



Fort Myers Beach Town Council

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

Agenda

Monday, August 21, 2023

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF FINAL AGENDA**
- V. PROCLAMATIONS**
 - A. Florida Festivals and Events Association
Recognition of the Florida Festivals and Events Association's support to Fort Myers Beach after Hurricane Ian
- VI. PUBLIC COMMENT**
- VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS**
- VIII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS**
- IX. PRESENTATION**
 - A. How Communities Succeed & Fail
Professor Mike Collins, Florida Gulf Coast University
 - B. Coastal Engineering Consultants - Beach Renourishment Project
Estero Island Shoreline Protection Project Update (aka Beach Renourishment Project) by Michael T. Poff, P.E. - Coastal Engineering Consultants, Inc.
- X. APPROVAL OF MINUTES**
 - A. Town Council August 7, 2023
 - B. Management & Planning Session August 10, 2023

XI. CONSENT AGENDA

- A. Bay Oaks Little League Field Grand Re-Opening
Town of Fort Myers Beach / Bay Oaks Recreational Campus would like to hold a Little League Ballfield Grand Re-Opening Celebration on August 28, 2023 from 4 pm to 6:30 pm. Set up time will begin at 2 pm. This is a one-time event. Event holder is requesting the use of Town property for music, food, restroom trailer, 20'-30' tent and a generator. Dependent on receiving approval from LCSO and the Fire Department.
- B. Special Event; Charity 5K Race at Diamondhead.
Requesting approval of charity 5K race
- C. Resolutions 23-88, 23-89 and 23-90
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.
- D. Bayside Park Electric Repairs
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN AUGUST 16, 2023 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND APPROVAL OF THE PROPOSALS RECEIVED FOR ELECTRIC AND SITE WORK FOR BAYSIDE PARK IN THE AMOUNTS NOT TO EXCEED \$83,400 AND \$60,000; AND PROVIDING FOR AN EFFECTIVE DATE.
- E. Resolution 23-96; Estero Island Shore Protection Project
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AUTHORIZING TOWN STAFF TO SUBMIT A FUNDING REQUEST TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ESTERO ISLAND SHORE PROTECTION PROJECT; AND AUTHORIZING LOCAL MATCHING FUNDS FOR FUNDING RECEIVED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND PROVIDING FOR AN EFFECTIVE DATE
- F. Resolution 23-92; ITB-23-08-CD, Change Order #2
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING CHANGE ORDER #2 TO CONTRACT ITB-23-08-CD BETWEEN THE TOWN AND GRUBBS EMERGENCY SERVICES FOR INCREASING CONTRACT TIME 109 DAYS AND INCREASING CONTRACT PRICE \$169,813.

- G. Resolution 23-94; RFQ-21-09-EN, STA #2
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A CHANGE TO SUPPLEMENTAL TASK ORDER #2 OF CONTRACT RFQ-21-09-EN BETWEEN THE TOWN AND COASTAL ENGINEERING CONSULTANTS FOR INCREASING THE AGREEMENT LENGTH TO 161 DAYS AND REALLOCATING \$25,690 FROM TASK 3 FOR BERM PLANTING SERVICES TO TASK 2 FOR CONSTRUCTION PHASE SERVICES AND ADDING AN ADDITIONAL \$20,000 TO TASK 2 FOR CONSTRUCTION PHASE SERVICES.
- H. Resolution 23-97: Health Insurance for Elected Officials
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, MAKING FINDINGS; ALLOWING ELECTED OFFICIALS TO PARTICIPATE IN THE FORT MYERS BEACH HEALTH INSURANCE PROGRAM FOR TOWN EMPLOYEES; AND PROVIDING AN EFFECTIVE DATE.
- I. Resolution 23-98; Transition Health Insurance from Benecon to FMIT
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING ADOPTING THE NEW HEALTH INSURANCE PLAN WITH FMIT AND PROVIDING HEALTH INSURANCE TO THE ELECTED OFFICIALS.

XII. PUBLIC HEARINGS

- A. Resolution 23-86, VAR20230070, 434 Estero Blvd
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VARIANCE VAR20230070 TO DECREASE THE FRONT (WEST) SETBACK BY 9 FEET AND DECREASE THE REAR (SOUTH) SETBACK BY 5.5 FEET, TO SWITCH THE SIDE AND REAR SETBACKS AND TO ALLOW FOR THE ENCROACHMENT OF MECHANICAL EQUIPMENT 1.5 FEET INTO THE SIDE (NORTH) SETBACK, FOR THE PROPERTY AT 434 ESTERO BLVD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.
- B. Resolution 23-87, SEZ20230126, 163 Old San Carlos
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20230126 TO TEMPORARILY ALLOW OUTDOOR CONSUMPTION ON PREMISES WITH A RETAIL USE AND CONDITIONS FOR THE PROPERTY LOCATED AT 163 OLD SAN CARLOS BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

XIII. ADMINISTRATIVE AGENDA**A. Times Square Clock Preparations**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, WAIVING THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND APPROVAL OF PROPOSALS RECEIVED FOR ELECTRIC AND SITE WORK FOR TIMES SQUARE IN AMOUNTS NOT TO EXCEED \$_____ & \$_____; AND PROVIDING FOR AN EFFECTIVE DATE.

B. Sand Placement Onto The Beach.

Authorize Town Staff to maximize sand placement onto the beach, 1) constructing the full design beach (OPTION #1) along shoreline lengths with adequate property owner participation, 2) constructing the full design beach seaward of the ECL (OPTION #2) on shoreline lengths with isolated non-participating properties, and 3) constructing the beach at ECL elevation grade seaward (OPTION #3) on shoreline lengths dominated by non-participating properties.

C. Annual Communication Plan

Discuss draft communication plan and provide edits

D. 2024 Legislative Priorities

Discussion of the 2024 Legislative Priorities

XIV. FINAL PUBLIC COMMENT**XV. TOWN MANAGER'S ITEMS****XVI. TOWN ATTORNEY'S ITEMS****XVII. COUNCILMEMBERS ITEMS AND REPORTS****XVIII. ADJOURNMENT****XIX. PRESENTATION**

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 accommodation, 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.

1. **Requested Motion:**

Meeting Date: August 21, 2023

Recognition of the Florida Festivals and Events Association's support to Fort Myers Beach after Hurricane Ian

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

PROCLAMATIONS

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

The Florida Festivals and Events Association's mission is to promote and strengthen the festival, event and fair industry in Florida. Their vision is to be the leading resource for festival, event and fair professionals and organizations in Florida.

Since 1994, the Florida Festivals and Events Association, Inc. (FFEA) has grown to more than 700 members strong and collectively represents 5,500 events throughout the state of Florida. FFEA has hosted more than 5,000 event organizers, vendors, speakers and sponsors at its annual convention and trade shows. In addition, FFEA has presented nearly 2,000 awards recognizing the creative and technical innovations of its members.

