREGG S & KAREN	11809 EAGLE VIEW CT	FORT WAYNE	IN	46814
10230834 BAKER CARL & NELDA	43440 MARIETTA RD	CALDWELL	OH	43724
10230835 JOHNSON JAMES N	6754 GRAND OAKS CT	MASON	OH	45040
10230836 DOWNEN JERRY L & MARY ANNE TR	402 N ALTON ST	FREEBURG	IL	62243
10230837 CARRICO EMIDO G &	215 JUNIPER DR	YORKTOWN HEIGHTS	NY	10598
10230838 SPAKE KAREN J	220 LANE 440 LAKE JAMES	ANGOLA	IN	46703
10230839 DANIEL DOUGLAS R & PATSY L	406 POLK ST	IOWA FALLS	IA	50126
10230840 BAKER TERRY L & NANCY L	2848 E 550TH N	DECATUR	IN	46733
10230841 SCHRIER LARRY E &	742 HOMESTEAD WY	BROWNSBURG	IN	46112
10230842 KLUESNER REAL ESTATE LLC	501 TAHOE CT	FARLEY	IA	52046
10230843 SEMEL EVELYN B	14323 PATTY BERG DR	FORT MYERS	FL	33919
10230844 DAWSON TODD A & JAN	205 EMS T34C LN	LEESBURG	IN	46538
10230845 SCOTT A DRAKE TRUST +	81 EMS T32C LN	LEESBURG	IN	46538
10230846 WALZ STEPHEN N + CHERYL S	6400 ESTERO BLVD #400	FORT MYERS BEACH	FL	33931
10230847 AMARAL LOUISE J	324 FRONT ST #3	MARION	MA	2738
10230848 PARADISE POINT PROPERTIES LLC	1706 HIDDEN VALLEY DR	IOWA FALLS	IA	50126
10230849 LORIS RENTAL LLC	77E 550N	CRAWFORDSVILLE	IN	47933
10230850 CARDWELL DOUGLAS F TR	6400 ESTERO BLVD #404	FORT MYERS BEACH	FL	33931
10230851 VIECELI DAVID A & DONNA L	6400 ESTERO BLVD #405	FORT MYERS BEACH	FL	33931
10230852 RAWAS MAHMOUD & FADIA	8160 GLENMILL CT	CINCINNATI	OH	45249
10230853 JENNER CAROLINE J	6400 ESTERO BLVD # 501	FORT MYERS BEACH	FL	33931
10230854 CLAWSON MICHAEL R &	3308 GLENVIEW AVE	AUSTIN	TX	78703
10230855 HOWARD STACY & RHONDA	1600 SOUTH LEE AVENUE	MORTON	IL	61550
10230856 HARVEY JANICE L	PO BOX 700	EAST AMHERST	NY	14051
10230857 DANGELO CRAIG M &	3333 CRAIG DR	NORTH TONAWANDA	NY	14120
10230858 NIEDOSIK DENNIS L/E	PO BOX 823	GRANGER	IN	46530
10230859 FRIEDMAN ABIGAIL TR	4919 S DORCHESTER AVE	CHICAGO	IL	60615
10230860 HOFMAN KYE P & SHERI L	11497 S 450 E	HAUBSTADT	IN	47639
10230861 MCGUIRK JOHN F TRUST	PO BOX 1250	INDIAN RIVER	MI	49749
10230862 KIMBERLY A TORTORA TRUST +	17199 N LAUREL PARK DR STE 100	LIVONIA	MI	48152
10230863 GRAFF NANCY W +	123 HAZEL ST	KITTANNING	PA	16201
10230864 HINTZ LARRY J TR	43W219 TALL PINES RD	ELGIN	IL	60124
10230865 MUNTEAN ANTOINETTE A TR	7604 SCENICVIEW DR	INDEPENDENCE	OH	44131
10230866 MONTGOMERY RICKY G &	3 FIRESIDE CT	FRANKFORT	IN	46041
10230867 FALK DONALD E & NANCY J	1725 W 4TH ST	RED WING	MN	55066
10230868 ALI MEDIAN & JNEIDI MUNA	10324 APPLE PARK CT	DAYTON	OH	45458
10230869 MUSTO RICHARD W & JOANN G	2050 JAMIESON AVENUE	ALEXANDRIA	VA	22314
10230870 VIECELI DAVID A + DONNA L	6400 ESTERO BLVD # 405	FORT MYERS BEACH	FL	33931
10230871 JONES DEBRA L TR	PO BOX 88	WAITSFIELD	VT	5673
10230872 LLOYD R SHROYER TRUST +	3700 E FOREST GLEN AVE	LEESBURG	IN	46538
10230873 HICKLING NANCY WHITE	24 LOCHAN LANE BOX 1239	BOBCAYGEON	ON	KOM 1A0
10230874 TENNESSEA LLC	655 N EAST END	STRAWBERRY PLAINS	TN	37871
10230875 MOCKLER JAMES P TR	2703 JUNONIA CT	FORT MYERS	FL	33908
10230876 FANCHER MICHELLE L	4160 S LAKE CT	DECATUR	IL	62521
10230877 BUCELLI PHILIP J &	47 WOOD ST	WOBURN	MA	1801
10230878 SHORT TINA	16555 N MCCAULEY LN	MOUNT VERNON	IL	62864
10230879 ISLE PROPERTY INVESTMENTS LLC	1842 TOSSING MANE CT	DAYTON	OH	45458
10230880 HILTON MARK E & DIANA L	23 AGNELL CT	SACRAMENTO	CA	95835
10230881 BELLINA SUSAN A TR	5980 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10230882 FORT MYERS BEACHSIDE LLC	10900 N DANA DR	PEORIA	IL	61615
10230883 GOLDENBERG ALAN L/E	6400 ESTERO BLVD #1001	FORT MYERS BEACH	FL	33931

10230884	POPPALARDO PHYLLIS A +	909 RANDOLPH RD	MIDDLETOWN	CT	6457
10230885	CHIPS AND QUESO TRUST	9951 WOODLANDS DR	FISHERS	IN	46037
10230886	LINTON DIANE E + DAVID H TR	110 WHITE TAIL LN	LANCASTER	MA	1523
10230887	DEME JACK + MARIE	6400 ESTERO BLVD #1005	FORT MYERS BEACH	FL	33931
10230888	TAYLOR LYNNE C	6966 OVERLOOK DR	FORT MYERS	FL	33919
10230889	SUNSET 1101 LLC	731 NE 7TH AVE	FORT LAUDERDALE	FL	33304
10230890	BRADY STEVE A & JULIE A	1128 PLUM TREE LN	PALATINE	IL	60067
10230891	BP SUNSET PROPERTIES LLC	1105 TURFRUNNER CT	FLORISSANT	MO	63034
10230892	WEBB FLORENCE +	508 E 1ST ST	AUBURN	IN	46706
10230893	PAYETTE MARY MULCAHY TR	579 HOLLY LN N	OAKDALE	MN	55128
10230895	6100 ESTERO BLVD LLC	200 EXCUTIVE WAY STE 200	PONTE VEDRA BEACH	FL	32082
10230896	COQUINA CONDOMINIUM ASSOC	2180 W SR 434 STE 5000	LONGWOOD	FL	32779
10230897	SWEENEY TIMOTHY J &	2445 EDGERTON ST	LITTLE CANADA	MN	55117
10230898	WITTEKIND RAYMOND E JR &	11311 SOUTH MILLARD	CHICAGO	IL	60655
10230899	GUIX FAMILY LLC	16855 DRAKE CT	BROOKFIELD	WI	53005
10230900	PECK ROBERT & SARAH B	75 BUFFALO AVE	MEDFORD	NY	11763
10230901	SIMS FRANCIS C +	10545 S RIDGEWAY AVE	CHICAGO	IL	60655
10230902	OREILLY MICHAEL J +	10615 S BELL AVE	CHICAGO	IL	60643
10230903	KINSINGER CHERYL L TR	1109 WESTMINSTER DR	WASHINGTON	IL	61571
10230904	JEFFREY F SHAW TRUST +	4437 XERXES AVE S	MINNEAPOLIS	MN	55410
10230905	FINLAYSON JAMES R TR	2157 W 110TH ST	CHICAGO	IL	60643
10230906	MURRAY MICHAEL M TR	6100 ESTERO BLVD #3D	FORT MYERS BEACH	FL	33931
10230907	MURPHY DONNA RABBIT +	1307 ROBERTSON DR	CRESTWOOD	KY	40014
10230908	LARSON STEPHEN P & DEBRA J	6100 ESTERO BLVD #3F	FORT MYERS BEACH	FL	33931
10230909	GREISSINGER GARY S	6100 ESTERO BLVD #4A	FORT MYERS BEACH	FL	33931
10230910	LESKI WALTER +	9229 N HORIZAN TRAIL	FOUNTAIN HILLS	AZ	85268
10230911	CURRAN KATHLEEN TR	9236 TANDRAGEE DR	ORLAND PARK	IL	60462
10230912	GARY L BROOKS TRUST +	29 RAVEN GLASS LN	BLUFFTON	SC	29909
10230913	MAHONEY JOHN J & MAUREEN T	10635 S MAPLEWOOD AVE	CHICAGO	IL	60655
10230914	KEARNEY ERIC E	629 CAPE CORAL PKWY E	CAPE CORAL	FL	33904
10230915	LIKENS JO LYNN	907 COUNTRY CLUB DR	WARSAW	IN	46580
10230916	NORRIS CECELIA E TR	26 HIGHRIDGE RD	WILLOWBROOK	IL	60527
10230917	CURRAN BARBARA L TR	8914 CREST OAK LN	SAINT LOUIS	MO	63126
10230918	TEMPLES KATHLEEN A L/E	6100 ESTERO BLVD #5D	FORT MYERS BEACH	FL	33931
10230919	COLEMAN BRIAN P &	3724 ARMOUR CT	WOODRIDGE	IL	60517
10230921	EGELUS GERALD A +	87 WILLOW RD CIR	WAYNESVILLE	NC	28786
10230922	VANWECHEL CHRISTY A &	41947 MATSON POINT ROAD	PELICAN RAPIDS	MN	56572
10230923	STONE JENNIFER L	6151 ESTERO BLVD #3	FORT MYERS BEACH	FL	33931
10230924	DEMPSEY KURT & ANGELA	10664 SNYDER CHURCH RD	BALTIMORE	OH	43105
10230925	DANZI REAL ESTATE VENTURES LLC	1352 SHEFIELD WAY	FORT MYERS	FL	33919
10230926	DANZI REAL ESTATE VENTURES LLC	1352 SHEFIELD WAY	FORT MYERS	FL	33919
10230927	LANGONE KARINA	6350 NW 95TH LN	PARKLAND	FL	33076
10230928	MORGAN JEFFREY R & SIRENA S	8136 E CHEROKEE RD	SYRACUSE	IN	46567
10230929	CRITCHLEY JOSPEH & TANIA	9 HIGHLAND AVE	RED BANK	NJ	7701
10230988	MAGUIRK JOHN & BETH ANN	134 DRIFTWOOD LN	FORT MYERS BEACH	FL	33931
10230989	SKAGGS STEPHEN P & LISA A	135 BAHIA VIA	FORT MYERS BEACH	FL	33931
10230990	CHOMEL JEFFREY & CATHY	2201 LINCOLN AVE	CONNERSVILLE	IN	47331
10230991	MORGADO DAVID R TR +	144 DRIFTWOOD LN	FORT MYERS BEACH	FL	33931
10230992	HAINBUCHNER ERONIM PATRIK	200 NEW COURT	NOVI	MI	48377
10230993	MARTIN ANGELO MICHAEL	10111 STATE RD	NORTH ROYALTON	OH	44133
10230999	BROWN GEORGE KEITH	PO BOX 4	LA CROSSE	WI	54602
10231001	COLORADO SOUTHERN INC	6200 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10231002	MURPHY TERRANCE P &	110 BAHIA VIA	FORT MYERS BEACH	FL	33931
10231003	BARTOW MARTIN J &	130 BAHIA VIA	FORT MYERS BEACH	FL	33931
10231004	BAHIA VIA LLC	4180 BRIGADOON DR	SHOREVIEW	MN	55126
10231005	DIMURRO JOHN	150 BAHIA VIA	FORT MYERS BEACH	FL	33931
10231006	2626187 ONTARIO INC	138 UNIVERSITY RD	DOURO DUMMER	ON	K9J 6Y1
10231018	CAMPBELL ROBERT E & PHYLLIS	3627 HUBBARD MIDDLESEX	WEST MIDDLESEX	PA	16159

10231019 3RD GEN LLC	6334 STATE RT 48	LAWRENCEBURG	IN	47025
10231020 ROSCREA LLC	2013 DES PLAINES AVE	PARK RIDGE	IL	60068
10231021 CUMMINGS JOHN L	4 PETERS BROOK DR	HOOKSETT	NH	3106
10231022 SCHWIRTZ MARK J & SHEILA L	507 ABBEY WAY	MENDOTA HEIGHTS	MN	55120
10231035 SOUTHERN LATITUDE RETREAT LLC	E 19885 COUNTY RD ND	AUGUSTA	WI	54722
10231036 KILBURG JUDITH R TR	150 CURLEW ST	FORT MYERS BEACH	FL	33931
10231046 PHILLIPS TIMOTHY SCOTT &	120 CURLEW ST	FORT MYERS BEACH	FL	33931
10231047 HAINBUCHNER ERONIM PATRIK &	200 NEW CT	NOVI	MI	48377
10231048 YANAKEFF DAVID &	9560 WALDRON RD	JEROME	MI	49249
10231052 ESTERO 4148 LLC	4517 BRYNWOOD DR	NAPLES	FL	34119
10231053 CAVANAUGH JOHN F	222 MADISON ST	LAKE GENEVA	WI	53147
10231054 DUNLAP JAMES E & MICHELE L	10087 IDLE PINE LN	ESTERO	FL	34135
10231055 GAERTNER MARK A +	3273 COSTA DR	VADNAIS HEIGHTS	MN	55127
10231154 UNKNOWN HEIRS OF	915 S 28TH ST	SOUTH BEND	IN	46615
10462861 PRIVATEER OF FT MYERS BEACH	6500 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10462862 SUNSET CONDO	6400 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10462863 ISLAND BREEZE CONDO	6151 ESTERO BLVD	FORT MYERS BEACH	FL	33931
10462868 RTJP INVESTMENTS INC	17 DORAL CT	MATTOON	IL	61938
10611100 SANTINI CROSS CANAL	2480 THOMPSON ST	FORT MYERS	FL	33901
10611101 SANTINI CROSS CANAL	2480 THOMPSON ST	FORT MYERS	FL	33901

GeoView Map



July 25, 2022

Air Photos: 2022 Hi-Res (4 inch)

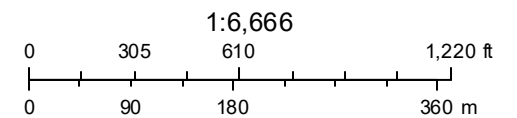
 Hospital Locations

 Library Locations

School Locations

 School Locations

 Police Locations



This map is NOT a legal land survey and should not be used or relied upon as such. No warranties, express or implied, are provided with the data, use, accuracy or reliability of this map.

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

This is the second part of a two-part application. This part requests specific information for a planned development rezoning or an amendment to an approved planned development. Include this form with the Request for Public Hearing form.

Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
\$2000.00 PD Amendment minor (< acre total property area)
\$4000.00 PD Reinstatement or \$6500.00 PD Amendment

Project Name: Carousel Inn RPD - PD Amendment
Authorized Applicant: Matt Arminio, Managing Member
STRAP Number(s): 33-46-24-W3-00013.0030 and 33-46-24-W3-00013-0020

Current Property Status: Vacant/Under Construction and Hotel/Motel
Current Zoning: RPD
Future Land Use Map (FLUM) Category: Mixed Residential
Platted Overlay? ☐ yes, ☒ no FLUM Density Range: Max. 6 du/acre

Requested Action:

☐	DRI (with rezoning)
☐	Planned Development (also check below)
☐	Rezoning from: _____ to: _____
☒	Amendment to Master Concept Plan/attendant documentation

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

☒	There are NO Comprehensive Plan Amendments pending that could affect the future use of this property.
☐	The following Comprehensive Plan Amendments ARE pending and could affect the future use of this property (list the amendment and give a brief explanation of its possible effect)

B. Phasing of Construction

☐	The development is to be constructed in a single phase.
☒	The development is to be constructed in phases as follows: (describe proposed phasing below)
Phase 1 - 4 units in Building 1	
Phase 2 - 8 units in Building 2	



Explain how the proposed development complies with applicable Goals, Objectives, and Policies of the Fort Myers Beach Comprehensive Plan.

[illegible]

For projects required to meet Commercial Design Standards, explain how the proposed development complies with the design standards set forth in LDC Sections 34-991 through 34-997.

[illegible]



Explain how the proposed development complies with the guidelines for decision-making embodied in LDC Section 34-85.

[illegible]

Provide a list of the requested deviations keyed to the Master Concept Plan and provide a written justification for each deviation. The location of each deviation should be indicated on the Master Concept Plan.

[illegible]

G. Administrative amendments to approved Master Concept Plan

For amendments to an approved Master Concept Plan, indicate the specific amendments that could not be approved administratively as set forth in LDC Section 34-219.

Due to amending the Schedule of Uses as provided on the approved MCP,
it was determined the proposed request could not be processed administratively.

PART 2 Submittal Requirements

All applications for a planned development must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form
- Supplement Form PH-D
- Master Concept Plan
- Traffic Impact Statement
- Architectural Elevations
- Schedule of Uses
- Fee in the amount of \$8000.00 up to 1 acre +1000.00 per additional acre
- \$2000.00 PD Amendment minor (< acre total property area)
- \$4000.00 PD Reinstatement or \$6500.00 PD Amendment

For DRI: A Binding letter of interpretation from DCA or a complete and sufficient ADA.

Guide to Filing Supplement PH-D for Planned Developments

Amendments Applications for amendments to an approved Master Concept Plan or its attendant documentation will require as much information as is needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in surrounding land uses that have occurred since the original application. Some amendments can be approved administratively as provided in LDC Section 34-219, but all other amendments must proceed through the public hearing process.

Through a pre-application meeting with Community Development staff, prospective applicants can determine whether proposed amendments will require a public hearing, and can request waivers from any submittal requirements that are not necessary to specify the changes requested.

All other planned developments All other applications must complete and submit the Request for Public Hearing and Supplement PH-D, along with all required documents. Refer also to the instructions for the Request for Public Hearing form.

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Authorized Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

Requested Action: Indicate whether the request is a DRI (Development of Regional Impact) that requires rezoning, a Planned Development, or an amendment to a Planned Development.

Part 1 Narrative Statements:

Comprehensive Plan Amendments

If Comprehensive Plan Amendments are pending that might affect the future use of the property, explain the amendments' possible effects.

Construction Phasing

If the project is to be constructed in multiple phases, describe the ordering and timing of the proposed phasing. In the absence of a phasing plan, phasing of development would be governed by the limitations of LDC Section 34-220.

Comprehensive Plan Compliance

Explain how the proposed development complies with the Fort Myers Beach Comprehensive Plan. Address the Future Land Use Map category or categories applicable to the subject property and any other relevant policies.

Design Standards Compliance

For properties and/or projects as described in LDC Section 34-992, explain how the proposed development will comply with the standards in LDC Sections 34-991 through 34-997.

Decision-making compliance

Explain how the proposed development will comply with the standards for decision-making in LDC Section 34-85.

Schedule of deviations and written justification

Identify the deviations from the requirements of the Land Development Code that are requested for the proposed development and justify them in relation to the guidance in LDC Section 34-932(b).

Administrative amendments

If the request is for an amendment to a planned development, indicate which of the requested changes could not be approved administratively as allowed by LDC Section 34-219.

Part 2 Submittal Requirements

Public Hearing Application Form. Applications for rezoning, including Planned Developments and Planned Development amendments for which public hearing is required, consist of the Public Hearing form and the supplemental form PH-D. Both parts of the application form must be completed and submitted.

Master Concept Plan. The master concept plan consists of maps, graphic illustrations, and written statements concerning the development. Space has

been provided on this form for many of the required narrative statements, though they can be attached on separate sheets. A master concept plan must include the following required information:

- a. The general size, configuration, and location of each development phase, and a description of the phasing of construction, unless the development is to be constructed in a single phase.
- b. The maximum height of any proposed buildings or structures, using the Land Development Code's method of measuring building height (see LDC Section 34-631).
- c. Proposed principal and accessory uses, identified using the terminology employed in the Land Development Code. Employ the groupings of uses in Tables 34-1 and 34-2 of the Land Development Code, or specify individual uses if necessary.
- d. The density and intensity of the proposed uses, in terms of dwelling units by type, or through conversion factors for hotel/motel units. Provide gross square footages for types of commercial uses, and maximum Floor-Area Ratio.
- e. The minimum width and composition of proposed buffers along the perimeter of the property. References to the types of buffers required by LDC chapter 10 are acceptable.
- f. The location of any environmentally sensitive land and water, based on standard environmental data capable of verification by Town staff. Developments larger than one acre in size may require a protected species survey under LDC Section 10-473.
- g. The exact location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development, with distances from other existing or planned rights-of-way or access points.
- h. Access and facilities for public transit, if applicable.
- i. The general location of stormwater management areas.
- j. The specific locations of requested deviations, including sample detail drawings illustrating their effects if applicable.
- k. The exact location of existing rights-of-way and easements, whether or not those easements are recorded.
- l. Proposed dedications, if any, including beach access, boat ramps, park or recreation areas, open space, or other easements.

Traffic Impact Statement. A traffic impact statement in the same format and to the same degree of detail required for development orders (LDC Section 10-286).

Architectural Elevations. Architectural elevations or three-dimensional renderings that show at minimum all building façades adjoining public streets. These drawings will serve for the sketch requirement of LDC Section 34-202(b)(5) as well. If aspects of the proposed design will not comply with the commercial design standards of LDC Sections 34-991 through 34-997 (if required), the applicant may request deviations from those standards.

Schedule of uses. A list of all proposed principal and accessory uses. Identify these uses by reference to the groups of uses in Tables 34-1 and 34-2 of the Land Development Code unless greater specificity is necessary. For amendments to planned developments that were approved under different regulations, the enumeration of uses in the schedule of uses supplied for the amendment must be specific enough to explain what uses were previously approved without future reference to prior regulations or approvals.



Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
Narrative of Request

Background & Request:

On June 18, 2018, the Fort Myers Beach Town Council unanimously adopted Ordinance No. 18-11 approving a Master Concept Plan (MCP) for a property located at 6230 and 6240 Estero Boulevard in Fort Myer Beach Florida that is partially zoned Residential Planned Development (RPD) (1.69+/- acres) and Environmentally Critical (EC) (2.50 +/- acres) to allow for a two-phased, 12-unit multifamily residential development with conditions and deviations.

The Neighborhood Company, on behalf of our client, Carousel Beach Redevelopment LLC, is submitting a Planned Development Amendment to request the following:

- To allow for the accessory use of decking on the rooftop to support an outdoor living/amenity area for unit owner(s) and their guests.

Utilizing the rooftop as an outdoor living/amenity area is a logical and appropriate request for this luxury residential redevelopment project currently under construction. It provides residents and their guests an outdoor element that will allow for experiencing views of the Gulf and town in a relaxed open air environment. This rooftop amenity area will consist of the following:

- Decorative decking,
- Sitting and lounging areas,
- Landscaping/landscape planters,
- Deck/patio umbrellas, shade sails/canopies, and/or pergola.
 - No shade or sail/canopy supports will extend above the decking by more than 10 feet.
- Fire pits and other patio/deck accessories,
- Specialized ambient and accent lighting, and
 - All lighting will be compliant with Town lighting regulations, specifically associated with Chapter 32, Article V – Sea Turtle Conservation.
- Architecturally integrated privacy walls between the outdoor living/amenity area and building infrastructure (AC units, etc.).



The following are not proposed for the rooftop outdoor living/amenity area:

- No commercial grade integrated amplified sound system.
- No outdoor kitchen or grill.
- No water features.
- No splash pool or whirlpool, and
- No bathroom.

A rendering of the rooftop outdoor living/amenity area is provided as Attachment A to this narrative.

Under the approved Master Concept Plan (MCP) per Ordinance No. 18-11, a list of Schedule of Uses is provided. The current Schedule of Uses identifies a variety of amenity accessory uses anticipated for the project, such as, patios, pool decks, cabanas, and screen enclosures to support the residential units. Using the rooftop as an amenity area was not previously anticipated. With the evolution and finalization of the building's architectural design and the sales interest for the luxury units, it was determined that providing for an accessory rooftop outdoor living/amenity area use is desired. To ensure this use is clearly identified as an accessory amenity to support the residential use, the Applicant is proposing to include "Rooftop Deck" as a permitted "Residential Accessory Uses (for occupants and guest only)."

There is no increase in density, allowed height or changes to the site development regulations associated with this request. Additionally, the approved Master Concept Plan under Ordinance No. 18-11 provides for approved deviations. Deviation #1, states,

REVISED DEVIATION FROM APPROVED DEVIATION LIMITATION IN RESOLUTION 05-10 OF 45 FEET ABFE WITH 3 STORIES OVER PARKING TO ALLOW FOR 4 STORIES OVER PARKING NOT TO EXCEED 45 FEET (AS MEASURED FROM BASE ELEVATION (BFE) TO THE TOP OF STRUCTURAL MEMBERS THAT SERVE AS THE CEILING FOR THE HIGHEST HABITABLE STORY OF THE BUILDING).

The building, as approved and under construction at this time, will remain consistent with the deviation language above and other applicable regulations for building height set forth under Ord. No. 20-19, "Building Height."



Included with this submittal are the proposed amended schedule of uses document and revised Master Concept Plan reflecting the proposed rooftop decking use. The proposed Master Concept Plan maintains the Council-approved density, approved interior square footage, and all other development standards.

LDC Section 34-217 – Effect of planned development zoning provides in sub-section (c):

(c) The terms and conditions of the planned development zoning approval (other than the master concept plan as set forth in §34-220 of this chapter) run with the land and remain effective in perpetuity or until a new zoning action is approved by the Town Council. All developments must remain in compliance with the terms and conditions of the zoning approval.

Based on this section, Resolution 18-11 remains valid and effective in perpetuity. All the findings made by the Town Council in Resolution 05-10 regarding consistency with the Town's Comprehensive Plan and consistency with LDC Section 34-85 - Rezoning, have been met, resulting in the approval remaining valid and in effect. The request for adding "Rooftop Deck" as an accessory use to the residential units under the existing approved Schedule of Uses does not raise any issues, pursuant to the Town's Comprehensive Plan, as the primary residential use remains consistent with Policy 4-B-4 – "Mixed Residential", nor the Land Development Code. A "Rooftop Deck", accessory to the residential uses as outlined, described above and visually rendered will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

LDC Section 34-214, which addresses amendments to a planned development. There are no newly constructed buildings built on-site. The building for Phase 1 has been permitted and is under construction at this time. No new deviations are proposed with this amendment. The proposed amendment is consistent with the current Land Development Code and uncoded ordinances.



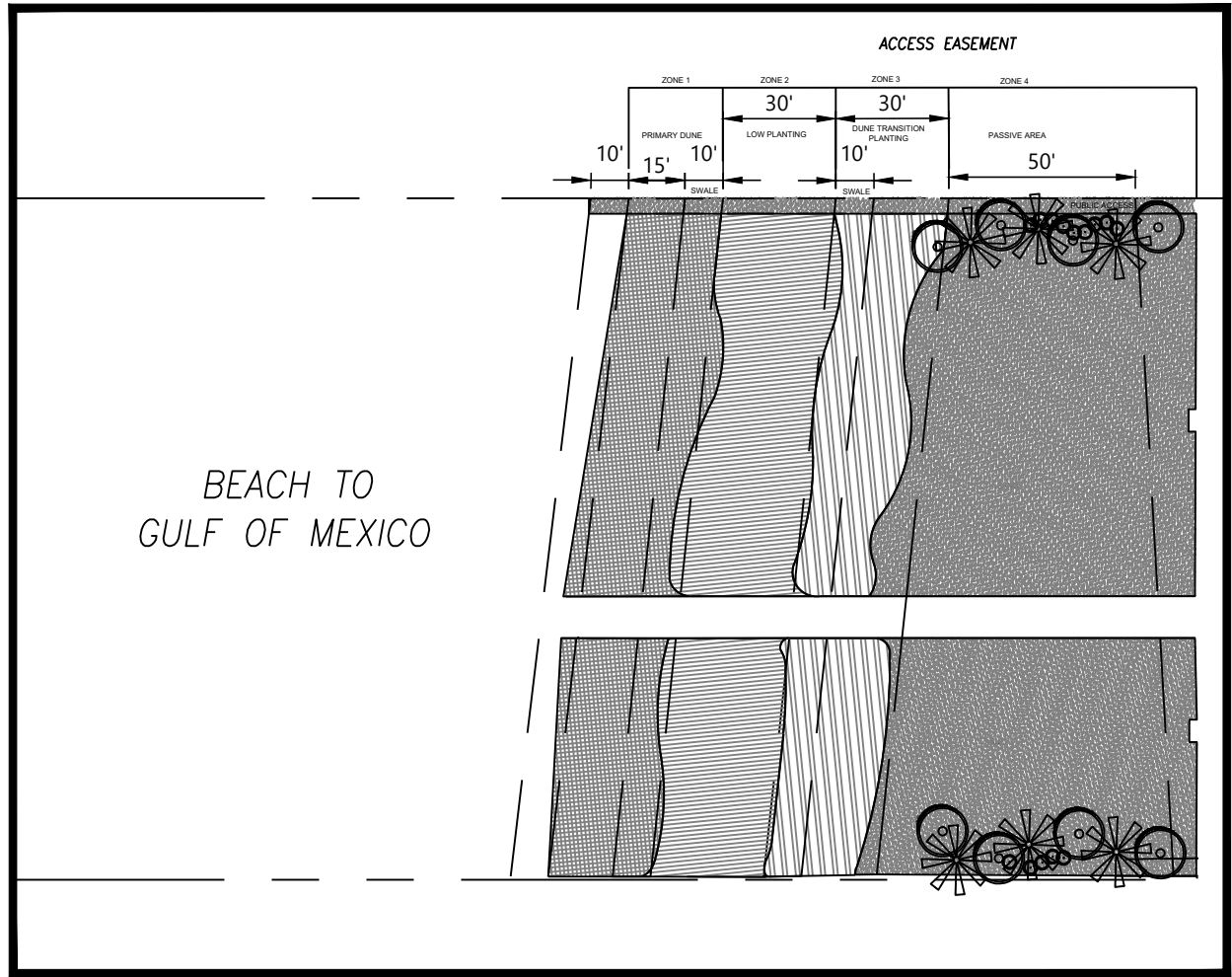
RESIDENTIAL
DWELLING UNIT, MULTIPLE FAMILY,
LIMITED TO 12 TOTAL UNITS (PHASE 1
MAXIMUM 4 UNITS; PHASE 2 MAXIMUM 8
UNITS)
RECREATION FACILITY, PRIVATE ON SITE

GARAGES (UNDER BUILDING)
 GAZEBO
 PATIO
 POOL DECK
 CABANA
 SCREEN ENCLOSURE (BALCONIES)
 FENCE
 WALLS
 DUMPSTER ENCLOSURE
 RECREATION FACILITIES (TOT-LOT)
 STORAGE SHED/MAINTENANCE STRUCTURE
 ROOFTOP DECK

RENTAL OF ANY PERMITTED DWELLING UNIT TO A SINGLE FAMILY FOR PERIODS OF ONE WEEK OR LONGER

ADMINISTRATIVE OFFICE
HOME OCCUPATION (NO OUTSIDE HELP)

BEACH ACCESS
ESSENTIAL SERVICES
HIDDEN PATH
ESSENTIAL SERVICE EQUIPMENT



DETAIL

SCALE: N.T.S.

RPD PARCEL (RIGHT-OF-WAY LINE TO SETBACK LINE)

A LOT OR PARCEL OF LAND 180 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM ESTERO BOULEVARD (STATE ROAD 5-865) TO THE 1978 COASTAL CONSTRUCTION SETBACK LINE AS RECORDED IN ORDINANCE 76-3, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF A LINE 690 FEET, MEASURED ON A PERPENDICULAR SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, MCPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. 5-865 RUN SOUTH 30°53'08" EAST, ALONG SAID RIGHT-OF-WAY LINE FOR 181.83 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, MCPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE 404.55' TO SAID 1978 COASTAL CONSTRUCTION SETBACK LINE; THENCE RUN NORTH 29°18'12" WEST, ALONG SAID SETBACK LINE, 56.90 FEET TO COASTAL CONSTRUCTION SETBACK LINE CONTROL MONUMENT "E-29"; THENCE RUN NORTH 39°10'40" WEST, ALONG SAID SETBACK LINE, 123.82 FEET TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF BEGINNING, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE 420.67 FEET TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

CONTAINING 1.690 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS ARE GRID BEARINGS FLORIDA STATE PLANE WEST ZONE, NORTH AMERICAN DATUM OF 1986, 1990 ADJUSTMENT (NAD 83(90)).

ENVIROMENTALLY CRITICAL PARCEL (EC)

A LOT OR PARCEL OF LAND 180 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM THE 1978 COASTAL CONSTRUCTION SETBACK LINE AS RECORDED IN ORDINANCE 76-3, TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF A LINE 690 FEET, MEASURED ON A PERPENDICULAR SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, MCPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. S-865 RUN SOUTH 30°53'08" EAST, ALONG SAID RIGHT-OF-WAY LINE FOR 181.83 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, MCPHIE PARK SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE 104.55 FEET TO 1978 COASTAL CONSTRUCTION SETBACK LINE AND TO POINT OF BEGINNING; THENCE CONTINUE ALONG SAID PARALLEL LINE 603.69 FEET MORE OR LESS TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTH 30°18'02" WEST, ALONG SAID WATERS, 138.21 FEET; THENCE NORTH 21°02'47" WEST, ALONG SAID WATERS, TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF COMMENCEMENT, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE 577.91 FEET TO SAID 1978 COASTAL CONSTRUCTION SETBACK LINE; THENCE SOUTH 39°10'40" EAST, ALONG SAID SETBACK LINE, 123.82 FEET TO 1978 COASTAL CONSTRUCTION SETBACK LINE CONTROL MONUMENT "E-29"; THENCE SOUTH 29°18'12" EAST, ALONG SAID SETBACK LINE, 56.90 FEET TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

CONTAINING 2.466 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS ARE GRID BEARINGS FLORIDA STATE PLANE WEST ZONE, NORTH AMERICAN DATUM OF 1986, 1990 ADJUSTMENT (NAD 83(90)).

PARCEL 1:

A LOT OR PARCEL OF LAND 100 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FORM ESTERO BOULEVARD (STATE ROAD S-865) TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF A LINE 690 FEET, MEASURED ON A PERPENDICULAR SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHEE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. S-865 RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 101.06 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE 790 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I", UNIT 2, McPHEE SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTHWESTERLY ALONG SAID WATERS TO AN INTERSECTION WITH A LINE THROUGH THE POINT OF BEGINNING, PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "I"; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

PARCEL 2:

A LOT OR PARCEL OF LAND 80 FEET WIDE IN GOVERNMENT LOT 4, SECTION 33, AND GOVERNMENT LOT 1, SECTION 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, EXTENDING FROM ESTERO BOULEVARD (STATE ROAD S-865) TO THE WATERS OF THE GULF OF MEXICO, WHICH LOT OR PARCEL IS DESCRIBED AS FOLLOWS:

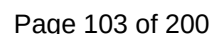
BEGINNING AT A POINT OF INTERSECTION OF A LINE 790 FEET (MEASURED ON A PERPENDICULAR) SOUTHEASTERLY FROM AND PARALLEL WITH THE SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, McPHIE PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAN THEREOF RECORDED IN PLAT BOOK 8, PAGE 59, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. S-865 RUN SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE FOR 80.87 FEET TO AN INTERSECTION WITH A LINE 870 FEET SOUTHEASTERLY FROM AND PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, McPHIE SUBDIVISION; THENCE RUN SOUTHWESTERLY ALONG SAID PARALLEL LINE TO THE WATERS OF THE GULF OF MEXICO; THENCE RUN NORTHWESTERLY ALONG SAID WATERS TO AN INTERSECTION WITH A LINE PARALLEL WITH SAID SOUTHEASTERLY LINE OF BLOCK "1", UNIT 2, McPHIE PARK SUBDIVISION PASSING THROUGH THE POINT OF BEGINNING; THENCE RUN NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING; TOGETHER WITH ALL RIPARIAN RIGHTS APPURTENANT THERETO.

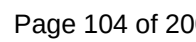
[illegible]

RWA
ENGINEERING

Florida Certificates of Authorization EB 7663 LB 6952
6610 Willow Park Drive, Suite 200 | Naples, FL 34109
Office: 239.597.0575 Fax: (239) 597.0578
www.consult-rwa.com

CLIENT:				6240 HOLDINGS, LLC			
PROJECT:				CAROUSEL			
TITLE:				PLAN VIEW OF PARCEL OWNERSHIP, RPD BOUNDARY & DUNE RESTORATION			
DATE:		APR 2018		DESIGNED:		MCP	
SEC:	TWP:	RGE:	DRAWN:				
33	46	24E	DLP				
PROJECT NO.: 030020.01.P0							
SHEET NUMBER: 2 OF 6							

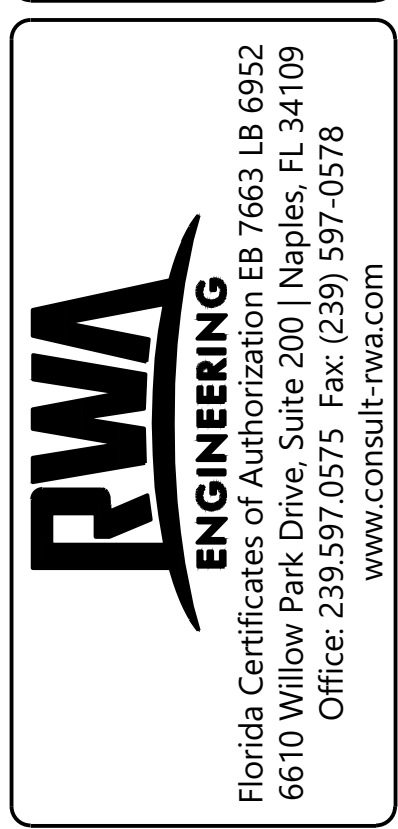
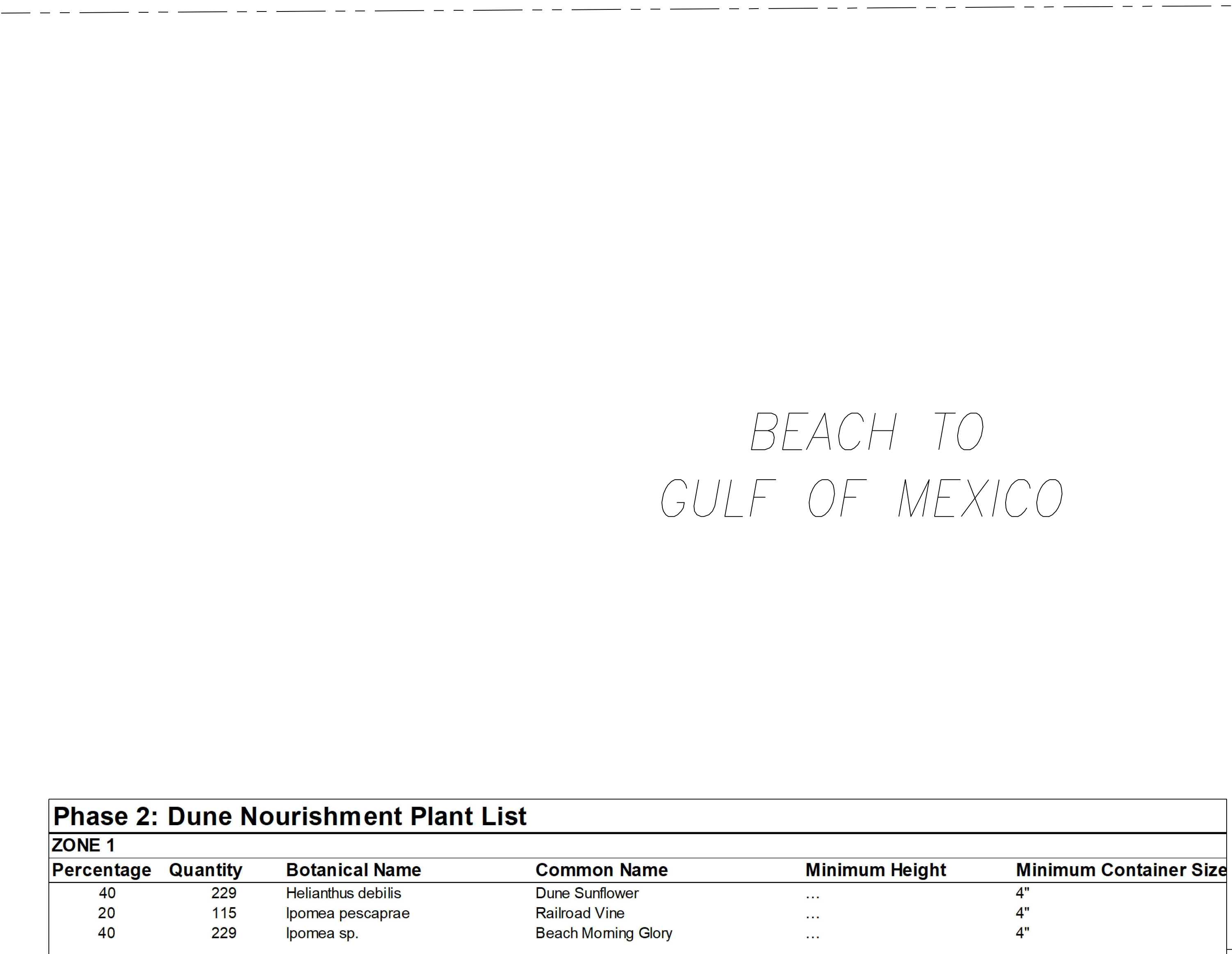




BEACH TO GULF OF MEXICO					
Phase 2: Dune Nourishment Plant List					
ZONE 1					
Percentage	Quantity	Botanical Name	Common Name	Minimum Height	Minimum Container Size
40	229	Helianthus debilis	Dune Sunflower	...	4"
20	115	Ipomea pescaprae	Railroad Vine	...	4"
40	229	Ipomea sp.	Beach Morning Glory	...	4"