Attachments:

1. Florida Festivals and Events Assoc. 8.21.23

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/9/2023
Approved - 8/16/2023
Approved - 8/16/2023
Final Approval - 8/16/2023

Town of Fort Myers Beach

PROCLAMATION

WHEREAS, on September 28, 2022, Hurricane Ian caused widespread damage and devastation to the lives of the Fort Myers Beach residents and community; and

WHEREAS, during this time of crisis, the Florida Festivals & Events Association Board, members, and Executive Director provided invaluable support to those affected by the storm by immediately reaching out and donating to the #WeAreFMB fund for those affected; and

WHEREAS, their tireless efforts to organize and coordinate aid and assistance to our community in the form of truckloads of requested and much needed supplies and manpower to the 820 Buttonwood Drive location. This month-long relief effort was spearheaded by Tasha Hyder, Executive Director of the Clay County Agricultural Fair and of Chris Liberatore, Executive VP of Fireworks for Pyrotecnico with the assistance of FFEA Executive Director Suzanne Neve; and

WHEREAS, upon hearing of the devastation of Fort Myers Beach's beloved "*Annette's Book Nook*" in Santini Plaza, a book drive was held by past FFEA Chairwoman Dawn Diehl of Fort Lauderdale's Winterfest Boat Parade providing over 500 books and donations; and

WHEREAS, FFEA members worked together to bring holiday spirit to the residents through the "Light Up Times Square" event in December sponsored by Nick Toutoungi of Twilight Features and Epic Outdoor Cinema and SWFL's Barefoot Event Group; and

WHEREAS, the organization continues to help rebuild our community during their annual conference this month in support of Fort Myers Beach Elementary along with members performing community service in our area;

WHEREAS, the Florida Festivals and Events Association celebrates its 29th Anniversary by hosting its annual conference here in SWFL with attendees from coast to coast;

NOW, therefore, be it proclaimed that the Town Council of the Town of Fort Myers Beach, Florida hereby expresses our heartfelt thanks and appreciation to the

FLORIDA FESTIVALS & EVENTS ASSOCIATION BOARD

its members and Executive Director for providing a source of support, resources, and hope for the Fort Myers Beach community.

Given under my hand and the seal of the office of the Mayor this 21st day of August 2023.

Dan Allers, Mayor

1. **Requested Motion:**

Meeting Date: August 21, 2023

Estero Island Shoreline Protection Project Update (aka Beach Renourishment Project) by Michael T. Poff, P.E. - Coastal Engineering Consultants, Inc.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

PRESENTATION

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Michael Poff, President, Coastal Engineering Consultants, to Present.

Attachments:

1. 22504 Beach Updates for Town Council 20230821-draft

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Chadd Chustz, Environmental Services
Steve Poposki, Community Development Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/12/2023
Approved - 8/14/2023
Approved - 8/16/2023
Approved - 8/16/2023
Final Approval - 8/16/2023

BEACH MANAGEMENT UPDATE
TOWN COUNCIL
AUGUST 21, 2023

OUTLINE

- RECOVERY PLAN SUMMARY
- FEMA CATEGORY B EMERGENCY BERM (CENTRAL-SOUTH)
- FEMA CATEGORY G (NORTH)
- FDEP HURRICANE RECOVERY PLAN
- BEACH NOURISHMENT PROJECT



RECOVERY PLAN SUMMARY

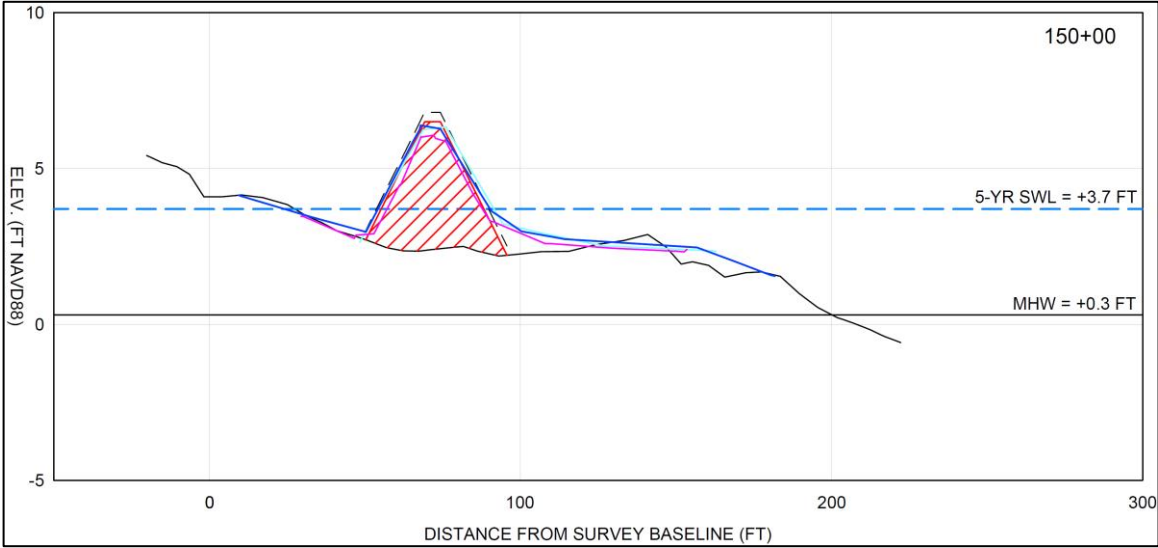
HURRICANE IAN DAMAGES: **220,400 CY** of Sand Eroded from FMB

- FEMA Category B
 - Emergency Berm for the Natural Beach
(CENTRAL & SOUTH SEGMENTS + Carlos Point Beach)
 - 86,969 CY
- FEMA Category G
 - Ian erosion on the Engineered Beach (NORTH SEGMENT)
 - 56,845 CY
- FDEP Hurricane Recovery Plan Requests
 - Additional Erosion Quantity
 - 74,170 CY
 - South Estero Island
 - 15,000 CY
 - Local Cost Share of FEMA Cat B & Cat G Projects



FEMA CATEGORY B EMERGENCY BERM (CENTRAL-SOUTH)

- FEMA / FDEM PUBLIC ASSISTANCE: \$7,970,943
 - 86,969 CY = 121,756 Tons
- CONSTRUCTION PERIOD: April 6 – June 27
 - Substantial Completion: Central = 92,669 Tons (76%)
 - Resume Work On South After Shorebird Nesting Season Concludes
- TWO CHANGE ORDERS
 - CO#1 Added 8 Days To Account For Town Requests for Berm Segments
 - CO#2 – **Action Needed Today: Approve Additional Time/Money (\$170K):**
Addresses Shorebird Protection During Nesting Season
 - CEC Supplemental Services: **Action Needed Today: Approve Time/Money (\$20K)**
- TOWN REQUESTING ADDITIONAL TIME EXTENSION FROM FEMA
THROUGH OCTOBER 31, 2023



**TOWN OF FORT MYERS BEACH SERVICE AGREEMENT
SUPPLEMENTAL TASK AUTHORIZATION**

☒ Supplemental Task Authorization NO.: 5

CONTRACT/PROJECT NAME: Estero Island Emergency Berm Construction Phase Services

CONSULTANT: Coastal Engineering Consultants, Inc. PROJECT NO.: _____

SOLICIT NO.: Estero Island Beach Renourishment CONTRACT NO.: RFQ-21-09-EN

REQUESTED BY: Chadd Chustz, Environmental Project Manager DATE OF REQUEST: 6/29/2023

Upon the completion and execution of this Supplemental Task Authorization by both parties, the Consultant/Provider is authorized to and shall proceed with the following:

EXHIBIT "A" SCOPE OF PROFESSIONAL SERVICE: DATED: July 31, 2023

EXHIBIT "B" COMPENSATION & METHOD OF PAYMENT: DATED: July 31, 2023

EXHIBIT "C" TIME AND SCHEDULE OF PERFORMANCE: DATED: July 31, 2023

EXHIBIT "D" CONSULTANT'S/PROVIDER'S ASSOCIATED
SUB-CONSULTANT(S)/SUB-CONTRACTORS: DATED: July 31, 2023

It is understood and agreed that the acceptance of this modification by the CONSULTANT/PROVIDER constitutes an accord and satisfaction.

RECOMMENDED:

By: _____ Date: _____
Department Director

By: _____ Date: _____
Contracts Manager

ACCEPTED:

By: Michael T. [Signature] Date: July 31, 2023
Consultant/Provider

TOWN APPROVAL:

By: _____ Date: _____
Town Manager



**TOWN of FORT MYERS BEACH
PART E
FMB:011 - CONSTRUCTION CONTRACT
CHANGE ORDER**

BID NO. ITB-23-08-CD

No.: 2

(A Change Order requires approval by the Finance Director and Town Manager for expenditures under \$25,000, approval by the Town Council for expenditures over \$25,000).

CONTRACT/PROJECT NAME: Estero Island Emergency Berm

CONTRACTOR: Grubbs Emergency Services LLC PROJECT NO.: 22.502

CONTRACT NO.: ITB-23-08-CD BID NO.: ITB-23-08-CD

CHANGE REQUESTED BY: Grubbs Emergency Services LLC DATE OF REQUEST: 06/29/2023

Upon the completion and execution of this Change Order by both parties to the Contract the Contractor is authorized to and shall proceed to make the following changes in the Contract Documents:
(If you need space other than what has been provided, please attach additional sheets.)

Description: Post bid, contractor experienced additional work in order to implement shorebird protection measures and adhere to special permit conditions for habitat and species protection. Due to heightened level of nesting outside of historic areas, contractor has to demobilize and remobilize to complete work after nesting season concludes.

Purpose of Change Order: Adding time and budget to address shorebird protection

Attachments: (List documents supporting change) GES RFCO FMB.pdf

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIME:
Original Contract Price	Original Contract Time
\$7,559,860	<u>91</u> Calendar Days
Previous Change Order No. N/A to No. <u>N/A</u>	Net Change from previous Change Orders
\$ <u>0</u>	<u>8</u> Calendar Days
Contract Price prior to this Change Order	Contract Time prior to this Change Order
\$7,559,860	<u>99</u> Calendar Days
Net Increase (Decrease) of this Change Order	Net Increase (Decrease) of this Change Order
\$ <u>169,813</u>	<u>109</u> Calendar Days
Contract Price will all approved Change Orders	Contract Time with all approved Change Orders
\$7,729,673	<u>208</u> Calendar Days

It is understood and agreed that the acceptance of this modification by the CONTRACTOR constitutes an accord and satisfaction, and represents payment in full (both time and money) for all costs arising out of, or incidental to, the above mentioned change.

RECOMMENDED:

By: [Signature] Date: 7/31/23
Consultant (if applicable)

By: _____ Date: _____
Department Director

Contracts Management

APPROVED:

Town Attorney Date: _____

ACCEPTED

By: [Signature]
Contractor

Date Accepted: 7-31-23

(CORPORATE SEAL)

TOWN APPROVAL:

By: _____
Finance Director (Under \$25,000)

Date Approved: _____

By: _____
Town Manager (Under \$25,000)