ZONE 1					
Percentage	Quantity	Botanical Name	Common Name	Minimum Height	Minimum Container Size
40	229	Helianthus debilis	Dune Sunflower	...	4"
20	115	Ipomea pescaprae	Railroad Vine	...	4"
40	229	Ipomea sp.	Beach Morning Glory	...	4"
ZONE 2					
Percentage	Quantity	Botanical Name	Common Name	Minimum Height	Minimum Container Size
20	137	Helianthus debilis	Dune Sunflower	...	4"
10	69	Ipomea sp.	Beach Morning Glory	...	4"
20	137	Ipomea pescaprae	Railroad Vine	...	4"
50	343	Uniola paniculata	Sea Oats	12"	4"
ZONE 3					
Percentage	Quantity	Botanical Name	Common Name	Minimum Height	Minimum Container Size
30	134	Iva imbricata	Dune Marsh-Elder	...	1 gallon
35	156	Spartina patens	Salt Meadow Cordgrass	12"	4"
35	156	Uniola paniculata	Sea Oats	12"	4"
ZONE 4					
Percentage	Quantity	Botanical Name	Common Name	Minimum Height	Minimum Container Size
...	3	Coccothrinax argentata	Silver Thatch Palm	3'-5' wood	3 gallon
...	9	Coccoloba uvifera	Sea Grape	2"	1 gallon
...	4	Sabal Palmetto	Cabbage Palm	3' c.t.	3 gallon

**The plants listed above are calculated separately from the plants in phase 1*



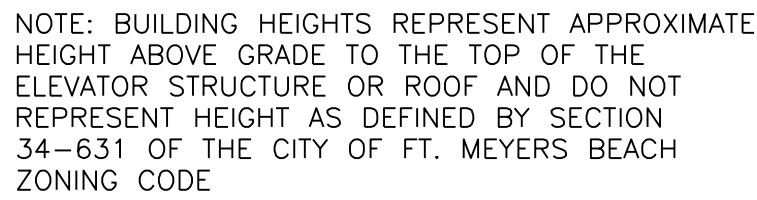
CLIENT:

PROJECT:

TITLE:

RWA
ENGINEERING

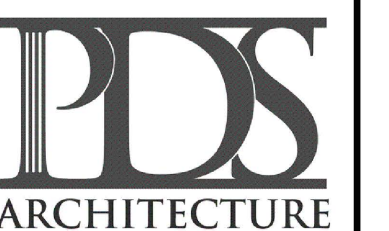
Florida Certificates of Authorization EB 7663 LB 6952
6610 Willow Park Drive, Suite 200 | Naples, FL 34109
Office: 239.597.0575 Fax: (239) 597-0578
www.consult-rwa.com



[illegible]

CONSTRUCTION DOCUMENTS FOR
GULFSIDE 6240 CONDOMINIUM
6230 ESTERO BLVD. FORT MYERS BEACH, FL
TDKL ENTERPRISES

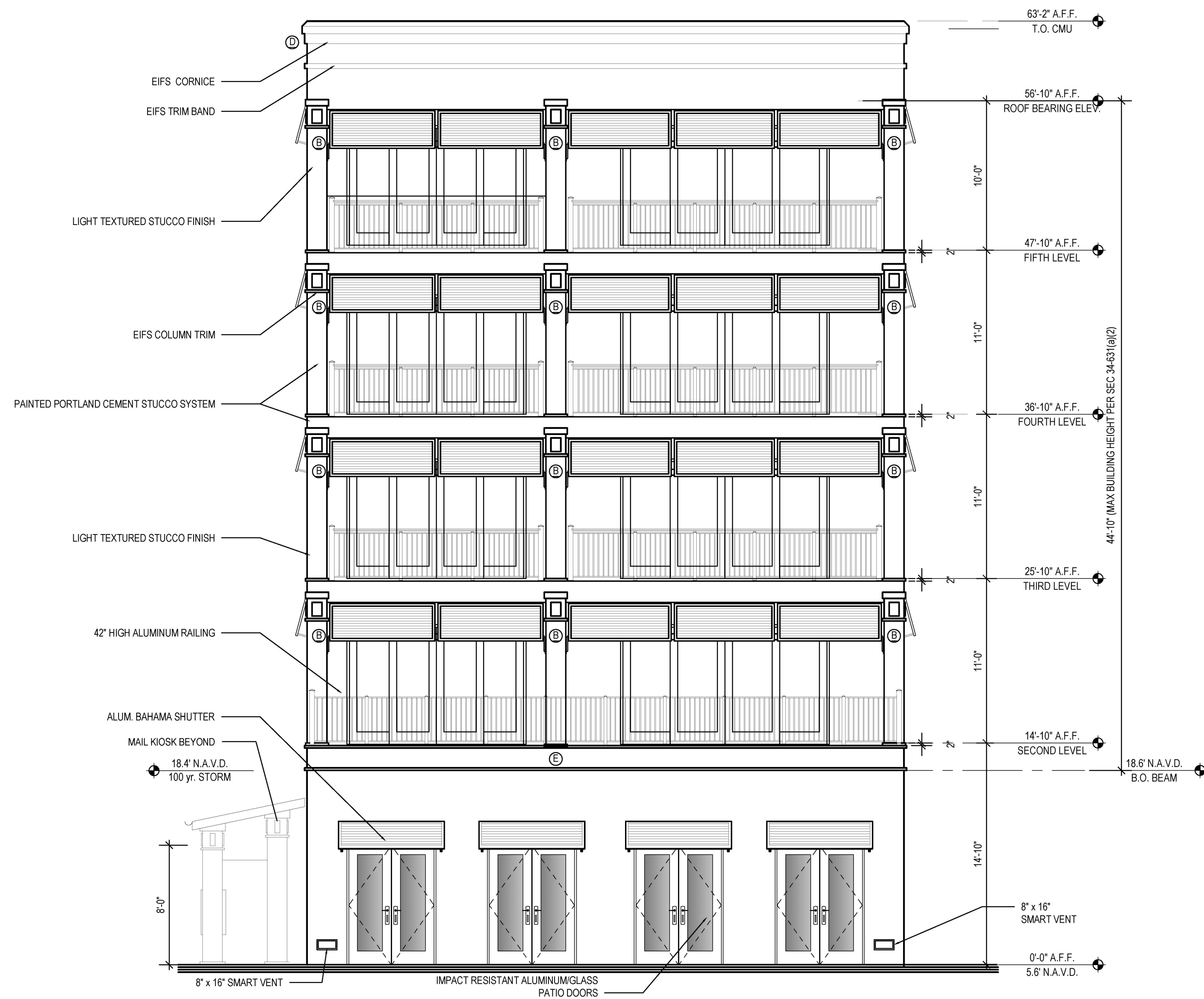
PDS ARCHITECTURE INC.
12800 UNIVERSITY DR, SUITE 402
FT MYERS, FL 33907
FL LICENSE # AA26002474
PH: 239.437.8090
FX: 855.835.2733
INFO@PDSinonline.com



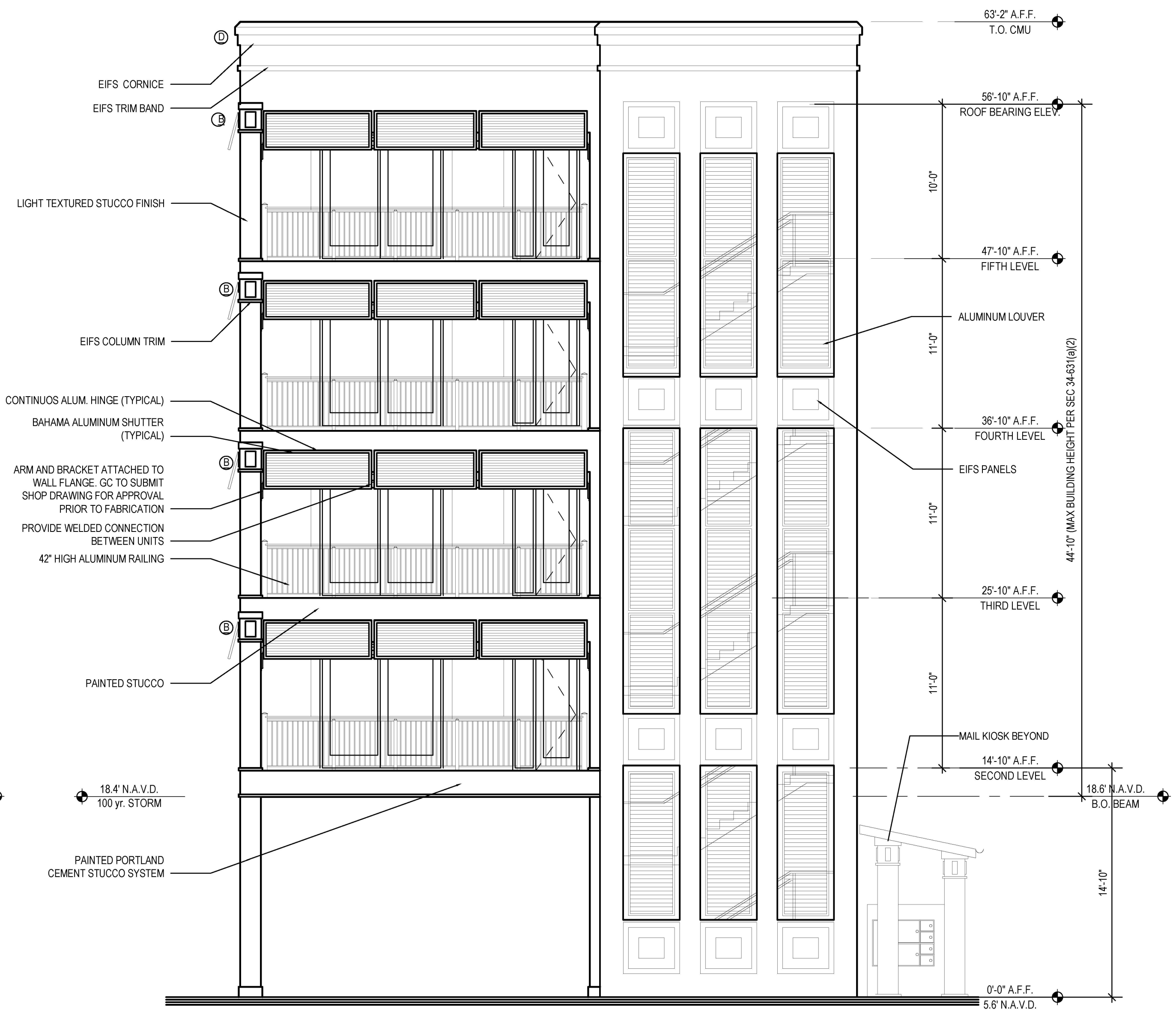
DATE:	11-23-21
TITLE:	ELEVATION

SHEET NO.

A4.1



SOUTH WEST ELEVATION
SCALE: 3/16" = 1'-0"



NORTHEAST ELEVATION
SCALE: 3/16" = 1'-0"

REVIEWED FOR COMPLIANCE WITH
THE FLORIDA BUILDING CODE

ROGER W. SANDERS - PX 651
ECS FLORIDA, LLC



Carousel Inn Residential Planned Development (RPD)
Planned Development Amendment
Schedule of Uses

Schedule of Uses

Residential

Dwelling units: multiple-family, limited to twelve (12)(Phase 1 maximum 4 units, Phase 2 maximum 8 units)

Storage Shed <100 sq. ft.

Recreation Facility, Private on -site

Residential Accessory Uses (for occupants and guests only)

Garages (under building) Gazebos

Patios

Pools (2)

Pool Deck(S)

Cabana

Screen Enclosure (balconies) Fence

Walls

Dumpster Enclosure

Tot lot

Rooftop Deck

Lodging

Rental of any permitted dwelling unit to a single family for periods of one week or longer

Office

Administrative Office (to support the Association)

Home Occupation (no outside help)

Civic

Public Beach Access

Essential Services

Hidden Path

Essential Service Equipment





Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
Fort Myers Beach, FL 33966

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Notice is hereby given that the Town Council of the Town of Fort Myers Beach will hold a public hearing which will take place at DiamondHead Beach Resort, 2000 Estero Boulevard, Fort Myers Beach, Florida, 33931.

TIME: 9 AM

DATE: 1st hearing date March 6, 2023 , 2nd hearing date March 20, 2023

CASE: PD Amendment 20220100

ADDRESS: 6240 Estero Blvd

APPLICANT: Matthew Arminio

REQUEST: The applicant is requesting an amendment to the use table and maximum permitted height for an existing residential PD to allow accessory use of decking on the rooftop to support a private outdoor living/amenity area with shades and canopies extending no more than additional 10 feet.

TOWN CONTACT: Jason Smalley jsmalley@fmbgov.com

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence. At this hearing the **Town Council** will review the application materials and hear testimony to make a **decision**. Complete records or transcripts of the proceedings are not provided by the Town.

Copies of the application and staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.



Town of Fort Myers Beach
Community Development Services - Planning Division
2525 Estero Blvd,
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Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

Town of Fort Myers Beach
2525 Estero Blvd,
Fort Myers Beach, FL 33931

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»«Next Record»

«OwnerName»
«MailAddress»
«MailCity», «MailState», «MailZip»

1. **Requested Motion:**

Meeting Date: March 20, 2023

Adopt Resolution 23-23 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A FIRST AMENDMENT TO THE AGREEMENTS BETWEEN THE TOWN AND THE FIRMS SELECTED UNDER TOWN SOLICITATION RFQ-20-22-AD FOR ONGOING MISCELLANEOUS PROFESSIONAL SERVICES TO CONFORM TO 2 CFR; AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT BY THE TOWN MANAGER; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

2-CFR clauses are required to be eligible for FEMA public assistance requests.

What the action accomplishes:

Approves and authorizes the Town Manager to execute the first amendment to get FEMA compliant

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Provide general professional services

4. **Submitter of Information:**

Yadzia Roa, Deputy Town Clerk/Contracts Manager

5. **Background:**

The Town previously entered into a Professional Services Agreement with the firms selected pursuant to RFQ-20-22- AD for Ongoing Miscellaneous Professional Services. As a result of the damage to the Town's beach caused by Hurricane Ian, additional services are required and additional clauses need to be added to the PSA so that the costs incurred by the Town are eligible for FEMA reimbursement.

An example of the first amendment is attached and upon approval, the first amendments will be drafted and executed with the following firms:

ADA Engineering, Inc.
Agnoli, Barber, & Brundage Inc.
AIM Engineering & Surveying, Inc.
Axis Infrastructure, LLC
Ayres Associates, Inc.
Burt Hill/ Pollock Krieg Architects, Inc.
Calvin, Giordano & Associates, Inc.
C.A.P. Government, Inc.
Haley Ward (formerly CES, Inc.)
Connect Engineering, LLC
CPH, Inc.
David Douglas Associates, Inc.
Encompass Services, LLC
Ensite, Inc.
GFA International, Inc.
Hyatt Survey Services, Inc.
J.R. Evans Engineering, P.A.
LBYD, Inc.

McKim & Creed, Inc.
McLaren Technical Services, Inc.
Moffatt & Nichol, Inc.
RADISE International, LC
RG Architects, P.A.
The Tamara Peacock Company Architects of Florida
Tetra Tech, Inc.
TLC Engineering Solutions, Inc.
TRC Worldwide Engineering
The Weiler Engineering Corporation

Attachments:

1. Resolution 23-23 First Amendments to PSA's Entered into Pursuant to RFQ-22-25-AD(143188373.1)-C
2. First Amendment Example

Financial Impact:

None unless used for FEMA

6. Alternative Action

Do not approve the First Amendment.

7. Management Recommendations:

Approving a first amendment to the agreement to the agreements between the Town and the firms selected under Town Solicitation RFQ-20-22-AD for Ongoing Miscellaneous Professional Services

8. Recommended Approval:

Yadzia Roa, Deputy Town Clerk/Contracts Manager
Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Keith Wilkins , Interim Town Manager

Created/Initiated - 3/13/2023
Approved - 3/14/2023
Approved - 3/15/2023
Final Approval - 3/17/2023

RESOLUTION NUMBER 23-23

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A FIRST AMENDMENT TO THE AGREEMENTS BETWEEN THE TOWN AND THE FIRMS SELECTED UNDER TOWN SOLICITATION RFQ-20-22-AD FOR ONGOING MISCELLANEOUS PROFESSIONAL SERVICES TO CONFORM TO 2 CFR; AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT BY THE TOWN MANAGER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach (“Town”) empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, pursuant to a competitive procurement process in compliance with state law and Town Code, in October of 2022 the Town issued RFQ-20-22-AD - “Ongoing Miscellaneous Professional Services” - and subsequently entered into a Professional Services Agreement for Ongoing Miscellaneous Professional Services (“Agreement”) with the selected firms. A copy of the Agreement is attached as Exhibit “A”; and

WHEREAS, the Town and the Firms desire to amend the Agreement to include specified policies, procedures, and requirements to comply with the Federal Emergency Management Agency’s Public Assistance Program policy guidelines (“First Amendment”).

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. The First Amendment to the Agreements attached hereto as Exhibit “B”, between the Firms and the Town of Fort Myers Beach is approved. The Town Manager is authorized to execute the First Amendment on behalf of the Town is authorized to take all necessary steps to implement the First Amended Agreement.

Section 3. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was by the Town Council upon a motion by _____ and seconded by _____, and upon being put to a vote, the result was as follows:

Dan Allers, Mayor
Jim Atterholt, Vice Mayor
John R. King, Council Member
Bill Veach, Council Member
Karen Woodson, Council Member

ADOPTED this ____ day of March 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of March 2023.

FIRST AMENDMENT TO AGREEMENT BETWEEN

TOWN OF FORT MYERS BEACH

AND

THIS FIRST AMENDMENT TO AGREEMENT (“First Amendment”) is made and entered into this ____ day of March, 2023 by and between the Town of Fort Myers Beach (“Town”), and _____ (“Contractor”).

WITNESSETH:

WHEREAS, on _____, the Town and Contractor entered into an Agreement (“Agreement”) for Contractor to provide miscellaneous professional services in response to Town’s RFQ-20-22-AD “Ongoing Miscellaneous Professional Services” (“Services”). A copy of the Agreement is attached hereto as Exhibit “A” and made a part hereof by the reference; and

WHEREAS, the parties desire to amend the Agreement to include specified policies, procedures, and requirement to comply with the Federal Emergency Management Agency’s Public Assistance Program policy guidelines.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Town and the Contractor agree to the following amendments to the Agreement as follows:¹

1. Article 18 of the Agreement- Entire Agreement. This Agreement, including referenced Exhibits and Attachments hereto, constitute the entire Agreement between the parties hereto and shall supersede, replace, and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect on this Agreement.

The following listed documents, which are referred to hereinbefore, are attached to and are acknowledge, understood and agreed to be an integral part of this Agreement;

- (1) EXHIBIT “A” entitled “Scope of Professional Services”, dated October 1, 2020.
- (11) EXHIBIT “K” entitled “Affidavit of Confidentiality”, dated October 1, 2020.

1/ Additions to existing text are shown by underline, and deletions are shown as ~~strikethrough~~.
141000102.1

- (12) EXHIBIT “L” entitled “Federal Emergency Management Agency Public Assistance”, undated.
- (12) ATTACHMENT “A” entitled “RFQ Proposal from Provider”.

2. Remaining Provisions of the Agreement. All other provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Town and Firm have executed this First Amendment this ____ day of March 2023.

CONTRACTOR:

TOWN OF FORT MYERS BEACH:

By: _____
Its: _____

Keith Wilkins, Interim Town Manager

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

John R. Herin, Jr., Town Attorney

1. **Requested Motion:**

Meeting Date: March 20, 2023

Adopt Resolution 23-24 entitled: A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING AND IMPLEMENTING, BY REFERENCE, THE FY2022-2023 TOWN WIDE FEE SCHEDULE. UNLESS PROHIBITED BY STATE LAW OR THE TOWN CHARTER, PROVIDING FOR CODIFICATION, CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE

Why the action is necessary:

Ordinance 22-13 allows the Town to adopt and implement fees through a resolution rather than an ordinance. This resolution adopts and implements the Town's amended and updated fee schedule.

What the action accomplishes:

The resolution will implement the amended and updated FY2022-2023 Town Wide Fee Schedule.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

5. **Background:**

The Town adopted Ordinance 22-13 to standardize the manner of adopting, amending and implementing fees and fee schedules through resolutions. This resolution implements the Town's amended and updated FY 2022-2023 Town Wide Fee Schedule.

Attachments:

1. Resolution 23-24
2. Exhibit A Fee Schedule

Financial Impact:

n/a

6. **Alternative Action**

Recommend approval of Resolution 23-24.

7. **Management Recommendations:**

Adopt Resolution 23-24.

8. **Recommended Approval:**

Sarah Propst, Planning & Zoning
Steve Poposki, Community Development Director
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Keith Wilkins , Interim Town Manager

Created/Initiated - 3/13/2023
Approved - 3/13/2023
Approved - 3/14/2023
Approved - 3/14/2023
Final Approval - 3/17/2023

RESOLUTION NUMBER 23-24

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING AND IMPLEMENTING, BY REFERENCE, THE FY2022-2023 TOWN WIDE FEE SCHEDULE. UNLESS PROHIBITED BY STATE LAW OR THE TOWN CHARTER, PROVIDING FOR CODIFICATION, CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, from time-to-time the Town Council has established by Ordinance and Resolution certain fees and fee schedules, and the Town Council adopted Ordinance 22-13 to standardize the manner of adopting, amending, and implementing fees and fee schedules through resolution; and

WHEREAS, the Town Council approved and adopted the fees defined in the FY 2022-2023 Town Wide Fee Schedule.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The FY 2022-2023 Town Wide Fee Schedule, a copy of which is attached as Exhibit "A" is approved.

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Council Member ____ and seconded by Council Member ____, and upon being put to a vote, the result was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
Bill Veach, Council Member	_____
John King, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this 20th day of March 2023, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of March 2023.



FY 2022-2023 TOWN WIDE FEE SCHEDULE

	CURRENT FEE	NOTES
ADMINISTRATIVE ACTIONS		
Administrative COP	1000	
Administrative Setback Variance	750	
ABT Review (Alcoholic Beverages & Tobacco)	50	
Wireless Communication Facility	1500	
Single-Family Minimum Use Determinations (MUD)	350	
Appeal	1000	
Accessory Apartment Determination (AAD)	350	
Base Flood Elevation Determination Letter (FED) BFE	250	
DEP Setback Letter (DEP) (setbacks only - all other inquiries are ZVL or AI)	250	
Zoning Verification Letter (ZVL)	250	
Residential Zoning Requests	\$25 for first 15 minutes of staff time; \$10 for each additional 15 minute increments of staff time	
Historical Review	150	
Recognition Plaque	50	
Administrative Interpretation (ADI)	\$250 + \$100 for each additional issue/question	
Joint-use parking lot approvals	300	
Certificate of Use - Commercial	100	
Temporary Use Permit	100	
Home Occupation Certificate	25	
Sign Permit - Up to 2 signs & additional review after 2 charged at applicable review fees	\$100 + building permit fees as applicable + \$25.00 each additional	
Temporary Sign Permit (i.e. business opening signs)	50	
Garage Sale Permit	10	
Administrative Relief	500	
Pre-Application meetings (1st one No Charge)	\$250 + hourly costs for time over 1hr	
All Grant processing fees	500	
PD Administrative Amendment	1500	
Development Agreement-Original Agreement	5000	
Advertising Costs - Additional	at cost + 10%	
Development Agreement-Amendment	2500	
Advertising Costs - Additional	at cost + 10%	
CODE ENFORCEMENT		
Initial Inspection, Re-Inspection, Pre-Magistrate and Compliance per ½ hour	50	
Mail fees	Actual Postage Cost	
Recording Fees	24	
Code Enforcement Citation Fee	Not to exceed \$500	
Code Enforcement Irreparable/Irreversible Citation Fee	Not to exceed \$5000	
Administrative Support 1 Hour	30	
Fire Department Enforcement Fee	TBD	
Lien Search Fee	35	
Simplifile Fee	Actual Cost to file electronically	
DEVELOPMENT ORDERS		
Development Orders	3000	
Development Order Amendment	775	
LIMITED DEVELOPMENT ORDERS		
Type 1a: Cumulative addition or enlargement of an existing impervious area.	500	
Reseal or Restripe	350	

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 TOWN WIDE FEE SCHEDULE

	CURRENT FEE	NOTES
DEVELOPMENT ORDERS (Continued)		
Type 2: Any out-of-door recreational facilities, provided the total cumulative additional impervious area does not exceed 8,000 sq. ft.	350	
Type 3: Any one-time subdivision of land into 4 or less lots where zoning district regulations permit such subdivision. / Condo creation	\$350 residential splits/\$500 commercial splits	
Type 4: Any single building accessory improvements thereto on a single non-conforming lot as defined in LDC Section 34-3271(b).	500	
Type 5: Any improvements for public water access purposes in town-owned or town-maintained rights-of-way.	350	
Type 6: Any development for fenced or screened outdoor storage as defined in Ch. 34.	350	
Type 7: The installation of new utility lines in existing right-of-ways.	1100	
Type 8: Any other improvement to land determined by the director to have insignificant impacts on public facilities.	1100	
LDO Amendment	50	
Resubmittal	100	
MOORING FIELD (plus all applicable taxes)		
Daily Rate	25	
Weekly Rate	175	
Monthly Rate	410	
Mooring Field Pump Out Paid Rented Mooring	1 pump free/24 hr	
Mooring Field Pump Out Non Mooring Field Rental per Pump Out	5	
DOCKWA Credit Card Processing Fee 3.5%	3.50%	
Lost FOB	25	
Late Fee	5/day	
Merchandise	Price as Marked	
Mooring Field Parking Permit plus any applicable fees	\$30/length of contract	
PARKING FEES		
Annual Rate - Resident i.e. Estero Island Property Owner	25	
Business Owner - Annual	50	
Parking bags per bag	6	
Parking Spot Per Hour (incl. Special Event)	5	
Parking Decal Lost/Stolen/Replacement	5	
Charging Stations	Level 2 - not to exceed \$2/hr Level 3 - not to exceed .60/min	
Right of Way (ROW) per Resolution 18-20	\$100/spot 1st Calendar Yr; \$50/spot per Calendar Yr if paid by Nov. 30th	
PARKS AND RECREATION ORDINANCE 97-5		
Parks and Recreation Ordinance 97-5 Violations	Up to \$500	
PUBLIC HEARING		
Rezoning (conventional)	\$5800 + \$250/Ac over 1 Acre	
Special Exception	\$3800/\$3300 for amendment	
Variance (residential)	1800	
Additional Variance	500	
Variance (non-residential)	2800	
Additional Variance	700	
Application for land development code text amendment*	2800	
Per Added section	if actual charge	
Comprehensive Plan FLUM amendment*	5800	
Per Added acre	if actual charge	
Per Additional acre	1000	
Comprehensive Plan text amendment*	5800	
Per Added policy	if actual charge	

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 TOWN WIDE FEE SCHEDULE

	CURRENT FEE	NOTES
PUBLIC HEARING (Continued)		
COMPREHENSIVE PLAN SMALL SCALE AMENDMENT		
Placement of Fill	1000	
With drainage plan	700	
Adjacent property owner notifications >50	Cost + 10%	
Administrative / Advertising Fee	Cost + 10%	
Vacations (ROW and/or Plat)	1000	
PD Amendment Minor (<1 acre total property area, Public Hearing)	2000	
MCP Extension / Application (w/o rezoning)	3000	
PD Reinstatement	4000	
<i>*Outside consultant fees associated with any application will be passed through to the applicant at 103% of rate billed to the Town by consultant</i>		
Hearings and Appeals going to Council	1000	
PD Base Fee (up to one acre)	\$8000 + \$1000/additional acre	
PD Amendment	6500	
Deviations (residential)	1-5: \$1800/6+: additional \$150/ea	
Deviations (non-residential)	Outside consultant fees associated <u>and required for any application</u> will be passed through to the applicant at a rate determined by the Town Manager and billed to the Town by consultant	
Continuance (case scheduled and advertised)	500	
Deferrals	\$250 after advert./NC before	
Withdrawal	\$250 after advert./NC before	
Appeal to LPA	150	
PUBLIC WORKS		
Labor/Maintenance Cost (Grass cutting, lawn maintenance, special event tasks, etc.)	Actual Cost + \$35/ea	
Inspections/Review/Re-Inspection(s)	50	
Memorial Benches	\$575 (includes intallation) / must pay inscription cost @ \$4/letter	
REGISTRATIONS AND YEARLY RENEWALS		
Displays, Rentals and Permits	150	
Contractor Registration / yearly renewal	25	
Driveway re-inspection	25	
REVIEW FEES		
Zoning Review	100	
Floodplain Review	\$100; \$50 ea submittal after 2nd or \$25 trades, valuation & scope review	
LOMR/LOMA Review	500	
Environmental Review	100	
Re-inspection Fee	50	
FMB Review Fee	25	
Public Works Review Fee	\$70 + cost of subconsultant services	
FMB Review -Resubmittal	\$50 ea submittal after the 2nd resubmittal	
Parking Lot Permit	Per Code	
Parking Lot Yearly Inspection Fee	50	

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 TOWN WIDE FEE SCHEDULE

	CURRENT FEE	NOTES
RIGHT OF WAY PERMIT		
Right of Way Permit	50	
Business Extension/Sidewalk Café Policy per Resolution 18-46	12.50/Sq Ft	
Daily Rental of Bay Side Park (non business extension)	150/hr	
Times Square Event Rentals	To Be Approved By Council Per Event	
SPECIAL EVENTS		
Regular Special Event Permit	100 + 10/day	
Late Fees < 30 days Regular / <45 days Council for a COMPLETED app	50	
Special Event Permits going before Town Council	100 + 10/day	
Farmers Markets	100 + 10/day	
Events With More Than 10 Days	Additional 10% per day	
Beach Access Wedding Permit	350/hr	
Beach Access Wedding Permit with 10 guests or less	150/hr	
STORMWATER REVIEW FEES		
Stormwater Ordinance 15-08	Per Ordinance	
Administrative Fee	Per Ordinance	
Stormwater Review, Inspection and Re-Inspection	50	
NPDES Annual Inspection	100	
STREET PERFORMERS		
Street Performers Permit Application	75	
Street Performers Background Check	75	
Street Performers Received after September 30th-Permit Application	150	
Street Performers Received after September 30th-Background Check	150	
TOWN CLERK		
Miscellaneous Duplications (8.5x11, 8.4x14, 11x17) -single side	0.15/pg	
Miscellaneous Duplications (8.5x11, 8.4x14, 11x17) -dbl side	0.20/pg	
Certification of document & duplication audio	1.00/DVD	No advisory committee meetings
Extensive services beyond 30 minutes	Hourly Rate	
Code of Ordinances/Land Development Code	Online	May be purchased from Municode directly
Comprehensive Plan	Cost + 5% as limited by statute	
TOWN HALL RENTAL		
Town Hall Meeting Room Rental - No Audio/Visual	\$30/hr per staff/security	
Town Hall Meeting Room Rental - Audio/Visual per hour	150	
Town Hall Meeting Room Rental - Public Works Set Up/Clean Up Fee per day	150	
WATER		
Per Rate Study	Resolution 17-33 Adopted 10-16-17	
Meters Purchase & Meters Testing	Actual Cost + 10% Administrative Fee	
Credit Card Processing Fee	3.50%	
Utility Review Fee	\$115 + Cost of Subconsultant Services	
OTHER		
Personal Watercraft Vendor License (PWVL)- Administration, License, Enforcement	685	
Parasailing Vendor License (PLV) - Adminstration, License, Enforcement	685	
PWVL/PAL License Late Fee (After October 1)	25	
Violation of PWVL/PAL License: 1st Violation	150	
Violation of PWVL/PAL License: 2nd and 3rd Violation	300	
Beach Raking Permit	\$25/Property	
Vehicle on the Beach Permit	\$100/Vehicle	

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 TOWN WIDE FEE SCHEDULE

	CURRENT FEE	NOTES
Beach Furniture Vendor License 1st Year	685	
Beach Furniture Vendor License Renewal	685	
Beach Furniture Vendor License Late Fee (After October 1)	25	
Short Term Rental Application Fee	300 + 100/bedroom	

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 TOWN WIDE FEE SCHEDULE

	WITHIN 3 DAYS	4-10 DAYS	AFTER 10 DAYS	NOTES
PARKING FINES				
Meter Violation	35	50	70	
Prohibited Violations	50	60	75	
Handicap	200	225	250	
Immobilization Fee (officer \$20.00, Kubota \$15.00, boot \$10.00)	45			
Littering	50	250	500	
Towing Right to Provide Services permit	30			
Passport Fees	Actual cost paid by Customer			

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 PARKS & RECREATION DEPARTMENT FEE SCHEDULES
BAY OAKS RECREATION CENTER

	CURRENT FEE		NOTES
BAY OAKS RECREATION CAMPUS MEMBERSHIPS	Resident	Non-Resident	ESTIMATED REVENUE
Annual Membership - Individual	60	120	
6 Month Membership - Individual	40	75	
Annual Membership - Family	120	240	
6 Month Membership - Family	80	150	
Adult Day Pass - Non-Resident (13+ Years)	7	10	
Child Day Pass - Non-Resident (12 & under)	4	7	
Town of Fort Myers Beach Employee Membership (Full Time staff)	Same as Resident Fee	Same as Resident Fee	
BAY OAKS RECREATION CAMPUS FACILITY RENTAL			
Grounds (Dawn-2pm or 2pm-Dusk) (Grounds defined as passive areas not identified elsewhere within the Fee Schedule) <i>**Building rental may not conflict with After School or Camp Programs</i>	350/hr or 500/day	450/hr or 600/day	Building and Grounds 750/hr or 950/day
EXCLUSIVE USE OF THE RECREATION CENTER - CLOSED TO THE PUBLIC WITHIN NORMAL OPERATING HOURS			
Building - Per Hour Cost - 2 Hour Minimum - Free Parking	250/hr	350/hr	
Banner fee (Annually - Banner can not be larger than 8' x 3')	160	160	
Rod Vayo Field or Wade Jenkins Field - 2 hour minimum	75/hr	125/hr	
Ballfield Lights Cost Per Hour	50/hr	75/hr	
Concession Stand Per Hour/Per Room (Contingent With Additional Rental)	100/hr	200/hr	
Meeting Room - 2 hour rental min - Free Parking	50/hr	100/hr	
Bay Oaks & Pool Store Items and Beverages & Snacks	0	Priced as Marked	
Sport Camps (3- 10 days) Football, Basketball, Baseball & Contractual - Member	No Charge	10	
Youth Sports - Soccer/Little League	No Charge	No Charge	
Youth - Club Rec - during school year - per semester	125	175	
Youth - Summer Camp - Per Week	100	150	
Youth - Fun Days - Per Day	20	30	
Late Pickup from Programs (after 6:01 pm)	20/15 min past 6pm (accumulative) per household	20/15 min past 6pm (accumulative) per household	
Teens/Tweens - Trips & Outings	100% cost recovery	100% cost recovery + \$4	
Adult Sports Teams, Leagues and Tournaments	100% cost recovery	100% cost recovery + \$4	
Pickle ball or Volleyball (day pass/membership required)	5/person per session	10/person per session	
Seniors - Potluck Dinner	Removed - Included in below	Removed - Included in below	
Seniors - Trips, Outings, Events , Theater, Biking, Lunches, Kayaking, Potlucks	100% cost recovery	100% cost recovery + \$8	
Seniors - Kayaking	Included in above	Included in above	
Seniors - Biking	Included in above	Included in above	
Seniors Out To Lunch Bunch	Included in above	Included in above	
Athletic Contractual Programs - Fees vary-set by instructor and staff	70/30 split	70/30 split	
BORC Special Events and Fundraisers	50% cost recovery	n/a	

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 PARKS & RECREATION DEPARTMENT FEE SCHEDULES
BAY OAKS POOL

	CURRENT RATE		NOTES
	Resident	Non-Resident	ESTIMATED REVENUE
POOL DAILY FEES			
No child under 13 years of age admitted without and adult			
Day Pass (13 and up) (children 2 and under are free)	7	10	
Child (24 months - 12 years old)	4	7	
POOL MEMBERSHIPS			
Annual - Individual (classes not included)	120	225	
6 Month - Individual	75	150	
Annual - Family	250	450	
6 Month - Family	150	300	
POOL CLASSES			
Aqua Aerobics & Aqua Yoga Class	4	6	
Open lap swimming Monday, Wednesdays, Fridays 9am-10am and Sundays 10am-12pm	\$3/day	\$5/day	
Pool Contractual Programs - Fees vary-set by instructor and staff	70/30 Split	70/30 Split	
Pool Swimming Lessons	20/session	30/session	
Community CPR/AED/First Aid; CPR/Lifeguarding/AED for Professional Rescuer/Water & Land Spinal; Professional Rescuer CPR/AED & First Aid	\$75-\$175	\$75-\$175	
Late Pickup from Programs	10/15 min increment (accumulative per household past 6pm)	10/15 min increment (accumulative) per household past 6pm	
POOL RENTAL			
	Member/Non-Profit	Non-Member	
Party Packages	TBD	TBD	

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 MOUND HOUSE FEE SCHEDULE

	STUDENT - 13+ & ADULTS W/COLLEGE					
	MH MEMBER	ADULT NON-MEMBER	ID	CHILDREN 6-12	CHILDREN 5 & UNDER	NOTES
MUSEUM ADMISSION						
General Admission	Free	15	8	5	Free	
General Admission FMB Resident	Free	7.5	4	2.50	Free	
Free admission for retired or active military and their families on Veteran's Day	Free	Free	Free	Free	Free	
Free admission for Teachers, Mound House Members	Free	Free	Free	Free	Free	
Guided Museum Tours, Group Tours	Free	20	13	10	Free	
Educational Programs	Free	20	13	10	Free	
Summertime Family Rates (June - August)	TBD	TBD	TBD	TBD	Free	
GROUP RATES						
Proposed: Student Tours (FGCU)	N/A	8	N/A	N/A	N/A	
Group Tours Non Refundable Deposit if cancelled within 3 business days of the tour	Removing	Removing	Removing	Removing	Removing	
STUDENT TOURS						
Students for each activity	\$2/Child + material fee if applicable	\$2/Child + material fee if applicable	\$5/Child + material fee if applicable	\$5/Child + material fee if applicable	Free	
For every 10 children 1 free adult admission						
Extra Adults with Student groups	Free	5	N/A	N/A	N/A	
Program Fee for additional activities	2	2	2	2	Free	
Material Fees	Actual Cost	Actual Cost	Actual Cost	Actual Cost	Actual Cost	
KAYAK TOURS						
Kayak Tours Non Refundable Deposit if cancelled within 2 business days of the event Per Person	10	15	15	15	N/A	
Mangroves by Kayak Tour includes museum admission and free parking	20	50	50	N/A	N/A	
Family Fun Kayak Tours includes free admission and free parking	15	30	30	30	30	
Sunset Kayak Tour	25	50	50	N/A	N/A	
SPECIALITY TOURS/EVENTS						
Speciality Tours - As Determined	Free	\$5 + Museum Admission	\$5 + Museum Admission	\$5 + Museum Admission	N/A	
Boat Tours - Pure Florida Boat Tours	15	20				
Multi Day Program (Joyful Living Retreat)	150-200	150-200				

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 MOUND HOUSE FEE SCHEDULE

	MH MEMBER/FMB RESIDENTS	NON-MEMBERS	NON-PROFIT/EDUC ORGANIZATIONS	NOTES
MOUND HOUSE FACILITY RENTAL				
Proposed: Wedding Ceremony Only (grounds not to exceed 150 people; free parking)	\$350/hr	\$400/hr	N/A	
Orientation Room-Main Museum	\$65 for 1st Hr/\$45 additional Hr	\$75 for 1st Hr/\$50 additional Hr	\$70 for 1st Hr/\$45 additional Hr	
After Hours Rental (after 5:30 pm or anytime Sunday per hour)	100	150	125	
Grounds (Observation Pier, Special Event Area, Back Patio/ Porch area) - Not to exceed 150 people; free parking	350 Base Rate/hour	400 Base Rate/hour	375 Base Rate/hour	
Individual	35			
Dual plus NARM	100			
Family	50			
Extended Family	100			
Contributor	200			
Patron	500			
Benefactor	1000			
Corporate	2500			
Museum Store Items	Priced as Marked			
Gift Certificates	Priced as Marked			
Mound House Staff Speakers Fee	100			
Friends of the Mound House Membership	\$10 extra per MH Membership			

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 NEWTON PARK FEE SCHEDULE

	TOWN OF FMB RESIDENT	FOR-PROFIT or INDIVIDUAL	NON-PROFIT or EDUC ORGANIZATION	NOTES
NEWTON BEACH PARK RENTALS <i>(parking not included unless otherwise noted)</i>				
Seven Seas Historic Cottage (parking not included)	\$200/Hr	\$250/hr for 1st 2 Hrs then \$75 additional Hr	\$200/hr for 1st 2 Hrs then \$65 additional Hr	
Extra staff site visits/ planning sessions Per Visit	40	60	50	
Large 5 table - Chickee Hut only - up to 2 hours Parking Not Included	15/hr	25/hr	20/hr	
2 table - Chickee Hut - up to 2 hours Parking Not Included	10/hr	15/hr	10/hr	
Newton Park - Cottage and Outside Tiki Huts; restrooms are open to the public	800	1200	900	
After Sunset Fee (applies if rental extends past 8 PM not to exceed past 10pm) - no exterior rentals or lighting allowed during turtle nesting season.				
May through October	\$150/Hr	\$150/Hr	\$150/Hr	
Short Term Instructors	TBD	N/A	N/A	
EDUCATIONAL PROGRAMS				
Beachwalks	Free			
Concessionaire	70/30			
General Educational Programming	\$5-\$15 TBD			

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 BUILDING PERMIT FEE SCHEDULE

REF #	PERMIT	CURRENT FEE	PROPOSED FEE	NOTES
	FIRE REVIEW OR FIRE INSPECTION FEE NOT INCLUDED AND WILL BE CHARGED SEPERATELY BY THE FIRE DEPARTMENT *** IMPACT FEES NOT INCLUDED *** *** SOLID WASTE AND DCA/DBPR FEES NOT INCLUDED*** 1/3 OF THE BUILDING PERMIT FEE WILL BE REFUNDED IF THE PERMIT IS NOT ISSUED WITHIN 3 WEEKS OF RECEIPT OF COMPLETED APPLICATION AND ALL ADDITIONAL INFORMATION REQUESTED BY REVIEWERS.			
	<i>COM – Commercial New Construction, Additions, Alterations, Modular,</i> 1 <i>Foundation</i> Includes: Application Processing Fee Commercial Building Plan Review & Inspection Commercial Environmental Review Commercial Flood Review Commercial Stormwater Review Commercial Zoning Review Plumbing Review, Sub-Contractor Permit, & Plumbing Inspection Electrical Review, Sub-Contractor Permit, & Electrical Inspection(s) Mechanical Review, Sub-Contractor Permit, & Mechanical Inspection	.70 per sq. ft. + 35% of building permit for application and all review fees. EX. 5,000 sq. ft. project = \$4,725.00		
	2 <i>COM – Concrete Restoration</i> Includes: Application Processing Fee Commercial Plan Review Threshold Engineer Report Review Inspection	525		
	3 <i>COM - Roof/ReRoof/Roofover</i> Includes: Application Processing Fee Building Review Flood Review Inspection	500		
	4 <i>CONDO - Condo Residential Unit Remodel/Interior Flat Fee</i> Includes: Application Processing Fee Building Review and Inspection Flood Review Electrical Review and Electrical Inspection Mechanical Review and Mechanical Inspection Plumbing Review and Plumbing Inspection	\$930 for All Condo Remodel Projects		
	5 <i>CONDO - Carport/Garage Flat Fee</i> Includes: Application Processing Fee Building Review and Inspection Stormwater Review Zoning Review Electrical Review and Inspection	700		
	6 <i>DEMO - Commercial and Residential</i> Includes: Application Processing Fee Building Plan Review Environmental Review Inspection	475		