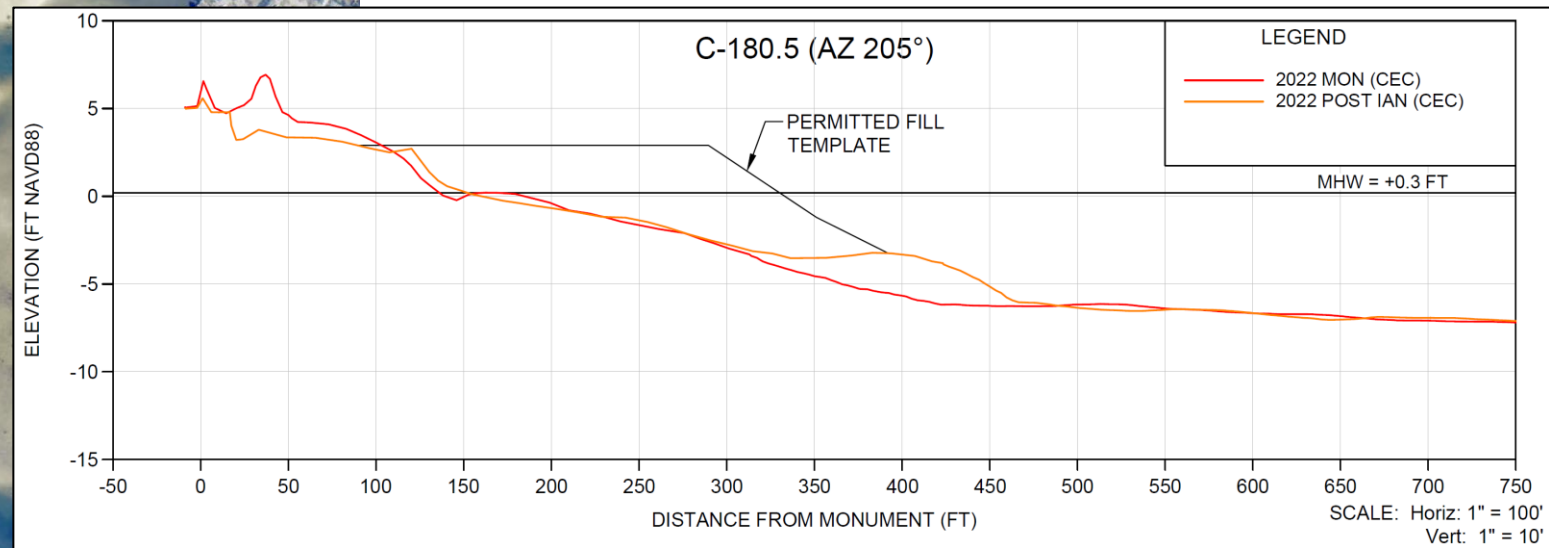
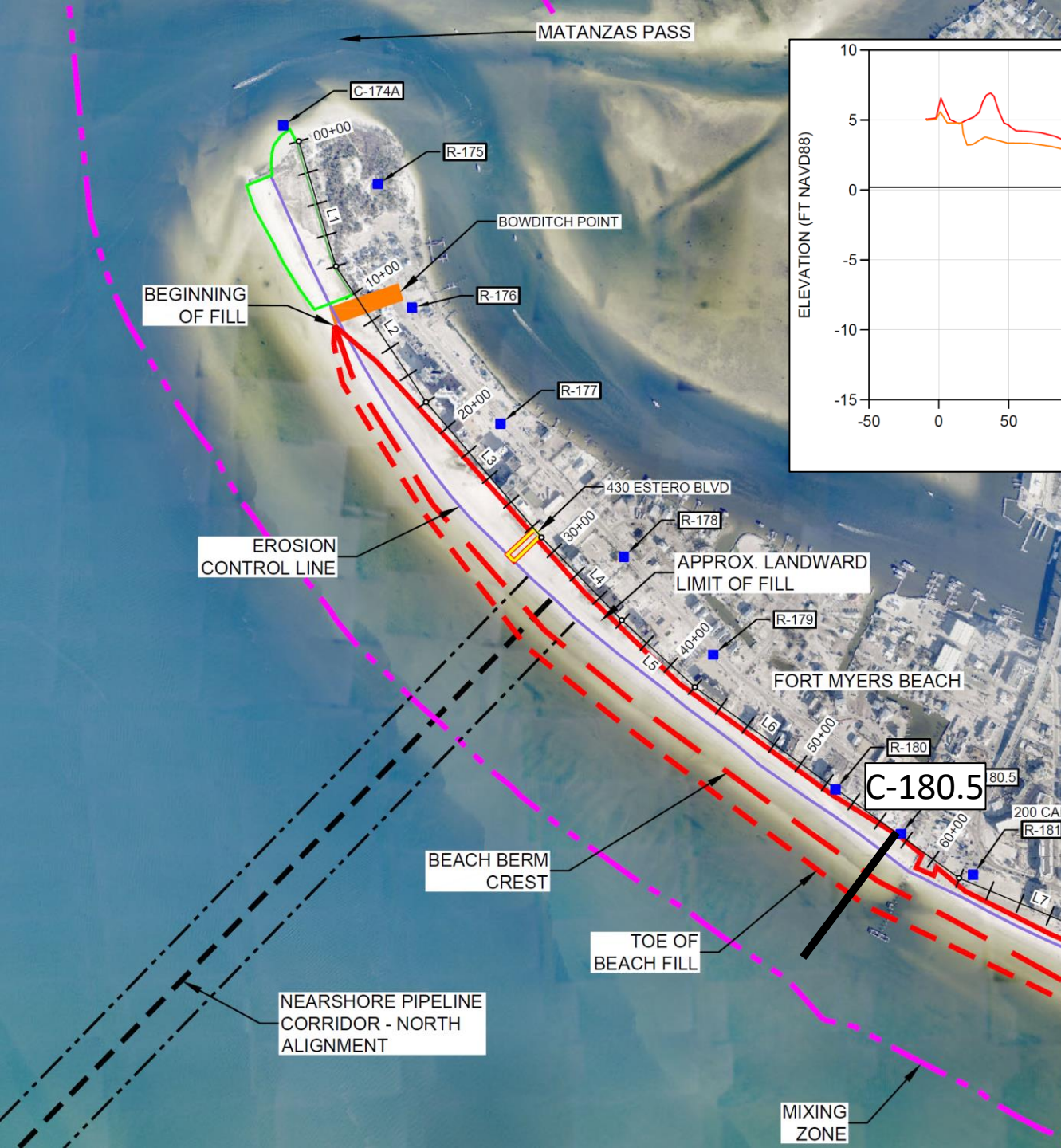
Date Approved: _____

By: _____
Mayor, Town Council
(Over \$25,000)

Date Approved: _____

FEMA CATEGORY G (NORTH)

- FEMA / FDEM PUBLIC ASSISTANCE: \$1,408,050 (*pending*)
 - 56,845 CY of Sand; 33,200 Dune Plants
- REPAIR STORM DAMAGE TO ENGINEERED BEACH
 - North Segment Originally Restored in 2011 (~ 6,900 feet)
 - Beach Nourishment Project Scheduled to Maintain the Beach ~ Eligible for FEMA Post-Storm Recovery Public Assistance
- CONSTRUCT CAT G RECOVERY PROJECT CONCURRENT WITH BEACH NOURISHMENT PROJECT
 - Seeking Federal Authorizations through FEMA, USACE, USFWS, NMFS and BOEM Agencies



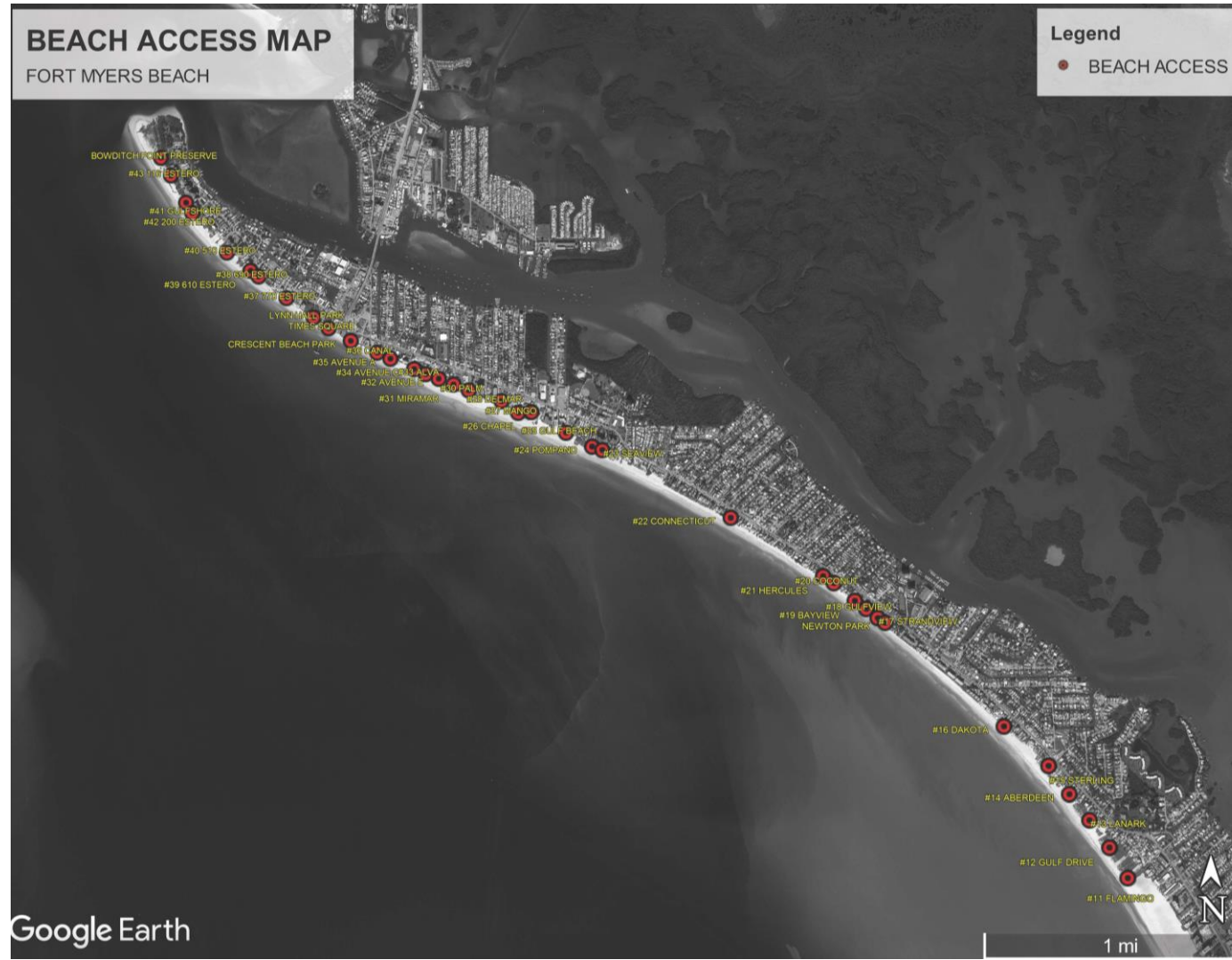
NORTH BEACH SEGMENT

FDEP HURRICANE RECOVERY PLAN

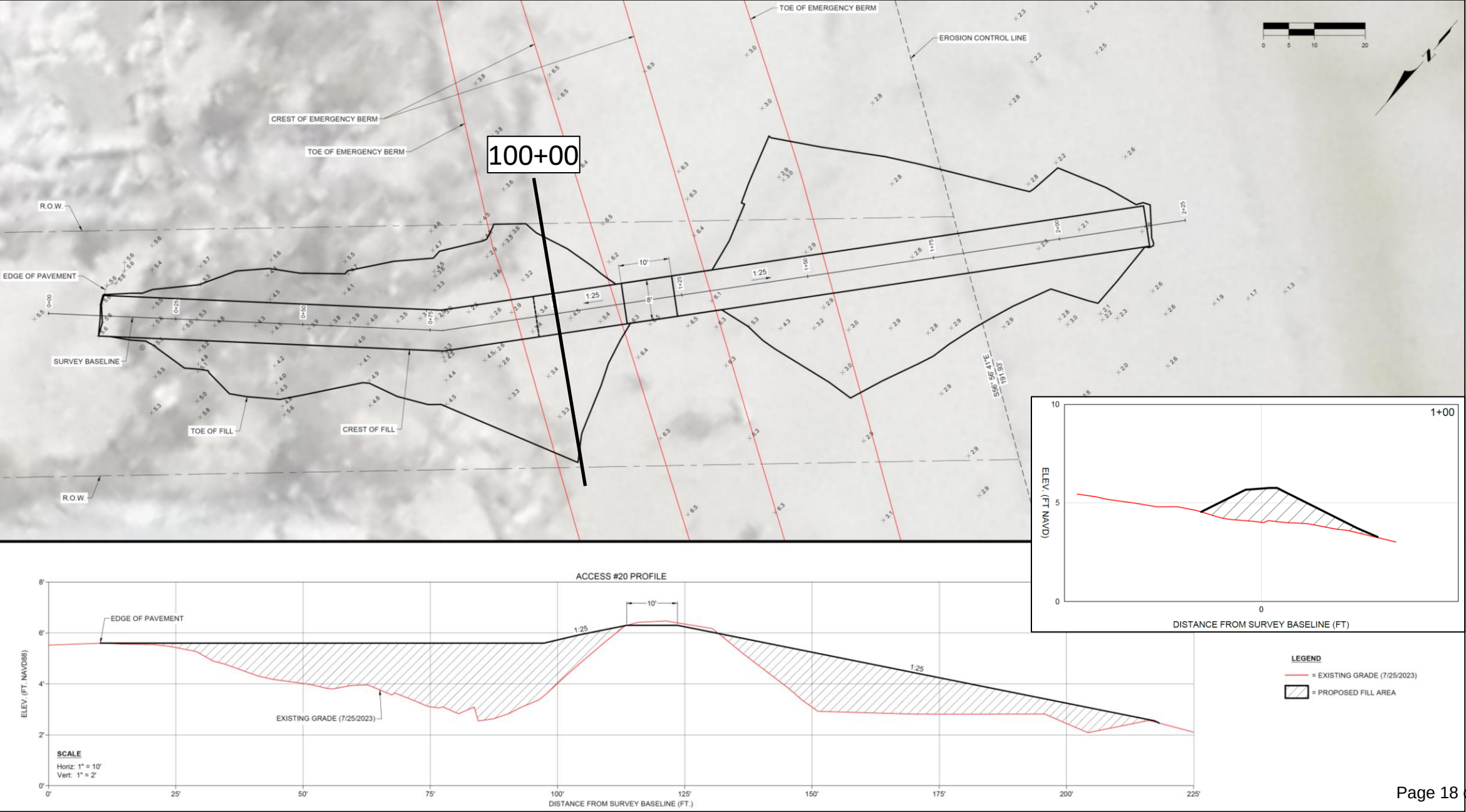
- TOWN SEEKING ASSISTANCE FROM STATE OF FLORIDA
 - 74,170 CY of Sand
- PUBLIC BEACH ACCESSES
 - Priority Accesses: 20, 21, 22, 24, 27, 30, 32, 33, 34, 36
 - Follow ADA Guidelines for Sand Ramps onto Beach
 - Secondary Accesses: Remaining
- ADDITIONAL BERM SEGMENTS
- SCOUR FILLS: 5000 BLOCK AND CARLOS POINT

PUBLIC BEACH ACCESSSES

- Priority Accesses: 20, 21, 22, 24, 27, 30, 32, 33, 34, 36
 - Follow ADA Guidelines for Sand Ramps onto Beach