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 BUILDING PERMIT FEE SCHEDULE

REF #	PERMIT	CURRENT FEE	PROPOSED FEE	NOTES
7	DRV - All Driveways Includes: Application Processing Fee Environmental Review Flood Review Stormwater Review Zoning Review Inspection	625		
8	DSH - Dock, Walkway, Pier Platform, Boat Lift, Hoist, Davit Repair, Rip Rap, Seawall, Dredging, Piling, Boat Ramp Includes: Application Processing Fee Environmental Review Zoning Review Inspection	400		
9	DSH - Boathouse and Dock Permit (New Dock/New Boathouse) Includes: Building Review and Inspection Electrical Review and Inspection	Flat Fee \$720 (\$330 for boathouse with \$390 dock fee)		
10	DSH - Boathouse, New or Repair (New Boathouse, Existing Dock) Includes: Application Processing Fee Building Review and Inspection Environmental Review Zoning Review Electrical Review and Inspection	475		
11	FEN - Fence (All Fences, Pool Barriers, Retaining/Garden Wall) Includes: Application Processing Fee Building Plan Review and Inspection Environmental Review Flood Review	475		
12	POL - Pools (Above Ground, Below Ground, Spas) Includes: Application Processing Fee Building Review and Inspection Environmental Review Flood Review Stormwater Review Zoning Review	850		
13	RES - Interior Remodel (up to 50% of Structure Value) Includes: Application Processing Fee Building Review and Inspection Flood Review Electrical Review and Inspection Mechanical Review and Inspection Plumbing Review and Inspection	800		
14	RES - New One & Two Family Dwelling Construction, Remodel, Addition, Carport, Stand Alone Garage *** IMPACT FEES NOT INCLUDED *** Includes: Application Processing Fee Building Plan Review and Inspection Environmental Review Flood Review Stormwater Review Zoning Review Electrical Review and Electrical Inspection Mechanical Review and Mechanical Inspection Plumbing Review and Plumbing Inspection Roof Sewer Connection	Up to 1500 sqft = \$1860 1501-2500 sqft = \$2580 2501-3500 sqft = \$3300 3501-4500 sqft = \$4020 4501-5500 sqft = \$4740 5501-6500 sqft = \$5460 6501+ sqft = Commercial Calculation		

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 BUILDING PERMIT FEE SCHEDULE

REF #	PERMIT	CURRENT FEE	PROPOSED FEE	NOTES
15	<i>RES - Roof, Reroof, Roofover, Insulated Pan Roof</i> Application Processing Fee Flood Review Inspection	300		
16	<i>STRUC - Commercial or Residential Sheds, Decks, Screen Enclosure/Pool Enclosure, Dumpster Enclosure, Radio/TV Antenna, Freestanding Signs, Mobile Home/RV Setup</i> Includes: Application Processing Fee Building Review and Inspection Environmental Review Flood Review Stormwater Review Zoning Review	625		
17	<i>STRUC - Structure Move</i> Includes: Application Processing Fee Building Review and Inspection Environmental Review Flood Review Stormwater Review Zoning Review Electrical Review and Inspection Mechanical Review and Inspection Plumbing Review and Inspection	900		
18	<i>TRADES - Over the Counter Electrical, Mechanical, Plumbing, Solar, Other Misc.(Flatwork, Interior Piping, Dumpster, Gas, Pavers, Fence Repair)</i> <i>Building Permits Not Stated.</i> Includes: Application Processing Fee Any Necessary Reviews	200		
19	<i>WIN - Windows (Commercial, Condos, Residential) up to 5 Windows, including Sliding Glass Doors</i> Includes: Application Processing Fee Building Review and Inspection Flood Review	400		
20	<i>WIN - Windows (Commercial, Condos, Residential) over 5 Windows, including Sliding Glass Doors</i> Includes: Application Processing Fee Building Review and Inspection Flood Review	# Windows x \$30 + \$50 Ex 10 Windows = \$350		
MISCELLANEOUS FEES				
21	MISC - 1st Work Without Permit	3x Building Permit Fee		
22	MISC - 2nd Work Without Permit	5x Buildin Permit Fee		
23	MISC - Change of Contractor	60		
24	MISC - Building Code Administrators and Inspectors Surcharge (Pursuant to Florida Statute)	Determined by Statue		
25	MISC - Department of Business and Professional Regulation Surcharge (Pursuant to Florida Statute)	Determined by Statue		
26	MISC - Inspection/Partial Pass (additional inspection requested by contractor)	60		
27	MISC - Inspection/Re-inspection After Failed Inspection	60		
28	MISC - Inspection/Lock-Out (Inspector did not have access to construction site and has to reschedule inspection)	60		
29	MISC - Permit Extension 1st 3 Months	120		
30	MISC - Permit Extension 2nd 3 Months	180		
31	MISC - Plan Revision (after issuance of permit)	60		
32	MISC - Recording Services	Actual Cost		
33	MISC - Reissuance of Expired Permit: Commercial (not including Code Enforcement fees)	600		

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule



FY 2022-2023 BUILDING PERMIT FEE SCHEDULE

PERMIT	CURRENT FEE	PROPOSED FEE	NOTES
MISCELLANEOUS FEES (Continued)			
MISC - Reissuance of Expired Permit: Residential (not including Code			
34 Enforcement Fees)	300		
MISC - Reissuance of Expired Permit: Trade (not including Code			
35 Enforcement Fee)	120		
MISC - Resubmittal Fee after 1st resubmittal (if our reviewers request more			
information and the information provided by the permit holder does not			
36 fulfill request)	\$60/Resubmittal		
37 MISC - Generator Installation Permit	540		
38 MISC - Temporary CO	210		

Adopted: September 8, 2022 - Resolution 22-29 Fee Schedule

1. **Requested Motion:**

Meeting Date: March 20, 2023

Adopt Resolution 23-25; A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ACCEPTING V&H CONSTRUCTION INC. AS THE TOP RANKED RESPONSIBLE AND RESPONSIVE BIDDER TO ITB-23-06-PW "ROAD SIGNS"; APPROVING AN AGREEMENT BETWEEN THE TOWN AND V&H CONSTRUCTION INC. FOR THE INSTALLATION OF NEW TOWN ROAD SIGNS; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE A FINAL AND BEST OFFER AND EXECUTE THE AGREEMENT, AND EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; AND PROVIDING AN EFFECTIVE DATE

Why the action is necessary:

Due to Hurricane Ian, the Town's Road Signs need to be replaced.

What the action accomplishes:

Approves and authorizes the Town Manager to negotiate, execute an agreement, and expend budgeted funds for new Town Road Signs

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution 23-25

4. **Submitter of Information:**

Jason Freeman, Public Works
Manager

5. **Background:**

ITB- 23-06-PW- was issued and properly advertised on December 1, 2022 to replace damaged and missing Town street and traffic signs. The Town is also coordinating with Lee County on the other signage along Estero Boulevard.

Bids were due by February 1, 2023. The bid resulted in 4 submissions:

i2Visual, Inc.

V& H Construction, Inc.

Roadworx,

Traffico, LLC.

Staff reviewed all 4 bids. As explained below, the putative lowest bidder submitted incomplete documents in their bid, and therefore, their bid was deemed non-responsive. Accordingly, staff is recommending to award the work to the second lowest bid, which was submitted by V & H Construction, Inc. at \$391,808.00

Roadworx, LLC. is the putative low bidder with a total cost of \$146,298. However, based on a detailed review of Roadworx, LLC. bid, it was determined that some of the required items in the bid documents were either missing or were not properly submitted, and they are:

On Part D Form:004 – Contractor Qualification Questionnaire – Page 1 of 7 - Roadworx identified itself as a corporation. However, the bid paperwork submitted indicates either a partnership or a limited liability company.

On Part D Form:004 – Contractor Qualification Questionnaire – Page 3 of 7 - Florida License Information is missing. All licenses mentioned in this table list the State of Georgia as the licensing jurisdiction.

On Part D Form:004 – Contractor Qualification Questionnaire – Page 3 of 7 - Corporate seal missing.

On Part D Form:004 – Contractor Qualification Questionnaire – Page 5 of 5 - Request for Florida Business Tax Receipt says To Be Determined. Attestation also missing.

On Part D Form:004 – Contractor Qualification Questionnaire – Page 7 of 7 - Notary Public part not completed.

The second low bidder is V+H Construction, LLC. with a total cost of \$391,808. Based on staff's review, this bid is complete and considered the lowest responsive and responsible qualified bidder.

The community has shown great resilience and engagement by creating artistic road name signs. While these do not meet the legal requirements of road signage, this project is not to remove any existing of these artistic signs. It is the desire of the town to retain the artistic signs currently erected and to promote continued engagement, creativity and demonstrations of community resiliency in recovering from Hurricane Ian.

Attachments:

1. Resolution 23-25, Road Signs
2. ITB-23-06-PW Road Sign Bid Tabulation
3. Road Signs Construction Agreement- draft

Financial Impact:

6. Alternative Action

Not approve the Resolution and rebid the solicitation

7. Management Recommendations:

Approve the agreement between the Town and V&H Construction Inc. for the installation of the new Town Road signs and authorize the Town Manager to negotiate a final and best offer and execute the agreement.

8. Recommended Approval:

Flor Lemmer, Administrative Officer
Jason Freeman, Public Works Manager
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Keith Wilkins , Interim Town Manager

Created/Initiated - 3/13/2023
Approved - 3/13/2023
Approved - 3/14/2023
Approved - 3/14/2023
Final Approval - 3/17/2023

RESOLUTION NUMBER 23-25

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ACCEPTING V&H CONSTRUCTION INC. AS THE TOP RANKED RESPONSIBLE AND RESPONSIVE BIDDER TO ITB-23-06-PW "ROAD SIGNS"; APPROVING AN AGREEMENT BETWEEN THE TOWN AND V&H CONSTRUCTION INC. FOR THE TOWN ROAD SIGNS; AUTHORIZING THE NEGOTIATION AND EXECUTION OF THE AGREEMENT BY THE TOWN MANAGER; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, pursuant to a competitive procurement process in compliance with state law and Town Code – ITB-23-06-PW "Road Signs" The Town and the responsive firm will enter into a construction contract agreement for Road Signs ("Agreement"), a copy of which is attached as Exhibit "A"; and

This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was _____ by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a vote, the result was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King, Council Member	_____
Bill Veach, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this ____ day of _____, 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____ 2023.

TOWN OF FORT MYERS BEACH
Road Signs
TOWN BID TABULATION
ITB-23-06-PW

Proposing Firm	Total Base Bid Amount	Official Bid Form, pg. D-2, insert firm name at the bottom of the page	Signed copy of each addendum, if any, (3)	Official Bid Form, pg. D-3 through D-8	Official Bid Forms	Bid Bond / Cashier's Check/Certified Check	Contractor's Qualification Questionnaire	DBE Participation Form	Public Entities Crime Form	Non-Collusion Affidavit	Trench Safety Affidavit	Material Manufacturer List	List of Sub Contractors	Immigration Laws Affidavit	All required documents submitted (1 original and 1 PDF on disc or flashdrive)	Bid properly sealed in an envelope and marked "Sealed Bid", bidders name; project name; solicitation number; date and time of opening
TRAFFICO, LLC	450,974.00	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	N/A
I2 VISUAL	414,580.00	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	N/A
VH CONSTRUCT.	391,808.00	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	N/A
ROADWORK	146,298.12	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	N/A	N/A

Staff Present

Yachia Roa
DA SPYCHALSKI

**PART E****FMB:006 - CONSTRUCTION CONTRACT AGREEMENT FORM**

(1 of 9 Pages)

CONSTRUCTION CONTRACT AGREEMENTContract No. ITB-23-06-PWCouncil Award Date: March 6, 2023**AGREEMENT**

THIS CONTRACT is made this _____ day of _____ by and between the TOWN OF FORT MYERS BEACH, FLORIDA, hereinafter called "TOWN," and _____, a corporation, hereinafter called "CONTRACTOR."

WITNESSETH: For and in consideration of the mutual covenants herein set forth, the parties agree as follows:

ARTICLE 1. WORK

The CONTRACTOR shall commence and complete all work for PROJECT TITLE ITB-23-06-PW in accordance with the Contract Documents. CONTRACTOR shall furnish all of the material, supplies, tools, equipment, labor and other services necessary for the completion of the project described in the Contract Documents. A Scope of Services is attached marked Exhibit "A".

ARTICLE 2. CONTRACT SUM

- 2.1. The TOWN shall pay the CONTRACTOR, in current funds, for the performance of the work described in Exhibit "A", subject to additions and deductions by Change Order as provided in the Contract Documents, the sum of:

said amount being the **Total Base Bid Amount** as listed on the CONTRACTOR's Official Bid Proposal Form that was submitted for this project.

ARTICLE 3. PROGRESS PAYMENTS

Based upon applications for payments submitted to TOWN'S Representative by the CONTRACTOR, and Certificates for Payment issued by the TOWN'S representative, the TOWN shall make progress payments on account of the Contract Price to the CONTRACTOR as provided in the Contract Documents as follows:

- 3.1. Not later than ninety (90) calendar days following the approval of an Application for payment, TOWN will make payment to CONTRACTOR in an amount equal to ninety-five percent (95%) of that portion of the Contract Price properly allocated to labor, materials and equipment incorporated in the Work and ninety-five percent (95%) of the portion of the Contract Price properly allocated to materials and equipment suitably stored at the site or at some other location agreed upon in writing, for the period covered by the application for payment, less the aggregate of previous payments made

by the TOWN.

- 3.2. The Town shall withhold 5% of each progress payment as retainage until the project is completed.
- 3.3. Upon final completion of the work and acceptance of the project, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Price, less such amounts as the TOWN shall determine for all incomplete work, unsettled claims or unused units as provided in the Contract Documents.

ARTICLE 4. CONTRACT DOCUMENTS

The Term “**Contract Documents**” shall include this Contract; addenda; CONTRACTOR’s Bid, except to the extent it conflicts with any other contractual provision; the Notice to Proceed, the Public Payment and Performance Bond(s); the Bid Package prepared and issued by the TOWN; the General Conditions; the Specifications and Drawings; any Special Conditions; all Written Amendments; Certificates of Insurance; Change Orders; and Work Change Directives or Field Orders. In the event of conflict between any provision of any other document referenced herein as part of the contract and this agreement, the terms of this agreement shall control.

ARTICLE 5. TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

- 5.1. The CONTRACTOR shall commence work as required by the CONTRACT DOCUMENTS and as provided in the Official Notice to Proceed.
- 5.2. Substantial completion shall be achieved not later than the number of days specified in the Bid Proposal, unless the period for substantial completion is extended otherwise by the CONTRACT DOCUMENTS or by written agreement of the parties.
- 5.3. Final completion shall be achieved not later than the number of days specified in the Bid Proposal, unless the period for final completion is extended otherwise by the CONTRACT DOCUMENTS or by written agreement of the parties.
- 5.4. Time is of the essence in the performance of this Contract.

Liquidated Damages:

- 5.5. The TOWN and CONTRACTOR recognize that time is of the essence of this agreement and that the TOWN will suffer financial loss if the work is not completed within the times specified in 5.2 and 5.3 above, plus any extensions thereof allowed by Change Order. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding and the actual loss suffered by the TOWN if the work is not completed on time. Accordingly, instead of requiring any such proof, TOWN and CONTRACTOR agree that Liquidated Damages will be assessed in the amount of **\$500.00** per day for each calendar day that is beyond the substantial and final completion dates required by the CONTRACT DOCUMENTS.

The TOWN shall have the right to deduct all damages due from the final payment

request as well as retainage.

Any sums due and payable hereunder by the CONTRACTOR shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the TOWN estimated at the time of executing the Contract. When the TOWN reasonably believes that substantial Completion will be inexcusably delayed, the TOWN shall be entitled, but not required, to withhold from any amounts otherwise due the CONTRACTOR an amount then believed by the TOWN to be adequate to recover liquidated damages applicable to such delays. If and when the CONTRACTOR overcomes the delay in achieving substantial Completion, or any part thereof, for which the TOWN has withheld payment, the TOWN shall promptly release to the CONTRACTOR those funds withheld, but no longer applicable as liquidated damages, less sums incurred by the Town resulting from CONTRACTOR's delay in achieving substantial completion.

The CONTRACTOR shall also be liable for any actual damages sustained by the TOWN after CONTRACTOR has achieved substantial completion for CONTRACTOR's failure to fully complete the Contract Documents. Actual damages may include, but not be limited to, costs related to supervision, inspection, rentals, testing, consulting fees, or lost productivity and overhead. The TOWN shall have the right to deduct all damages due from final payment request as well as retainage.

ARTICLE 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce TOWN to enter into this Agreement, CONTRACTOR makes the following representations:

CONTRACTOR has been familiarized with the Contract Documents and the nature and extent of the work required to be performed, locality, local conditions, the areas of intended construction including surface and sub-surface conditions, and Federal, State and Local laws, ordinances, rules and regulation that in any manner may affect costs, progress or performance of the work.

CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site which may affect cost, progress or performance of the work.

CONTRACTOR has made or caused to be made examinations, investigations, tests and studies as deemed necessary for the performance of the Work at the Contract Price, within the Contract Time, and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, test, reports or similar data are or will be required by CONTRACTOR for such purposes.

CONTRACTOR has correlated the results of all such observations, examination, investigations, test, reports and data with the terms and conditions of the Contract Documents.

CONTRACTOR has given TOWN written notice of all conflicts, errors or discrepancies that have been discovered in the CONTRACT DOCUMENTS and the written resolution thereof by TOWN is acceptable to CONTRACTOR.

ARTICLE 7. GENERAL CONDITIONS**7.1 RESPONSIBILITY OF THE CONTRACTOR.****7.1.1 PROSECUTION OF THE WORK.**

The CONTRACTOR shall be responsible for the good condition of the Work until its release from its obligations. It shall bear all losses resulting to it on account of the amount or character of the Work, the character of the ground or existing underground installation being different from what it anticipated, or on account of the weather or the elements.

Information shown on the Drawings as to the location of the existing utilities has been prepared from the most reliable data available to the TOWN. This information is not guaranteed, however, and it shall be this CONTRACTOR's responsibility to determine the location, character and depth of existing utilities. Extreme caution shall be exercised to eliminate any possibility of any damage to utilities resulting from CONTRACTOR's activities. The location of all overhead utilities shall be verified and the TOWN notified on any conflict which might occur. The CONTRACTOR shall be responsible for determining which poles will need shoring during excavation and shall provide such shoring and support as is required.

Caution shall be exercised by the CONTRACTOR in grading operations, as some existing underground utilities have a minimum cover. The CONTRACTOR shall be responsible for replacing any underground facility broken or dislocated during construction for which sufficient underground information has been shown on the plans.

ARTICLE 8. TERMINATION FOR CONVENIENCE

This Contract may be terminated by TOWN for its convenience upon thirty (30) days prior written notice to CONTRACTOR. In the event of termination, the CONTRACTOR shall be paid as compensation in full for work performed to the date of such termination, an amount prorated in accordance with the work substantially performed under this Agreement. Such amount shall be paid by the TOWN after inspection of the work to determine the extent of performance under this Agreement, whether completed or in progress.

ARTICLE 9. PROJECT RECORDS

The following provisions are required by §119.0701, Fla. Stat., and may not be amended. Contractor shall keep and maintain public records required by the Town to perform the services required under this Contract. Upon request from Town's custodian of public records, Contractor shall provide Town with a copy of any requested public records or to allow the requested public 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. Contractor shall 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 Contract's term and following completion of the Contract if Contractor does not transfer the public records to Town. Upon completion of the Contract, Contractor may transfer, at no cost, to Town all public records in possession of Contractor or keep and maintain public records required by Town to perform the services required under the Contract.

If Contractor transfers all public records to Town upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Town, upon request from Town's custodian of public records, in a format that is compatible with Town's information technology systems. The failure of Contractor to comply with the provisions set forth in this Section shall constitute a Default and Breach of this Agreement, for which, the Town may terminate the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF THE PUBLIC RECORDS AT (239) 765-0202, FMBPUBLICRECORDS@FMBGOV.COM, 2525 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA 33931.