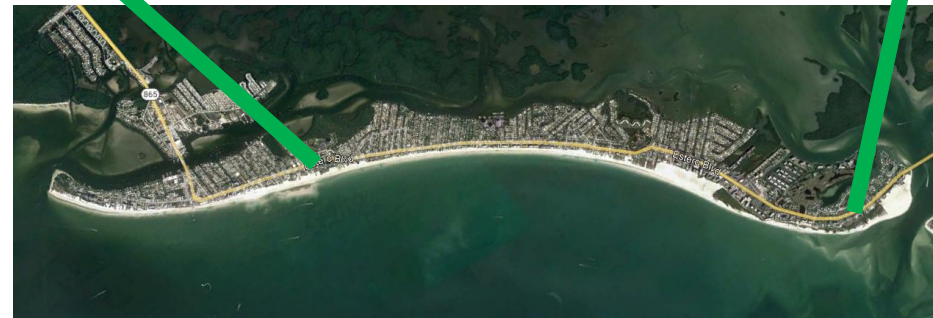


BEACH ACCESS # 20 PRELIMINARY PLANS



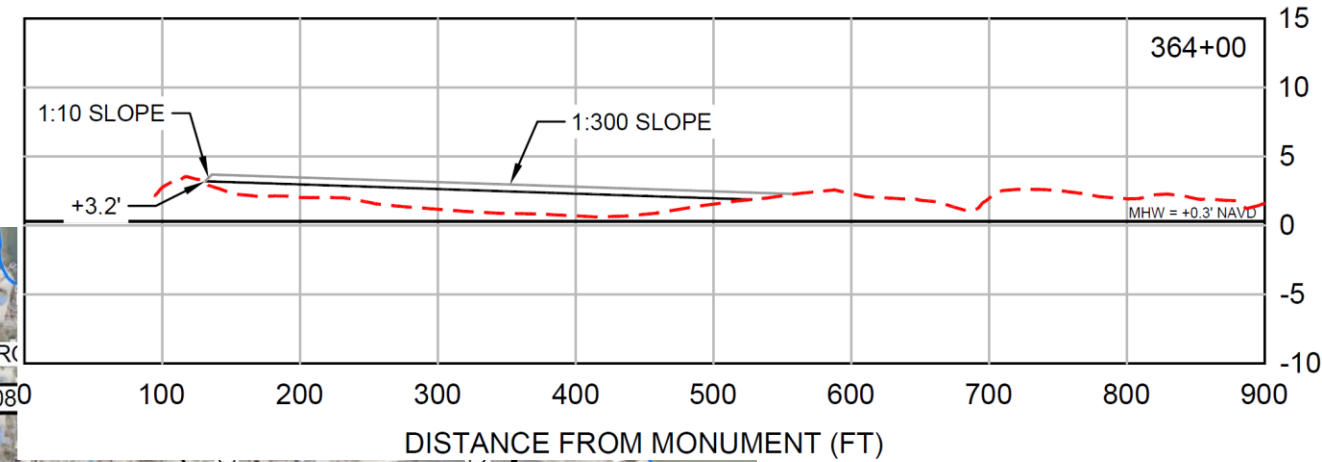
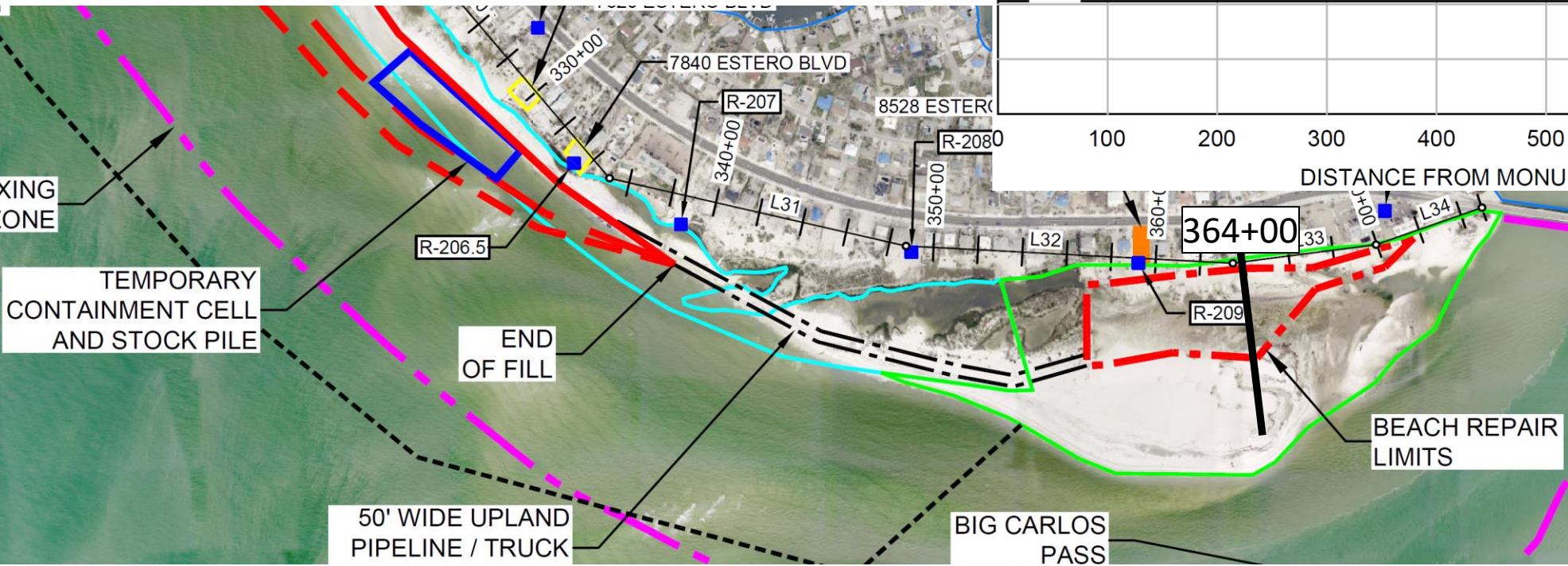
ADDITIONAL BERM SEGMENTS

- Reports of Flooding during King Tides

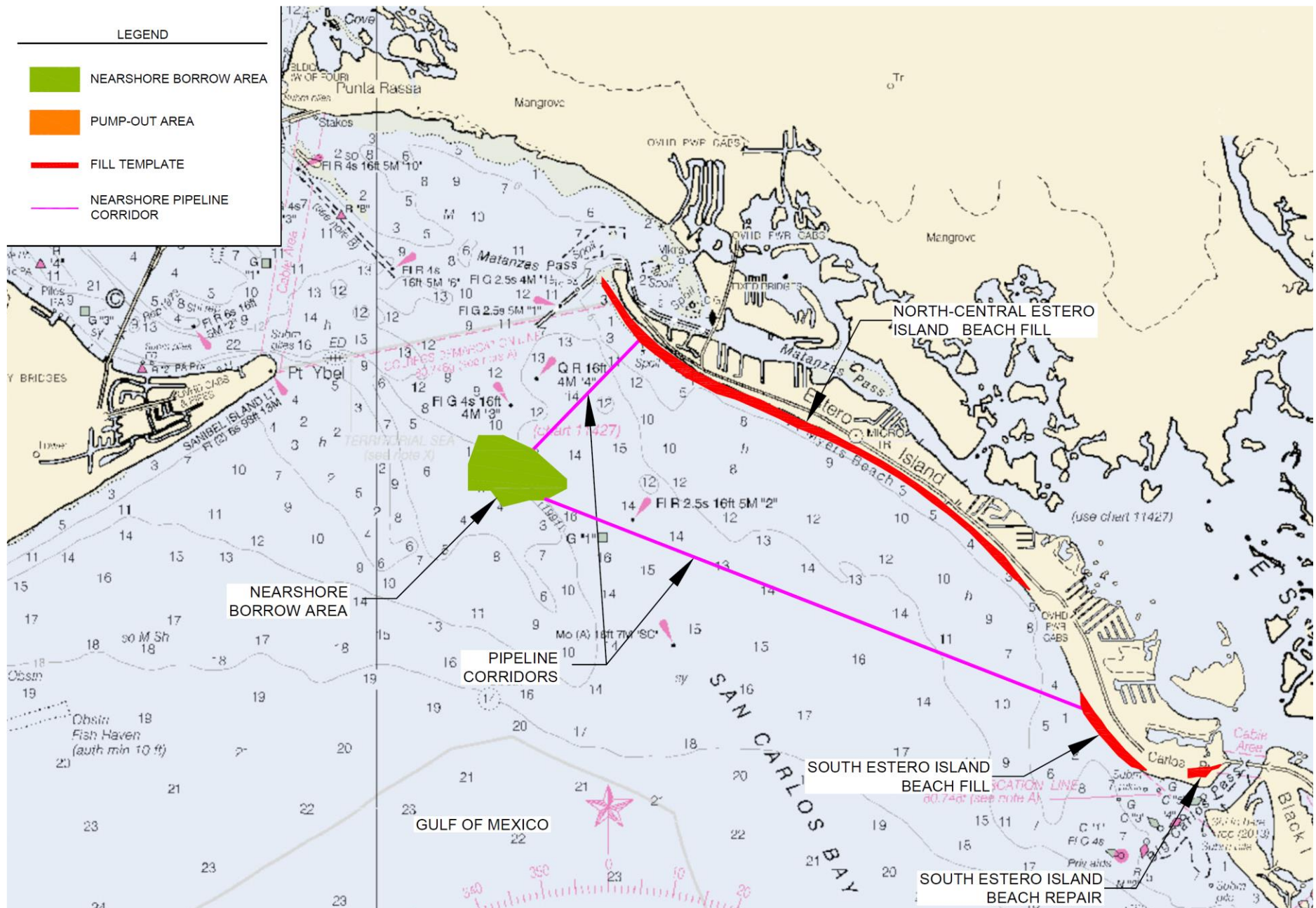


SCOUR FILLS

- Holes, Low Elevation, Filled with Water
- Paths Scoured behind Berm (landward)
- On Beach in front of Berm (waterward)
- 5000 – 6000 Block
- Carlos Point



ESTERO ISLAND BEACH NOURISHMENT PROJECT



ESTERO ISLAND BEACH NOURISHMENT PROJECT

- FDEP Permit # 0413684-001-JC (expires January 18, 2038)
- FDEP Permit Mod #0413684-002-JN (pending)
- USACE Permit # SAJ-2000-03017 (SP-SJF) Outstanding-Action Needed (pending commenting agencies: NMFS, USFWS, Tribes)
- Lee County ILA: Pending (***Future Action – approval by Council***)
- State of Florida Funding Contracts: Pending.
 - ***Action Needed Today- Approve FY24-25 Resolution***
- Planning Schedule:
 - Permitting: Present – September 2023
 - Final Design: Present – September 2023
 - Bid Process: September 2023 – November 2023
 - Construction: November 2023 – June 2024.

RESOLUTION NUMBER 23-XX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AUTHORIZING TOWN STAFF TO SUBMIT A FUNDING REQUEST TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ESTERO ISLAND SHORE PROTECTION PROJECT; AND AUTHORIZING LOCAL MATCHING FUNDS FOR FUNDING RECEIVED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; 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 (“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, Estero Island’s coastal beach, which is among the Town of Fort Myers Beach (“Town”) most important ecological, economic, and recreational assets, is subject to erosion that results in detrimental impacts to nesting and wintering areas for wildlife species such as sea turtles and shorebirds; loss of outdoor recreational opportunities for the Town’s residents and visitors; and damage to and loss of public and private property; and

WHEREAS, beach erosion control and restoration projects are an effective tool for preventing and offsetting some of the negative impacts of beach erosion, including loss of habitat, loss of recreational opportunities, and endangerment of public and private property; and

WHEREAS, the Town Council finds that beach erosion control and restoration projects are in the public interest and in the best interest of the health, safety, and welfare of the residents, property owners and visitors of the Town of Fort Myers Beach.

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.

Section 2. The Town Council expresses its support for the Estero Island Beach Nourishment Project (the “Project”), described in Exhibit “A”, a copy of which is attached hereto and made a part of this Resolution.

Section 3. To conserve sand resources and/or reduce Project costs the Town supports regionalization of the Project and work with Lee County to coordinate bidding and construction of

the Project where possible.

Section 4. The Town authorizes Town staff to take all necessary actions to request and obtain funds from the Florida Department of Environmental Protection for the Project and will provide matching funds/local cost share for the Project and serve as local sponsor for the Project including matching funds from the Town Beach Restoration Reserves and Lee County Tourist Development Council.

Section 5. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution 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:

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

ADOPTED this __ day of August 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

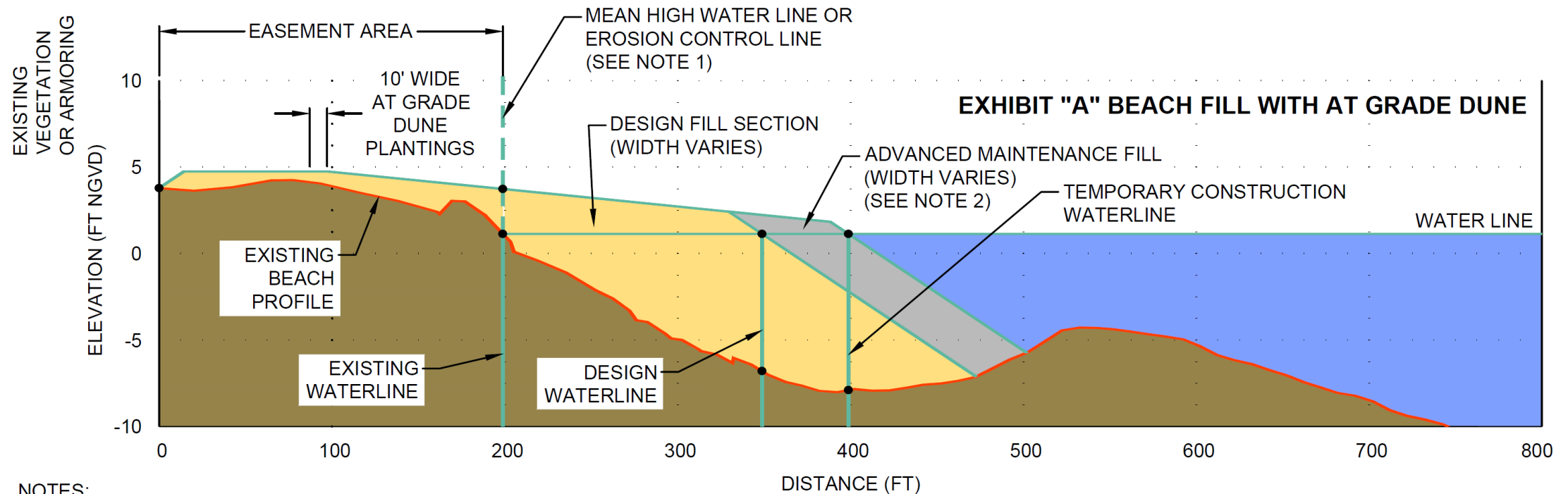
APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

, Town Attorney

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

CONSTRUCTION EASEMENTS

Purpose: To allow for the Town, Contractor, Engineer, and Monitors to conduct work on private property



NOTES:

1. THE SEAWARD LIMIT OF THE EASEMENT AREA IS THE MEAN HIGH WATER LINE OR THE EROSION CONTROL LINE IF ONE IS ESTABLISHED.
2. ADVANCED MAINTENANCE MAY BE PROPOSED SUBJECT TO FISCAL CONSTRAINTS.
3. LOCATIONS OF THE AT GRADE DUNE PLANTINGS ON PRIVATE PROPERTY MAY BE ADJUSTED SUBJECT TO PERMIT CONDITIONS.