ARTICLE 10. MISCELLANEOUS PROVISIONS

- 10.1. Final payment, constituting the entire unpaid balance of the Contract Price shall be paid by the TOWN to the CONTRACTOR when the work has been completed, the Contract fully performed, and a final Certificate for Payment, form No. FMB: 013, has been approved by the TOWN.
- 10.2. Terms used in the Agreement which are defined in the General Conditions of the Contract (Part F) shall have the meaning designated in those conditions.
- 10.3. The TOWN and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.
- 10.4. This Agreement may not be assigned except with the written consent of the TOWN, and if so assigned, shall extend and be binding upon the successors and assigns of the CONTRACTOR.
- 10.5. The CONTRACTOR agrees through the signing of this agreement by an authorized party or agent that he shall hold harmless and defend the TOWN and its agents and employees from all suits and action, including attorney's fees, and all cost of litigation and judgments of every name and description arising out of and incidental to the performance of this Contract Document or work performed thereunder, whether or not due to or caused by negligence of the TOWN, excluding only the sole negligence of the TOWN. This provision shall also pertain to any claims brought against the TOWN by any employee of the CONTRACTOR, or sub-CONTRACTOR(s), or anyone directly or indirectly employed by any of them. The CONTRACTOR'S obligation under this provision shall not be limited in any way to the agreed upon Contract Price as shown in this agreement or the CONTRACTOR'S limit of or lack of sufficient insurance protection.



- 10.6. This Agreement constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or oral.
- 10.7. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid or unenforceable provision(s) were omitted.
- 10.8. No Amendments or changes to the terms or conditions of this agreement shall be valid unless in writing and signed by all parties.
- 10.9. The validity, construction and effect of this Agreement shall be governed by the laws of the State of Florida. All claims and/or dispute resolution concerning this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida. Any litigation between the parties arising from this Agreement shall be conducted in Lee County, Florida. In the event of any litigation and/or binding arbitration arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable costs and attorney's fees.
- 10.10. TOWN reserves unto itself sole authority to execute and authorize the issuance of Change Orders, directives, or other documents to the CONTRACTOR which impact on or change the Contract Time or Price. These actions by the TOWN will be taken after due consideration of the recommendations and analysis of the TOWN's architect or consulting engineer, if applicable. This provision supersedes any other contradictory provisions in the Contract Documents.
- 10.11 Pursuant to existing laws and procedures in the State of Florida, and if approved and authorized by the TOWN's Council, any dispute arising out of or relating to any of the contract documents or this Agreement shall be submitted to binding arbitration in Lee County, Florida, before a single lawyer arbitrator having at least ten (10) years' experience in similar matters, and who is mutually acceptable to the parties, or approved as selected by the Lee County Court Mediation/ Arbitration Office. The parties shall equally divide the expenses of such arbitration, and the prevailing party in such arbitration shall be entitled to award of reasonable attorney fees and costs (exclusive of the actual cost of arbitration to be shared equally by the parties) incurred in the preparation for arbitration of such dispute and further such prevailing party shall also be entitled to reasonable attorney fees and costs incurred in any proceedings to enforce or compel its arbitration rights or obtain order(s) confirming such arbitration or award or any attorney fees or cost incurred in proceeding thereafter to enforce such rights in addition to the above and foregoing rights.
- 10.12 No provision in this contract shall be construed more strongly against either party or in a light less favorable to either party because of who drafted it as a method of contract interpretation.

ARTICLE 11. E-VERIFICATION

- 11.1. As a condition precedent to entering into this AGREEMENT, and in compliance with

Section 448.095, Fla. Stat., Contractor and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

- 11.2. A contractor shall require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of the AGREEMENT.
- 11.3. Town, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity.
- 11.4. Town, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.
- 11.5. A contractor terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Contractor acknowledges that upon termination of this AGREEMENT by the Town for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that the Contractor is liable for any additional costs incurred by the Town as a result of termination of any contract for a violation of this section.
- 11.6. Subcontracts. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

ARTICLE 12. PROHIBITION AGAINST CONTRACTING WITH SCRUTINIZED COMPANIES

12.1. By execution of this Contract, in accordance with the requirements of §§287.135 and 215.473, Fla. Stat., Contractor certifies that Contractor is not participating in a boycott of Israel. Contractor further certifies that Contractor is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has Contractor been engaged in business operations in Cuba or Syria. Subject to limited exceptions provided in state law, the Town will not contract for the provision of goods or services with any scrutinized company referred to above. Submitting a false certification shall be deemed a material breach of Contract. The Town shall provide notice, in writing, to Contractor of the Town's determination concerning the false certification. Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active Contract term,



Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If Contractor does not demonstrate that the Town's determination of false certification was made in error then the Town shall have the right to terminate the contract and seek civil remedies pursuant to §287.135, Fla. Stat., as amended from time to time.

In witness whereof, TOWN and CONTRACTOR have signed this agreement. One counterpart has been retained by the Town Clerk, one to the Project Sponsoring Department, and one part each has been delivered to the CONTRACTOR. All portions of the Contract Document have been signed or identified by TOWN and CONTRACTOR.

Signed, sealed, and delivered in the presence of:

(Secretary)

(Correct Name of Business)

(Corporate Seal)

BY: _____
(Title)

Date: _____

TOWN OF FORT MYERS BEACH COUNCIL
FORT MYERS BEACH, FLORIDA

ATTEST:

BY: _____
Town Clerk

BY: _____
Town Manager

Date: _____

Date: _____

APPROVED AS TO FORM

BY: _____
Town Attorney

EXHIBIT "A"

TO THE SERVICE PROVIDER CONTRACT DATED THIS _____ day of _____,
2023 BETWEEN THE TOWN AND _____, PROVIDER.

1. **SCOPE OF SERVICES**: The Provider will perform the following services under this Agreement:

ROAD SIGNS

- a. The work on this contract generally consists manufacturing and/or installation of road signs as identified on Exhibit I and Exhibit II. This is a non-inclusive list and may be adjusted as necessary. Signs are to be installed three (3) feet from the sidewalk.

**FEDERAL EMERGENCY MANAGEMENT AGENCY
PUBLIC ASSISTANCE**

The supplemental conditions contained in this section are intended to cooperate with, to supplement, and to modify the general conditions and other specifications. In cases of disagreement with any other section of this contract, the Supplemental Conditions shall govern. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract.

Pursuant uniform requirements of federal awards (2 CFR Part 200.23) the definition of CONTRACTOR is an entity that receives a Contract / Purchase Order.

Compliance with Federal Law, Regulations and Executive Orders: The Sub-Recipient (Town) agrees to include in the subcontract that (i) the subcontractor is bound by the terms of the Federally-Funded Subaward and Grant Agreement, (ii) the subcontractor is bound by all applicable state and Federal laws and regulations, and (iii) the subcontractor shall hold the Division and Sub-Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

Specifically, the Contractor shall be responsible for being knowledgeable and performing any and all services under this contract in accordance with the following governing regulations along with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

- 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 44 C.F.R. Part 206
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities
- FEMA Public Assistance Program and Policy Guide

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

Access to Records: The contractor agrees to provide the Town, the Florida Department of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract. (4) In compliance with section 1225 of the Disaster Recovery Act of 2018, the Town and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Affirmative Socioeconomic Steps If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Changes: To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allowable, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.

DHS Seal, Logo, and Flags: The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval. The contractor shall include this provision in any subcontracts.

Domestic Preference for Procurements 200.322 As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section: "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

License and Delivery of Works Subject to Copyright and Data Rights: The Contractor grants to the Town, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the Town or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Town data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the Town.

No Obligation by Federal Government: The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

Prohibition on Covered Telecommunications Equipment or Services

(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds for covered Telecommunications Equipment or Services As used in this clause –

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

- (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing — (i). A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii). Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i). Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system. (ii). Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph(e), in all subcontracts and other contractual instruments.

Program Fraud and False or Fraudulent Statements or Related Acts: The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

Rights to Inventions Made Under a Contract or Agreement: Exempt from FEMA Public Assistance Funding

Suspension and Debarment: (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. (3) This certification is a material representation of fact relied upon by the Town. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Town, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Procurement of Recovered Materials (§200.323) (Over \$10,000): In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired— Competitively within a timeframe providing for compliance with the contract performance schedule; Meeting contract performance requirements; or At a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage:

<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Termination for Cause and Convenience (over \$10,000): See Standard Purchase Order and/or Contract Terms and Conditions

Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352 (as amended) (over \$100,000): Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient."

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

Contractors must sign and submit a certification to the Town with each bid or offer exceeding \$100,000. See Certifications and Assurances and the end of this document.

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) (over \$100,000): Where applicable, all contracts awarded by the solicitor in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Town or FEMA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

For contracts that are only subject to Contract Work Hours and Safety Standards Act and are not subject to the other statutes in 29 C.F.R. § 5.1

"Further Compliance with the Contract Work Hours and Safety Standards Act.

(1) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

(2) Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

Clean Air Act (over \$150,000): 1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act (over \$150,000): 1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Administrative, Contractual, or Legal Remedies (over \$250,000): Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in a Florida court of competent jurisdiction.

CONSTRUCTION ACTIVITIES

Equal Employment Opportunity Clause (§60-1.4): Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Davis Bacon Act: Exempt under FEMA Public Assistance Funding

Copeland Anti-Kickback Act: Exempt under FEMA Public Assistance Funding

**STATE OF FLORIDA PROVISIONS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM**

Applicable Laws - The Town and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Town shall include this provision in all contracts issued.

Data Collection: The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved scope of work for an eligible Project item. The monitoring standards may be found at: [Project Monitoring \(floridadep.gov\)](http://ProjectMonitoring.floridadep.gov)

In order to comply with Florida Auditor General report 2014-064 regarding conflicts of interest and to be consistent with Section 287.057(17)(a)(I), F.S., **all monitoring data and statistical analysis must be provided directly and concurrently from the monitoring contractor to the Florida Department of Environmental Protection/Town/permittee/engineering consultant.** The Town's engineering consultant must provide an adequate mitigation plan, consistent with Section 287.057(17)(a)(I), F.S., including a description of organizational, physical, and electronic barriers to be used by the Town's engineering consultant, that addresses conflicts of interest when contracting multi-disciplinary firms for Project engineering and post-construction environmental monitoring services, or when the Project engineering consultant firm subcontracts for post-construction environmental monitoring. Environmental monitoring includes hardbottom, seagrass, and mangrove resources.

Equal Employment Opportunity: No person on the ground of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of, otherwise subjected to discrimination.

Inspector General Cooperation: The Parties agree to comply with Section 20.055(5), Florida Statutes, for the inspector general to have access to any records, data and other information deemed necessary to carry out his or her duties and incorporate into all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

Lobbying: No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch or a state agency.

Local Preference: Pursuant to Section 255.0991, F.S. local vendor preference is not applicable

Physical Access and Inspection: Grantor personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:

- i. The Town shall provide access to any location or facility on which Town is performing work, or storing or staging equipment, materials or documents.
- ii. The Town shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
- iii. The Town shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.

Record Retention: A. The contractor shall maintain and retain sufficient records demonstrating its compliance with the terms of the Agreement for a period of at least five (5) years after final payment is

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

made and shall allow the Town, the State, or its authorized representatives access to such records for audit purposes upon request.

Statutory Notices Relating to Unauthorized Employment: The Town shall consider the employment by any Contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement

Statutory Notices Relating to Subcontracts: Pursuant to Sections 287.133 and 287.134, F.S., the following restrictions apply to persons placed on the convicted vendor list or the discriminatory vendor list:

- i. **Public Entity Crime.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
- ii. **Discriminatory Vendors.** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- iii. **Notification.** The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list or the discriminatory vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and posts the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

**Compliance with Federal Law, Regulations, And Executive Orders
and Acknowledgement of Federal Funding**

Certification

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name _____

Date _____

Authorized Signature _____

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
and VOLUNTARY EXCLUSION**

Contractor Covered Transactions

- (1) The prospective subcontractor of the Sub-recipient, Town, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the Sub-recipient's subcontractor is unable to certify to the above statement, the prospective contract shall attach an explanation to this form.

CONTRACTOR

By: _____
Signature

Name and Title

Street Address

City, State, Zip

UEI Unique Entity Identifier (for SAM.gov verification)

Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

TOWN OF FORT MYERS BEACH																					
ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT																					
Status will be verified. Unverifiable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.																					
A. PRIME VENDOR/CONTRACTOR INFORMATION																					
PRIME NAME		PRIME FBD NUMBER		CONTRACT DOLLAR AMOUNT																	
IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MBE/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS SA CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?		VETERAN	Y	N	IS THE ACTIVITY OF THIS CONTRACT... CONSTRUCTION ? Y N CONSULTATION? Y N OTHER? Y N																
		DBE?	Y	N																	
		MBE?	Y	N																	
		WBE?	Y	N																	
		SDB 8A?	Y	N																	
IS THIS SUBMISSION A REVISION?		Y	N	IF YES, REVISION NUMBER _____																	
B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION																					
DBE M/WBE VETERAN	SUBCONTRACTOR OR SUPPLIER NAME	TYPE OF WORK OR SPECIALTY	ETHNICITY CODE (See Below)	SUB/SUPPLIER DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS																
TOTALS:																					
C. SECTION TO BE COMPLETED BY PRIME VENDOR/CONTRACTOR																					
NAME OF SUBMITTER		DATE		TITLE OF SUBMITTER																	
EMAIL ADDRESS OF PRIME (SUBMITTER)		TELEPHONE NUMBER		FAX NUMBER																	
NOTE: This information is used to track and report anticipated DBE or MBE participation in federally-funded contracts. The anticipated DBE or MBE amount is voluntary and will not become part of the contractual terms. This form must be submitted at time of response to a solicitation. If and when awarded a County contract, the prime will be asked to update the information for the grant compliance files. <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th>ETHNICITY</th> <th>CODE</th> </tr> </thead> <tbody> <tr><td>Black American</td><td>BA</td></tr> <tr><td>Hispanic American</td><td>HA</td></tr> <tr><td>Native American</td><td>NA</td></tr> <tr><td>Subcont. Asian American</td><td>SAA</td></tr> <tr><td>Asian-Pacific American</td><td>APA</td></tr> <tr><td>Non-Minority Women</td><td>NMW</td></tr> <tr><td>Other: not of any other group listed</td><td>O</td></tr> </tbody> </table>						ETHNICITY	CODE	Black American	BA	Hispanic American	HA	Native American	NA	Subcont. Asian American	SAA	Asian-Pacific American	APA	Non-Minority Women	NMW	Other: not of any other group listed	O
ETHNICITY	CODE																				
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Subcont. Asian American	SAA																				
Asian-Pacific American	APA																				
Non-Minority Women	NMW																				
Other: not of any other group listed	O																				
D. SECTION TO BE COMPLETED BY TOWN OF FORT MYERS BEACH																					
DEPARTMENT NAME		FMB CONTRACT # (FBI/RFP or PO/REQ)		GRANT PROGRAM/CONTRACT																	
ACCEPTED BY:				DATE																	

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

LOBBYING CERTIFICATION
(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Contractor (Firm Name)

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

1. **Requested Motion:**

Meeting Date: March 20, 2023

Adopt Resolution 23-27; A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS, FLORIDA, APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE ONE YEAR RENEWALS OF THE PROFESIONAL SERVICES AGREEMENTS BETWEEN THE TOWN AND THE ENVIRONMENTAL ENGINEERING FIRMS SELECTED UNDER RFQ-20-06- AD "ENVIRONMENTAL ASSESSMENTS AND MARINE ENGINEERING"; AND PROVIDING AN EFFECTIVE DATE

Why the action is necessary:

If the agreements are not renewed, the Town will have to issue a new RFQ. Town staff recommends the continued use of the professional service firms selected under RFP-20-06-AD Environmental Assessments and Marine Engineering.

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution 23-07

4. **Submitter of Information:**

5. **Background:**

The professional service agreements under the RFQ-20-06-AD were executed in March 2020 for a period of 3 years. These agreements are up for renewal and are eligible for two one-year renewals each by mutual agreement of both parties. The scope of work under the RFQ is for Environmental Assessments and Marine Engineering. The type of work is fully described below.

Environmental Assessments

Requires engineering expertise in planning, designing, permitting, bidding and construction administration phases of service for Environmental Assessments, as well as knowledge of current rules and regulations of local, state and federal agencies regulating the environment and all marine, land use and building code provisions, including the Department of Environmental Protection, the South Florida Water Management District, the United States Environmental Protection Agency, the South Florida Building Code and the United States Corps of Engineers. The firm must employ at least one professional engineer, registered with the Florida State Board of Professional Engineers, having training and experience in the area of Environmental Assessments.*

Marine Engineering

Requires engineering expertise in planning, design, permitting, bidding and construction administration services in connection with waterfront facilities and marine systems and infrastructure, including docks, seawalls, dredging activities, mooring systems. Expertise should include permitting and public assistance grants as well as knowledge of current rules and regulations of local, state and federal agencies, including the Florida Department of Environmental Protection and the United States Army Corps of Engineers. The firm must employ at least one professional engineer, registered with the Florida State Board of professional Engineers, having training and experience in the area of marine design.

Attachments:

1. Resolution 23-27 Renewals of Agreements pursuant 20-06-AD
2. FY23 Renewal

Financial Impact:

N/A

6. Alternative Action

Not to approve the renewals and Iissue a new RFQ.

7. Management Recommendations:

To approve and execute the renewal of the agreements under the RFQ- 20-06- AD

8. Recommended Approval:

Yadzia Roa, Deputy Town Clerk/Contracts Manager

John R Herin Jr, Town Attorney

Amy Baker, Town Clerk

Keith Wilkins , Interim Town Manager

Created/Initiated - 3/13/2023

Approved - 3/15/2023

Approved - 3/15/2023

Final Approval - 3/17/2023

RESOLUTION NUMBER 23-27

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS, FLORIDA, APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE ONE YEAR RENEWALS OF THE PROFESSIONAL SERVICES AGREEMENTS BETWEEN THE TOWN AND THE ENVIRONMENTAL ENGINEERING FIRMS SELECTED UNDER RFQ-20-06- AD "ENVIRONMENTAL ASSESSMENTS AND MARINE ENGINEERING"; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, pursuant to a competitive procurement process in compliance with state law and Town Code – RFQ-20-06-AD “ Environmental Assessments and Marine Engineering ”, the Town entered into professional services agreements with various environmental engineering firms to provide environmental services to the Town (“Agreements”); and

WHEREAS, Town staff is recommending the Town renew for one year the Agreements, a copy of which are attached as Exhibit “A;” and

WHEREAS, the Town believes it is in the best interest for the health, safety and welfare of the Town’s business owners, residents, and visitors to renew the Agreements.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The one-year renewals of the Agreements attached as Exhibit “A” are approved. The Town Manager is authorized to execute the renewals of the Agreements and expend budgeted funds on behalf of the Town.

Section 3. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was _____ by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a vote, the result was as follows:

Dan Allers, Mayor _____
Jim Atterholt, Vice Mayor _____
John R. King, Council Member _____
Bill Veach, Council Member _____
Karen Woodson, Council Member _____

ADOPTED this ____ day of _____, 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____ 2023.

PROFESSIONAL SERVICES AGREEMENT RENEWAL

The undersigned parties to that certain License Agreement entered between the Town of Fort Myers Beach and _____. originally dated March 16, 2020, hereby agree, pursuant to Section 3 of the Agreement, to renew the Agreement on the same terms and conditions for a period of one year, commencing on March 16, 2023, and expiring on March 16, 2024. Those terms and conditions are reflected in the prior agreement that is attached hereto and incorporated herein by reference as Exhibit A. There is one additional one-year renewal option remaining upon written agreement.

IN WITNESS WHEREOF, the parties have executed this Professional Services Agreement Renewal on the dates set forth below.

TOWN OF FORT MYERS BEACH

(enter Consultants name here)

By: _____
Keith Wilkins, Town Manager

By: _____

DATE: _____

Title: _____
DATE: _____

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO LEGAL FORM:

John R. Herin Jr., Town Attorney

1. **Requested Motion:**

Meeting Date: March 20, 2023

Adopt Resolution 23-30 entitled: A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING AN AMENDED TOWN COUNCIL POLICIES AND PROCEDURES MANUAL; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Town Council approval is required to approve an updated Town Council Policies and Procedures Manual.

What the action accomplishes:

Adopts an updated Town Council Policies and Procedures Manual

2. **Agenda:**

COUNCILMEMBERS ITEMS AND
REPORTS

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

5. **Background:**

At the Town Council's last M&P meeting, it was the consensus of the Town Council to further modify and update the Town Council's Policies and Procedures Manual and bring forth the updated Manual for Town Council approval.

Attachments:

1. 23-30, Resolution 23-30 re Adopting Amended Town Council Policies and Procedures Manual(143724423.1)-C
2. Attachment A to 23-30 Town Council Policies and Procedures Manual - 3_23(143725174.1)-C

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

Approve Resolution 23-27

8. **Recommended Approval:**

Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Keith Wilkins , Interim Town Manager

Created/Initiated - 3/14/2023
Approved - 3/16/2023
Approved - 3/16/2023
Final Approval - 3/17/2023

RESOLUTION NUMBER 23-30

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING AN AMENDED TOWN COUNCIL POLICIES AND PROCEDURES MANUAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town Council has adopted a Policies and Procedures Manual to standardize the way the Town Council conducts its meetings, acts on items before it and adopts, amends, and implements legislative and policy decisions; and

WHEREAS, the Town Council desires to amend and update the previously approved Town Council Policies and Procedures Manual.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The amended Town Council Policies and Procedures Manual, attached as Exhibit "A" is approved.

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Council Member ____ and seconded by Council Member ____, and upon being put to a vote, the result was as follows:

Dan Allers, Mayor _____
Jim Atterholt, Vice Mayor _____
Bill Veach, Council Member _____
John King, Council Member _____
Karen Woodson, Council Member _____

ADOPTED this ____ day of _____, 2023, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of March 2023.

EXHIBIT “A”

**Town of Fort Myers Beach Town Council
Policies and Procedures Manual
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1. Introduction

This Town Council Policies and Procedures Manual is for the purpose of helping the Council Members in the discharge of their duties. They are intended to be guidelines, not “rules” on how to conduct business. Town Council may vary from these policies and procedures on a case-by-case basis by a majority vote. As the Town Council continues to discover situations that are unique to Fort Myers Beach, it will want to update and amend this manual. Experience may show that some of these policies and procedures need to be modified or eliminated and new ones adopted.

By adopting this manual, members of Council will find in one handy reference, answers to policy and procedure questions that come up from time to time. By having an agreed-upon guide, members of Council also may develop common expectations on proper conduct of Council meetings, dealings with the public, and the roles of Town staff and committees.

This manual should be used in conjunction with the Town Charter, Comprehensive Land Use Plan (Comp Plan), Land Development Code (LDC), Code of Ordinances, and the annual budget as necessary. In the event of a conflict between this document and Florida statutes, Town Charter or other Town guiding documents, such other document shall prevail over the language in the Policies and Procedures manual.

2. Town Council Mission and Job Description

Mission:

To legislate and police the powers of the Town, including establishing boards, commissions and committees; to perform all duties and obligations imposed on the municipality by law; to insure by strategic planning and clear policies that the unique and natural characteristics of the island are preserved; to supervise the Town Manager and Town Attorney; to perform all actions for the welfare of the residents, owners, businesspersons, and guests of the Island in adherence to the Town Charter, State and Federal Law.

Functions, Powers and Duties:

- Review and interpret the Comprehensive Plan and conduct public hearings as needed to make changes.
- Review and interpret the Land Development Code and conduct public hearings as needed to make changes.
- Conduct hearings regarding land use matters.
- Introduce and approve Charter Amendments for adoption by referendum.
- Appoint a Town Manager.
- Appoint a Town Attorney.
- Introduce and enact ordinances.
- Introduce and adopt resolutions.

- Review and adopt the Operations and Capital Improvement budgets.
- Review and approve budget amendments.
- Create Special Assessment Districts as may be needed.
- Establish advisory committees as needed.
- Review and approve inter-local agreements.
- Review and approve contracts with the Town above the threshold limit allowed to Town Manager.
- Elect a Mayor and Vice Mayor.
- Perform any other duties that are lawfully defined by the Charter and Florida statutes.

Council Member Requirements:

- File a Statement of Financial Interests and Ethics Training (Form 1) with the Lee County Supervisor of Elections every year.
- Complete and file Form 1F – Final Statement of Financial Interest, within 60 days of leaving office.

3. How Town Council Will Operate

Code of Conduct:

Recognizing that persons holding a position of public trust are under constant observation, and recognizing that maintaining the integrity and dignity of the public office is essential for maintaining high levels of public confidence in our institutions of government, every member of the Town Council pledges to adhere to the following CODE OF CONDUCT:

1. Regularly attend all scheduled meetings of the Town Council as well as special or called meetings relevant to the office.
2. Regularly attend all scheduled meetings of outside committees of which they are a member of.
3. Prepare for each meeting.
4. Create a positive environment in meetings of Town Council.
5. Maintain an attitude of courtesy and consideration toward colleagues, residents, and staff during all discussions and deliberations.
6. Allow residents, colleagues, and staff sufficient opportunity to present their views within the prescribed rules for conduct of meetings of Town Council.
7. Avoid the use of abusive, threatening, or intimidating language or gestures directed at colleagues, residents, or staff.
8. Avoid comments, body language or distracting activity that conveys a message of disrespect and lack of interest.
9. Respect all local, state, and federal laws, rules, and other regulations.

10. Submit completed financial disclosure forms to the Lee County Supervisor of Elections by the specified deadline.
11. Publicly acknowledge the adopted position when asked about a decision of Town Council.
12. Read the Town Comprehensive Plan and follow its directives in all decision-making processes for the Town.
13. Follow the procedural and substantive requirements of the LDC.

Code of Ethics:

Members should ethically serve the public interest by making decisions and taking actions that will enhance the public health, safety and welfare of the region and the residents served by the Town Council and by promoting public confidence in the integrity, independence, ability and impartiality of Town Council.

1. Members shall not convey the impression that they can influence the outcome of a decision of Town Council and shall not attempt to use their office to influence or sway the professional staff recommendation.
2. Members shall discharge their duties and responsibilities without favor or prejudice toward any person or group. Members should not allow personal or business relationships to impact upon their conduct or decisions in connection with Town Council business and shall not lend their influence towards the advancement of personal interests or towards the advancement of the interests of friends or business associates.
3. Members shall avoid creating the appearance of impropriety by refraining from engaging in private discussions with an applicant – or their representatives about specific upcoming Town Council quasi-judicial agenda items without declaring ex parte communication. If a member receives a private written, telephonic or electronic communication about an agenda item, the member will promptly forward the information to the Town Manager and the Town Clerk, or to the member's Town e-mail account so that it may be shared with all other members and filed with the Town official records to comply with the Public Records Law requirement. Any private written, telephonic, or electronic communication about an agenda item, must be submitted to the Town Clerk prior to the commencement of the Town Council meeting at which the agenda item is discussed or it cannot be mentioned or read by any member.
4. No member shall communicate, receive, send, or solicit any private written, telephonic, or electronic communication during a Town Council meeting, unless it pertains to an emergency situation (example: audio or video feed of Council meeting not working properly).
5. Members shall refrain from any private discussion of Town Council business with other members per the requirements of Florida's Government-in-the-Sunshine Law, Chapter 286, Florida Statutes.
6. Members shall not accept or solicit a gift, loan, payment, favor, service, promise of employment or business contract, meal, transportation or anything else of value, if such

thing is given with the understanding or possibility that it will influence the official action of the Members during Town Council proceedings. Florida law prohibits the spouse or minor child of that member from soliciting or accepting these as well, and the Member shall be vigilant in ensuring compliance from those family members.

7. Members shall refrain from participation in any proceeding in which their impartiality may reasonably be questioned. A member whose personal employment or business relationship with a person or entity that is subject to a recommendation of Town Council shall seek the advice and counsel of the Town Attorney, if such relationship could conceivably influence the members' impartiality during Town Council discussion of the subject. The provisions of Chapter 112, Florida Statutes and the Code of Ethics for Public Officers and Employees, shall govern conflict of interest determination.
8. Members shall remain vigilant against deviations from Town Council policies and procedures.

As a legislative and quasi-judicial body, Town Council must be ever cognizant of the important legal requirements of due process and equal protection. These principles are derived from the United States Constitution, the Constitution of the State of Florida, and Florida Statutes, the Town Charter, Town code and LDC, and apply to legislative and quasi-judicial actions. The legal requirement for due process is separated into two prongs: substantive due process and procedural due process. The principle of substantive due process requires the benefits of a given regulation be within the scope of governmental authority, i.e., health, safety, morals, or general welfare, and that the regulations be accomplished in a rational manner, i.e., not be arbitrary or capricious. This is a principle of fundamental fairness in the substance of a given regulatory scheme or provision.

The other due process prong, procedural due process, requires a fair method of adjudicating the rights of property owners, requiring notice and an opportunity to be heard by an impartial decision maker. In legislative matters, this requirement is derived from Florida Statutes, the Town Code and LDC that provide the type and period of notice depending on the nature of the property interest subject to regulation at a public hearing. Quasi-judicial decisions have an underlying Constitutional requirement for procedural due process.

Equal protection limits governmental regulation from establishing irrational classifications, protects the rights of suspect and quasi-suspect classes, and assures against the exercise of fundamental or important rights of persons in ways different from others. Key overarching principles to keep in mind are that every person must be treated equally and reasonably by the quasi-judicial or legislative substance and process and that decisions and recommendations be deliberated in an open process with adequate notice and allowance for participation of affected parties. Reasonable, consistent, and timely notifications in quasi-judicial matters to be heard by the Town Council provide an applicant and other parties potentially affected by a requested decision these fundamental protections.

Assignment of a Town Council Representative:

Town Council may choose to assign a member to lead a project or assess an issue. The Town Council Representative, or often called a "Point Person" may be assigned to do fact-finding and/or

research, recommend a course of action and report back to Town Council for direction. Final decisions are made by a majority of Town Council.

Sunshine Issues:

Members of Town Council and all Town advisory committees, boards and agencies are subject to the Sunshine Law (F.S. 286.011). This means that any gathering of two or more members of the same advisory committee, board or agency must comply with all the Sunshine Law requirements if they participate in any discussion, directly or indirectly, regarding any matter where there is known or could be foreseeable action taken by communication through a spouse or other go-between.

Town Council members cannot engage in discussions with each other (directly or indirectly) at outside meetings such as the Chamber of Commerce or civic groups regarding any matter on which it is known or foreseeable that action may be taken, unless the Sunshine requirements are met. These rules apply equally to any gathering, formal or casual, such as a Rotary Club (or other business or fraternal club gathering), fund-raiser, etc. They also apply to social events and functions unconnected to the advisory committee, such as a neighbor's backyard barbeque. They also apply to casual discussions between or among members coming in the door for the committee meeting, at breaks during the meeting, and going out the door after the meeting. Every component of the decision-making process must occur in the Sunshine.

The penalties for violating the Sunshine law are severe and can include criminal and civil sanctions. The process of investigation of Sunshine violations is always unpleasant, embarrassing, and expensive, even if the person is ultimately cleared.

Email and Texting Policy:

Email and texting are convenient ways to communicate with staff, Town Council, residents, and others. However, it presents unique legal and ethical challenges. All email and texts regarding Town business must be properly retained as a public record. Furthermore, any email or text regarding an issue that will come before Council in a quasi-judicial hearing must be properly disclosed as an ex-parte communication as appropriate. Council members must be vigilant to not accidentally violate Sunshine Law requirements. Emailing or texting anyone stating a position on an issue that will come before Town Council is particularly risky. Email and text actions to avoid include:

1. Sending an email to another Council member with anything that could be construed as a position.
2. Copying another Council member on a response to an email sent by a resident, staff member or other person.
3. If another Town Council member's email is inadvertently forwarded to you, respond to the sender recognizing its accidental nature, the fact that it is a Sunshine issue and retain a copy of your response.

Florida has a very broad public records law. Most written communications to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email and text communications and email address and mobile phone number may be subject to public disclosure. (This statement must be included in the closing of any email regarding Town business).

Public Records:

It is the policy of the State of Florida that municipal records shall be open for personal inspection by any person (s. 119.01, F.S.). To that end, the Legislature has enacted the Public Records Law (Ch. 119, F.S.), which contains requirements that public records, as defined in s. 119.011, F.S., be made available for public inspection, they be kept in usable condition, they be kept in safe places, they be kept in convenient places, and copying of records be provided at reasonable costs. A public record is “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”

Council members’ responsibility is to ensure their own public records are properly handled and preserved, and to see that the law is adhered to by all employees of the Town. The Town Clerk has been assigned the responsibility of being the custodian of public records. Council members must further understand that their public record must be retained even after leaving office.

Any use of personal email accounts for government business is allowed, but for a council member’s own protection, it is suggested that these be copied to their Town email account for proper retention. Materials prepared for Town Council meetings, hearings, minutes, and workshop will already be managed by the custodian of public records and do not need to be retained by the Council member. If there are any questions on retention of a particular document, consult with the custodian of public records and/or the Town Attorney before destroying.

4. Training Materials and First Meeting

Training Materials:

The Town Clerk will provide each new member of the Town Council with copies of:

- Town Charter.
- Comprehensive Plan.
- Land Development Code.
- Code of Ordinances.
- Florida Code of Ethics.
- Florida Sunshine and Public Records Laws.
- Emergency Operations Plan.
- Town Council Policies and Procedures Manual.
- Local Planning Agency Policies and Procedures Manual.
- Town Personnel Manual.

- Town Purchasing and Procurement Manual.
- Other materials as determined by the Town Attorney, Town Manager and Town Council members.

As part of a Council member's orientation, they will be provided a tour of the Town facilities with introductions with all staff members. Pursuant to state law, all Council members must complete 4 hours of ethics training each calendar year, which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of the State of Florida.

Training Recommendations:

- Successful completion of all courses required by the National Incident Management System (NIMS).
- Florida League of Cities, Inc., Institute of Elected Municipal Officials (IEMO) Basic Course.
- Making Good Planning Decisions.
- Hands-on Emergency Operations Training.
- Other courses as determined by the Town Attorney, Town Manager and Town Council members.

Election of Officers:

At the first meeting after the second Tuesday in November, the Council's Mayor and Vice Mayor will be chosen. Each Council member may nominate a person for each of these positions. A second is not required. The voting procedure will be agreed upon in advance.

Outside Committee Representation:

Charlotte Harbor National Estuary Program – www.chnep.org

Meetings: The Policy Committee meets the third Monday every other month at 9:30 am*.
Mission: The CHNEP is a partnership that protects the estuaries and watersheds from Venice to Bonita Springs to Winter Haven. This partnership gives citizens, elected officials, resource managers, and commercial and recreational resource users in the 4,700-square mile study area a voice to address diverse resource management concerns including fish and wildlife habitat loss, water quality and water flow. The watershed in the study area includes all or parts of Lee, Charlotte, Sarasota, Manatee, Polk, Hardee and DeSoto counties.

Coastal Advisory Committee – www.lee-county.com

Meetings: Last Monday of each month at 9:30 am.*
Mission: The Council's charge is to advise the Board of County Commissioners, staff and the various related advisory boards when proceeding with a project affecting beach and shoreline preservation regarding the proper methods in helping to conserve the Beaches of Lee County.

Horizon Council – www.lee-county.com/business

Meetings: First Friday of each month*

Mission: The Horizon Council is the advisory board to the county commission on economic development issues. This unique public-private partnership is made up of 62 members from government, education, business, and community organizations. Established in 1991, the mission of the Horizon Council is to:

- Work toward improving the business environment in Lee County; and
- Retain and encourage the expansion of existing businesses; and
- Attract new and diversified employment to the area

Human Services Council – www.lee-county.com

Meetings: Third Tuesday of each month*

Mission: The Council will ensure the efficient delivery of community health and human services through:

- Communication
- Coordination
- Strategic Planning
- Innovation
- Integration and collaboration
- Measurable Outcomes

Metropolitan Planning Organization – www.mpo-swfl.org

Meetings: Third Friday of each month at 9 am*

Mission: The MPO is responsible for conducting a continuing, cooperative, and comprehensive transportation planning process for all of Lee County. It must plan for the movement of both people and goods within the county by all modes of travel – including highways, public transportation, bicycles, and foot. It also plans for the connections (such as airports, seaports, or bus, railroad, and pipeline terminals) linking these modes or tying us to the rest of the world.

The MPO sets priorities among surface transportation improvement projects within Lee County for state or federal funding. To be eligible for federal funds, federal law requires that the MPO endorse a transportation improvement program identifying the projects to be done over the next few years.

Southwest Florida Regional Planning Council – www.swfrpc.org

Meetings: Third Thursday of each month at 9 am*

Mission: The Southwest Florida Regional Planning Council is a locally formed regional planning agency serving six counties: Charlotte, Collier, Glades, Hendry, Lee, and Sarasota. Its mission is to protect and improve the region's physical, economic, and social environment. The agency is directed by a thirty-four-member Council composed of local elected officials and gubernatorial appointees. The activities of the Southwest Florida RPC can be classified into three major areas: long range planning, tactical planning, and transportation planning.

Estero Bay Agency on Bay Management – www.swfrpc.org/abm.shtml

Meetings: Second Monday of each month at 9:30 am*

Mission: Its directive is to make comments and recommendations regarding the management of Estero Bay and its watershed. The ABM collects and maintains data and it reviews and comments to regulatory agencies on issues affecting the watershed

*Meeting times are subject to change.

5. Town Advisory Committees, Boards and Agencies Standing Advisory Committees

Council Selection of Advisory Board, Agency, and Committee Members:

Residency: Except as required by Town Charter, Town Ordinance or Florida statute, residency on Fort Myers Beach will not be a requirement for nomination or election to a committee, commission, or board of the Town.

Advertising: All advisory committees are listed on the Town website. Information included will be the committee mission, current projects, when the committee meets and current members on the committee and whether submission of an annual Form 1 (Financial Disclosure) is required by the Florida Commission on Ethics.

Openings: In the event of an opening for an advisory board or committee, Town staff will list the opening on the website with a date when applications must be submitted to the Town Clerk for consideration by Town Council. Whenever possible, committee selection will be scheduled 30 days after proper notification. Advertising in local newspapers can be considered if approved by the Town Manager. Committee candidates will be encouraged to appear for interviews during the selection process.

Preliminary matters: The Council should decide how to go about voting prior to any voting taking place and decide the number of members on a committee ahead of time.

Voting:

1. Each Council member picks his selections, marking no more than the total number of seats available (or writes the names down), and initials his ballot.
2. Those receiving the most votes are selected to seats available.
3. If there is a tie for any number of seats still left open, there will be a runoff consisting only of the persons who are tied.

Examples of voting procedure:

First Ballot:

Seats available – 9

Candidates – 15

Votes on First Ballot: Results of First Ballot

3 get 5 votes apiece 3 are elected

3 get 4 votes apiece 3 are elected
4 get 3 votes apiece 4 go on a second ballot
3 get 2 votes apiece 3 are eliminated
2 get 0 votes apiece 2 are eliminated

There would be a second ballot containing only the names of the four candidates who got three votes. Council would vote for three candidates. This process would be repeated in case of a tie until all seats are filled. A variation on this method of voting is that after the first ballot, if there is a tie which prevents all the seats from being filled, the runoff would consist of all the un-selected candidates, not just the ones involved in the tie.

4. The ballots are given to the Town Clerk, who conducts the tallying and announces the results.
5. Once all selections are made, Council adopts a motion containing the new members' names.

Effective Date of Appointment and Follow Up:

Newly appointed advisory board, agency and committee members who are required to file a Financial Disclosure Statement, will be notified of the disclosure requirements no later than the date of appointment. The Town Manager or designee is responsible for such notification. These appointments should be made effective as of some future date, so that there is sufficient time to provide the required notification. For convenience, the notice could be accompanied by a copy of the required disclosure forms, which are available from the Supervisor of Elections or on-line from the Florida Commission on Ethics (<http://www.ethics.state.fl.us/>)

Ad Hoc Committees:

Town Council has the authority to form ad hoc committees requesting participation by volunteers. Ad hoc Committees can be used at Town Council's discretion to address specialized and or short-term Town issues.

The mission, specific objectives, expected products, membership and timelines of an ad hoc committee should be clearly stated and agreed to by Town Council. One Town Council member will be an ex-officio member of each ad hoc committee. Where possible, an attempt will be made to have a balanced committee membership. Minutes or verbal reports will keep Town Council informed on a regular basis. A final report will document findings and recommendations and will be presented at a Town Council meeting or workshop.

Ad hoc committees are subject to the public records laws, sunshine laws, quorum, and statutory ethical requirements. It is the Town's responsibility to ensure that each committee member is educated on these issues.

Outline of Committee Orientation Material:

- Meeting Requirements
 - Notice

- Location Requirements, such as ADA compliance
- Agendas
- Quorum
- Sunshine Requirements
- Public Records Requirements
- Statutory Ethical Requirements

6. Meeting Preparation and Planning

Meeting Schedule:

Regular meetings of Town Council may be found on the website calendar. Management and Planning meetings (M&Ps) are work sessions and are scheduled to discuss financial issues for the Town. Workshops special, continued, or rescheduled meetings will be determined by consensus of the Town Council members, the Town Manager and Town Attorney.

Source of Items:

Items for Town Council agendas are generated by requests and/or legislation (ordinances or resolutions) from members of Town Council prepared by the Town Attorney, requests and actions from the Local Planning Agency, continuations from previous council meetings, in addition to anything Council members, the Town Manager or Town Attorney may wish to have included. Some of these inquiries are routine and can be handled by staff because Town Council policy and procedures have been previously approved which apply.

When an item arises that requires Town Council action either to make a decision or to direct staff or the Town Attorney how to proceed it will appear on the agenda identified as a Council member's request or as an item under the Town Manager's section of the agenda which is the "catch all" for miscellaneous items, or Town Attorney's section, as appropriate. For an item to appear on an agenda, at least two Council members must agree and shall direct the Town Manager to do so, provided time schedules allow. (Note the agenda preparation timetable below).

Whenever possible, any material written and distributed by Council members as part of the agenda should be included in Council members' packets – allowing ample time for review. This preserves the integrity of the seated Council, conforms to the Florida Public Records law, and lessens the opportunity for misunderstandings and miscommunication. No significant Town staff or Town Attorney time will be spent on an agenda item requested by an individual Council member without advance approval by a majority of the Council. Written requests to be placed on a Council agenda from the public should be submitted directly to the Town Manager. Agenda Management is reviewed at each Town Council meeting.

Timetable and Preparation Process:

A draft agenda will be sent to Town Council for review and comment within 24 hours. The Town Council chair may modify the order of the agenda subject to the approval of the Town Council.

Absent an emergency or pressing need, by close of business on the Wednesday prior to the next regular Council meeting, a packet including the finalized agenda and supporting material will be placed in the Council members' mailboxes and placed on the Town website.

The Council members' packets include complete documentation for agenda items (actions required, implications, backup information, memos, ordinances, resolutions, etc.). A sincere effort is made to see that Council packets are complete; if something is not available, a written explanation will be provided. Generally, items requiring documentation (recommendations, memos, ordinances, resolutions, etc.) will not be included on an agenda until the documentation is complete.

The agenda is posted at Town Hall and on the Town website. Meetings may be announced in local newspapers. Hearing notices will be advertised as required by law and may be provided as a service to local newspapers. Occasionally an item comes up late and may be placed on an amended agenda, or as an "add on" (added too late to be included on the published agenda). Such additions should be an exception.

Continued Hearings and Legislative Issues:

It is the goal of the Town Council to complete a hearing during the scheduled meeting. If additional time is required and the hearing must be continued to a later date, any Town Council member who missed the initial hearing should attempt to review the DVD prior to participating in the continued hearing or legislative discussion and resolution. If the applicant submits new information or modification(s) to previously submitted information at the hearing, or immediately prior to the hearing, the Town Council shall consult with the Town Manager and the Town Attorney to determine if a continuance of the hearing is appropriate and proceed accordingly. Nothing contained in this section shall be construed to limit the Director's discretion to defer or continue the public hearing as set forth in LDC Section 34-213(3).

Attendance Policy:

The Charter states "A member of Council may forfeit the office, if the member: (d) Misses three consecutive regularly scheduled council meetings without an excused absence." This statement recognizes that because of the significant meeting preparation required by staff, applicants, and other supporting personnel, it is important that a quorum of the Town Council members be present for all noticed meetings. The Town Manager should be notified of a planned Council member's absence as soon as known. The Town Manager or designee will notify the Town Attorney and Mayor. It is important that the Town Council know that it will have a quorum of its members prior to notification of a meeting/hearing. Work session attendance is equally important because they are where information is shared, and issues resolved before putting the item on an agenda of a regular meeting for a vote.

Participation by Videoconference:

A Council member may participate in a Town Council meeting via videoconference if one of the following conditions is met:

1. There is a medical reason for unavailability, or
2. Permission is granted from the Council for an “extraordinary circumstance.”
3. An emergency order or executive order authorizes the use of communications media technology, as provided in s. 120.54(5)(b)2, F.S.

A quorum of Town Council members must be met without the missing Council member(s) in attendance unless this requirement is suspended by emergency order or executive order.

7. Meeting Procedures

Generally, the Order of Agenda Items:

1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Approval of Final Agenda
5. Proclamations, Recognitions and Awards
6. Public Comment (Any issue can be discussed, but if an agenda item is addressed, the speaker cannot comment at the time such agenda item comes up. For testimony to be considered for a public hearing, it must be made during the hearing).
7. Approval of Minutes
8. Consent Agenda
9. Advisory Committee Items and Reports
10. Public Hearings of proposed ordinances (At conclusion of hearing, requires motion and roll call vote)
11. Administrative Agenda
 - a. Introduction of proposed ordinances (Requires a motion and a majority vote for scheduling the hearing).
 - b. Resolutions (Requires a motion and vote for passage)
 - c. Unfinished business (Items from previous agendas scheduled by Town Manager – should be listed separately on the agenda)
12. New business (Scheduled by the Town Manager, should be listed separately)
13. Final Public Comment (not limited to agenda items)
14. Town Manager’s Items and Reports
15. Town Attorney’s Items and Reports
16. Council Members Items and Reports
17. Agenda Management (generally addressed during Council work sessions)
 - a. Topics for upcoming regularly scheduled meetings
 - b. Planning and scheduling of Management and Planning, and other work sessions
18. Review New Actions from Meeting

19. Adjournment (Requires a motion and vote – no second is required. It is a privileged motion allowing no discussion before vote)

Conduct of Council Meetings:

- The Mayor will conduct Council meetings, and in the Mayor's absence the Vice Mayor will do so.
- The Town Clerk shall deliver a nondenominational invocation.
- Robert's Rules of Order shall be the reference for parliamentary procedure governing the conduct of Town Council meetings when not in conflict with the Town Charter, Town Ordinances, Florida Statutes or these Policies and Procedures. It is not intended that Council meetings be unnecessarily formalistic, but rather that parliamentary procedure will be invoked only when necessary to facilitate the business of the meeting.
- All participants and audiences at Town Council meetings are expected to exhibit common courtesy and proper decorum. No personal attacks will be tolerated. The Chair may request that someone who is being disruptive be removed from chambers.
- Individuals wishing to speak during the Public Comment times are requested to (1) fill out an index card (available in the meeting room) indicating their name and the topic they will address and (2) give that card to the Clerk prior to the start of the meeting. When recognized by the Chair, the speakers will advance to the podium and state their name for the public record.
- Public Comments will generally be limited to three minutes per speaker. The Chair may modify the three-minute limit with approval by vote of the Council. The Public Comment times are intended as opportunities for interested parties to present their viewpoints to the Council members. They are not intended as question-and-answer sessions or as dialog with the Council. Response to questions and/or clarifications requested during public comment may, with the approval of Town Council, be answered immediately if there is a straight-forward, short answer, directed to the appropriate person for response at a later time or placed on an agenda for a future Council meeting.
- After a proper motion and second, discussion by the Council members shall be limited to agenda items with expression of ideas, facts, and conclusions. No member will speak twice on the item until all others who want to speak have spoken.
- The discussion by Council members is intended as an opportunity for Council members to share their viewpoints with each other. Since this opportunity does not exist outside of Council meetings under the Florida Sunshine Law, this is the primary purpose of this time and it generally should not be used to obtain information from the Town Manager or Town Attorney, which could be obtained outside of the Council meeting. While there is no time limit or censorship on comments, Council members should take into consideration the total time available in the meeting for the published agenda and the time allocated for the specific item in the agenda.

Any Council member may present resolutions. They are reviewed by the Town Attorney and require a motion and a vote.

Rules of Civility:

The Town of Fort Myers Beach Town Council recognizes that public discourse is essential to the democratic system of government. It also embraces civility in public deliberations. Rules for Council discussion and public participation while conducting meetings and workshops are as follows:

1. Speakers are permitted to deliver his or her comments without interruption, absent inappropriate language, conduct or personal attacks.
2. Speakers and debates should focus on issues, not on persons or personalities.
3. Persons are encouraged to participate in the governmental process.
4. To allow time to hear all points of view, speakers are allotted 3 minutes.
5. Sidebar discussions while others are speaking are discouraged in Council Chambers. These discussions are to be removed from the chambers so as not to be disruptive to those conducting and following Council business.
6. Only the speaker recognized by the Chairperson has the floor. Speakers should identify themselves for the record. Speakers should utilize the microphone so that their comments can be recorded.
7. We seek to understand one another's points of view.
8. Anger, rudeness, ridicule, impatience, and lack of respect for others are not acceptable behavior. Demonstrations in support or opposition to a speaker or idea such as clapping, cheering, booing, or hissing or intimidating body language are not permitted in Council Chambers or workshop facilities.
9. We should all take initiative to make things better. Our goal is to foster an environment which encourages a fair discussion and exchange of ideas without fear of personal attacks.
10. No use of profanity will be tolerated.
11. Any email or other digital or internet platform used to communicate with the Town Council, individual members of the Town Council, Town Manager, Town Attorney, or Town staff that contain personal attacks, offensive language or slurs; that are belligerent, sarcastic, accusatory or unsigned shall be deemed non-compliant with these "Rules of Civility." Such communications place absolutely no obligation upon Town Council Members, the Town Manager, the Town Attorney or Town staff to respond.

Minutes:

Notes will be taken of all meetings and work sessions. The notes are then transcribed into summary minutes that become the written record of subjects discussed, conclusions reached, actions taken, and assignments given. The minutes include the names of all those participating in the meeting including Council members, staff, the Town Attorney, applicants, their attorneys and witnesses, and people who offer public comments. The minutes also serve as a record of motions and votes on all Council decisions.

Once completed, the minutes are provided to Council members for approval at their next meeting. The approval of the minutes is intended for Council members to accurately document the proceedings of the Town Council. Before moving approval, the minutes should be amended, if

necessary, to portray more accurately what occurred at a Council meeting. This time is not intended for comment or discussion on what should have or should not have been done, but rather to document what was done. Once approved by Council, the original is filed in a secure file and a copy is placed on the Town's web page.

Video and/or audio recordings when made are available at the request of the public or anyone who wishes to listen to the meeting or a portion of the meeting. The original video and audio recordings are stored in a secured area for safekeeping. Any request for production of a verbatim transcript, in whole or in part, of any meeting, workshop or other function of the Town Council or any Town committee thereof by Town staff or paid for by the Town shall require prior consent of the Town Council, except for such requests as are initiated by a court of competent jurisdiction or quasi-judicial officer in the proper exercise of its powers. Video and audio recordings are only the legal record in the absence of approved minutes.

Council Members Items and Reports:

Items and Reports time is set aside for Council Members to report on activities of interest to fellow members, staff, and the public. Council Members are encouraged to send as much information as possible prior to the meeting. Unless an issue is time sensitive, the item will be placed on a future agenda if a vote is required.

Agenda Management:

The Town Manager is responsible for compiling and distributing a schedule of future meetings and work sessions.

Action List:

The Town Manager is responsible for compiling and distributing a list of action items that includes a short status and expected date of completion.

How Voting Order is Established for Roll Call Votes:

The voting order for calling the roll-on Town Council votes shall be conducted at the direction of the Town Clerk. Votes on ordinances require a roll call vote; any Council member may call for a roll call vote on any motion before the Council.

Voting Conflicts:

Florida Statute has very specific rules regarding voting conflicts. If a Town Council member has a voting conflict, he/she must disclose that conflict in writing prior to the meeting in question and this disclosure must be publicly read. A form is available from the Town Clerk. The rules also contain an exception for disclosure at the meeting itself. A Town Council member is permitted to participate in the discussion but cannot vote on the subject. The specific rules are set out in s. 112.3143(3)(a), F.S. as amended, quoted below:

“(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer’s interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.”

NOTE: s. 112.3143(b) F.S. defines “relative” as follows: “any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

Guidelines for Legislative Hearing Procedures:

1. The Chair opens the hearing.
2. Staff presents Affidavit of Publication or copy of the legal advertisement from the newspaper of record when available, which shall become an exhibit to the hearing’s resulting ordinance or resolution.
3. The Chair or Town Attorney reads the ordinance or resolution title.
4. Staff and/or the Town Attorney present(s) a brief overview of the ordinance or resolution.
5. Public input is taken. Unless otherwise specified by state law, Code of Ordinances, or LDC only ordinances require public input.
6. Public input is closed
7. Town Council members ask questions, if any, of staff/Town Attorney
8. Town Council members discuss ordinance or resolution, including changes, deletions, etc.
9. A motion is made and seconded to either pass the ordinance or resolution as is, or with modifications, or to take some other action.
10. The motion is discussed and voted upon, with roll call voting as appropriate. Upon consideration and passage of all appropriate motions, the Chair declares the hearing on the ordinance or resolution to be concluded, continued, tabled, or other action in conformity with the motion.

Notes: There is no ex parte disclosure for legislative hearings.

Members of the public are not sworn in.

Generally, there is no discussion between Town Council and public.

The above is intended as a guide and the Council may conduct the legislative hearing utilizing another procedure, so long as due process requirements are met.

Guidelines for Quasi-Judicial Land Use Hearing:

1. The Chair opens the hearing.
2. Staff present Affidavit of Publication or copy of the legal advertisement from the newspaper of record when available, which shall become an exhibit to the hearing's resulting resolution.
3. The Chair asks if any Council member has had an ex parte communication regarding this matter. This includes any site visit, receipt of expert opinion, conducting of investigations, discussions with any person, or any direct or indirect communication in any form with any person outside a public hearing and not on the record. See section 34-52 of the Land Development Code.
4. All witnesses are sworn in. This includes Town staff, applicant and applicant's representatives, and anyone who wishes to make public sworn testimony on this case. All persons are requested to state their name for the record when they address the Council.
5. The applicant presents its case. Town Council may ask clarification questions of the applicant. *
6. Town staff presents its report and recommendation. Town Council may ask clarification questions of staff. *
7. Local Planning Agency representative, if available, presents LPA recommendation. Town Council may ask clarification questions of the LPA representative.
8. Public sworn testimony is opened. At its conclusion, the Chair closes the public sworn testimony portion of the hearing.
9. Applicant presents rebuttal, if any. Town Council may ask detailed informational questions of applicant. **
10. Staff presents rebuttal, if any. Town Council may ask detailed informational questions of staff. **
11. The testimony portion of the hearing is closed, and Council discussion starts.
12. Council votes on a resolution or takes other action.
13. The hearing is closed or continued, or other action is taken in conformity with the successful motion, and the time of closure is verbally noted for the record.

*Council has determined that these Council questions are to clarify the applicant's and staff's presentations of information and are intended to be short Qs and As.

**Council has determined that these Council questions are to discuss detailed, substantive matters involving the application.

NOTE: The above is intended as a guide and the Council may conduct the quasi-judicial hearing utilizing another procedure, so long as due process requirements are met.

If new evidence is submitted prior to or at a Town Council hearing for a quasi-judicial matter after the final LPA hearing, Town Council can choose to:

1. Send the matter back to the LPA for review and recommendation.
2. To continue the hearing to provide sufficient time for the staff and Town Attorney to make recommendations; or
3. To complete the hearing if agreeable to the staff and Town Attorney.

8. Reimbursement Procedures

Travel Expenses:

It is the desire of the Town of Fort Myers Beach that Town Council members be reimbursed for certain expenses incurred while traveling on Town business. Appropriate allowances, forms and procedures are documented in the Town Personnel Manual.

Business Expenses:

From time to time, it may be necessary for members of Town Council to entertain various Federal, State and County officials while transacting official Town business. Such business expenses would normally include lunches and/or dinners. A Direct Expense Voucher may be submitted for reimbursement and must be signed by the person requesting reimbursement, and the Town Manager. Invoices must be attached as supporting documentary evidence.

Educational Reimbursement:

The Educational Reimbursement Program is used to encourage Town Council members to improve their knowledge and skills needed for the Town's effectiveness. Reimbursement conditions, forms and procedures are documented in the Town Personnel Manual.

9. Council Communications Policy and Processing Procedures

Council Communications Policy:

Any communication by individual Council members to the media, other governmental agencies, or in public forums should, as clearly as possible, distinguish between personal opinions and actions or direction taken by Town Council. This policy in no way means to censor viewpoints or restrict individual rights but is solely suggested to preserve the integrity of the Council, staff, and the Town.

Mail Processing Procedures:

Mail for the Town should be addressed to the current address. All mail is opened stamped and distributed (it is all public record). Council mail is given to the Administrative Assistant to log and process. Any Council mail that needs a prompt or detailed answer is pulled, copied, and a draft response is prepared for review, usually by the Mayor. The original is distributed, along with other mail; with a note stating a draft response is being prepared. When the response is finalized, it is copied and distributed to all Council members for reading at their leisure.

Communications with Potential Applicants for Zoning and Communications with Vendors or Service Providers:

Section 34-52 of the LDC specifies regulations regarding communications with public officials in non-quasi-judicial matters and ex parte communications with public officials in quasi-judicial matters.

10. Non-Discrimination and Harassment

Policies:

These policies are documented in the Town Personnel Manual

11. Interview/Selection Process for Legal Services

The Town Council shall competitively procure Legal Services (Town Attorney) candidates in accordance with the Town's adopted procurement policies and procedures. The following applicant form, and ranking sheet shall be used in the selection of Legal Services candidates. The Town Council may direct the Town Manager or designee to review the proposals submitted by the applicants for Legal Services and provide the Town Council with a list of five (5) candidates, with two (alternates) for interviews as provided for herein. If there are less than five (5) qualified candidates (i.e., meet the criteria in the RFP/RFQ) all candidates shall be interviewed.

INTERVIEW PROCESS FOR LEGAL SERVICES

Individual 30-minute blocks for private interviews by each Councilor with each applicant.

RFP#: _____. Interview date: _____

	9:00-9:30	9:30 – 10:00	10:00- 10:30	10:30- 11:00	11:00- 11:30	11:30- 12:00	12:00 -1:00
Councilor 1	Coffee/muffins	Applicant 1	Applicant 2	Applicant 3	Applicant 4	Applicant 5	Lunch
Councilor 2	Coffee/muffins	Applicant 2	Applicant 3	Applicant 4	Applicant 5	Applicant 1	Lunch
Councilor 3	Coffee/muffins	Applicant 3	Applicant 4	Applicant 5	Applicant 1	Applicant 2	Lunch
Councilor 4	Coffee/muffins	Applicant 4	Applicant 5	Applicant 1	Applicant 2	Applicant 3	Lunch
Councilor 5	Coffee/muffins	Applicant 5	Applicant 1	Applicant 2	Applicant 3	Applicant 4	Lunch

Applicant 1: _____

Applicant 2: _____

Applicant 3: _____

Applicant 4: _____

Applicant 5: _____

NOTE: Chart for town councilor and applicant names shall be in alphabetical order for impartiality.

AFTERNOON SCHEDULE: Each applicant has 15-minute question and answer session in town hall chambers with all five Town Councilors present (5-minute transition between applicants in schedule). Applicants will address Council in alphabetical order.

TIME	Applicant Name
1:00 – 1:15	Applicant 1
1:20 – 1:35	Applicant 2
1:40 – 1:55	Applicant 3
2:00 – 2:15	Applicant 4
2:20 – 2:35	Applicant 5
2:40 – 3:00	Break
3:00	Town Councilors have open discussion. Each Councilmember uses RANKING SHEET to list order of selection, with 1 being the top choice. The Town Clerk will tally the votes and announce each applicant's combined ranking score with the lowest score being the candidate selected. In case of a tie, Town Council will have a head-to-head discussion of only the tied candidates and use another RANKING SHEET to list their order for only the tied candidates. Ranking scores are tallied and announced by Town Clerk. Contract negotiator from Town Council is selected. Transition period of legal services, if necessary, is discussed including assignment of representation for ongoing municipal litigation cases.
FIRST AVAILABLE COUNCIL MEETING AFTER INTERVIEW PROCESS	When contract negotiations are complete, contract is presented to Town Council for approval. Transition period, if necessary, is approved.
IF SELECTED APPLICANT DOES NOT COME TO AGREEMENT WITH TOWN ON CONTRACT	Town Council shall vote to negotiate with second ranked candidate or resolicit for applications and repeat interview process if necessary. Town Council shall vote at the first Town Council meeting following opening of applications to rank the applicants using the RANKING SHEET.

TOWN COUNCIL RANKING SHEET FOR LEGAL SERVICES

RFP# _____

DATE: _____

Councilor Name:

Councilor Signature:

Ranking (#1 is top choice)

1. _____
2. _____
3. _____
4. _____
5. _____

12. Interview/Selection Process for Town Manager

The Town Council shall competitively procure Town Manager candidates in accordance with the Town's adopted procurement policies and procedures. The following applicant form, and ranking sheet shall be used in the selection of Manager candidates. The Town Council may direct the then current Town Manager or designee to review the proposals submitted by the applicants for Town Manager Services and provide the Town Council with a list of five (5) candidates, with two (alternates) for interviews as provided for herein. If there are less than five (5) qualified candidates (i.e., meet the criteria in the RFP/RFQ) all candidates shall be interviewed.

INTERVIEW PROCESS FOR TOWN MANAGER

Councilors rank top 5 candidates from applications. Top 5 overall are invited and scheduled for individual 30-minute blocks for private interviews by each Councilor with each applicant.

RFP# _____ Interview date: _____

	9:00-9:30	9:30 – 10:00	10:00-10:30	10:30-11:00	11:00-11:30	11:30-12:00	12:00-1:00
Councilor 1	Coffee/muffins	Applicant 1	Applicant 2	Applicant 3	Applicant 4	Applicant 5	Lunch
Councilor 2	Coffee/muffins	Applicant 2	Applicant 3	Applicant 4	Applicant 5	Applicant 1	Lunch
Councilor 3	Coffee/muffins	Applicant 3	Applicant 4	Applicant 5	Applicant 1	Applicant 2	Lunch
Councilor 4	Coffee/muffins	Applicant 4	Applicant 5	Applicant 1	Applicant 2	Applicant 3	Lunch
Councilor 5	Coffee/muffins	Applicant 5	Applicant 1	Applicant 2	Applicant 3	Applicant 4	Lunch

Applicant

1: _____

Applicant

2: _____

Applicant

3: _____

Applicant

4: _____

Applicant

5: _____

NOTE: Chart for town councilor and applicant names shall be in alphabetical order for impartiality.

AFTERNOON SCHEDULE: Each applicant has 15-minute question and answer session in town hall chambers with all five Town Councilors present (5-minute transition between applicants in schedule). Applicants will address Council in alphabetical order.

TIME	Applicant Name
1:00 – 1:15	Applicant 1

1:20 – 1:35	Applicant 2
1:40 – 1:55	Applicant 3
2:00 – 2:15	Applicant 4
2:20 – 2:35	Applicant 5
2:40 – 3:00	Break
3:00	Town Councilors have open discussion. Each Councilmember uses RANKING SHEET to list order of selection, with 1 being the top choice. The Town Clerk will tally the votes and announce each applicant's combined ranking score with the lowest score being the candidate selected. In case of a tie, Town Council will have a head-to-head discussion of only the tied candidates and use another RANKING SHEET to list their order for only the tied candidates. Ranking scores are tallied and announced by Town Clerk. Contract negotiator from Town Council is selected. Transition period, if necessary, is discussed.
FIRST AVAILABLE COUNCIL MEETING AFTER INTERVIEW PROCESS	When contract negotiations are complete, contract is presented to Town Council for approval. Transition period, if necessary, is approved.
IF SELECTED APPLICANT DOES NOT COME TO AGREEMENT WITH TOWN ON CONTRACT	Town Council shall vote to negotiate with second ranked candidate or resolicit for applications and repeat interview process if necessary. Town Council shall vote at the first Town Council meeting following opening of applications to rank the applicants using the RANKING SHEET.

TOWN COUNCIL RANKING SHEET FOR TOWN MANAGER

RFP# _____

DATE: _____

Councilor Name: _____

Councilor Signature: _____

Ranking (#1 is top choice)

1. _____

2. _____

3. _____

4. _____

5. _____