CONSTRUCTION EASEMENTS

OPTIONS FOR BEACH FILL PLACEMENT

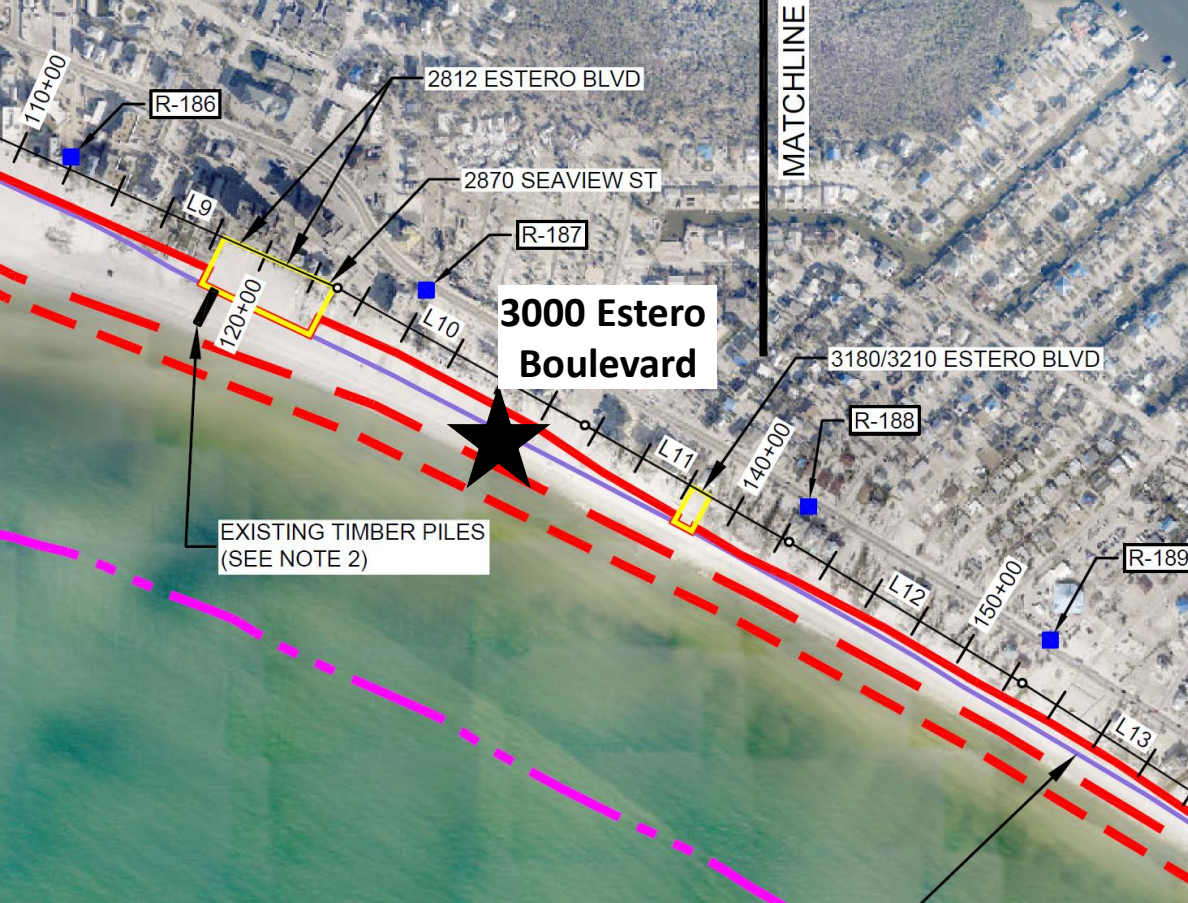
1. Easements in Hand: Build entire permitted template.
2. No Easement - Build permitted template from ECL seaward noting this will create low lying areas between uplands or berm and new fill.
3. No Easement: Lower template and build from ECL seaward to avoid creating low lying areas between uplands or berm and new fill.

	NORTH	CENTRAL	SOUTH	TOTAL
YES	29	61	16	106
EXPECTED	2	4	1	7
NO	1	27	1	29
NO RESPONSE	6	78	3	87
Grand Total	38	170	21	229

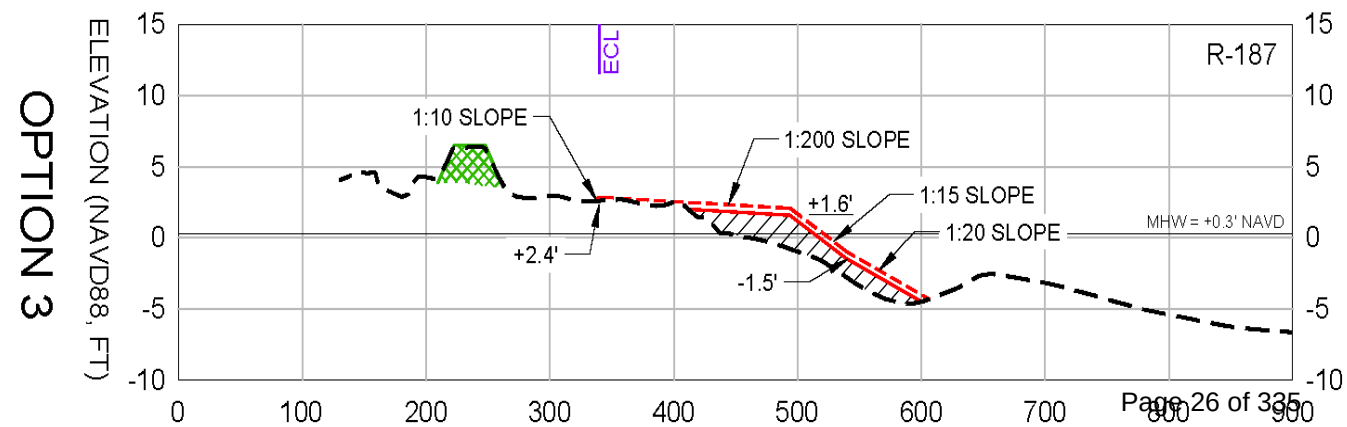
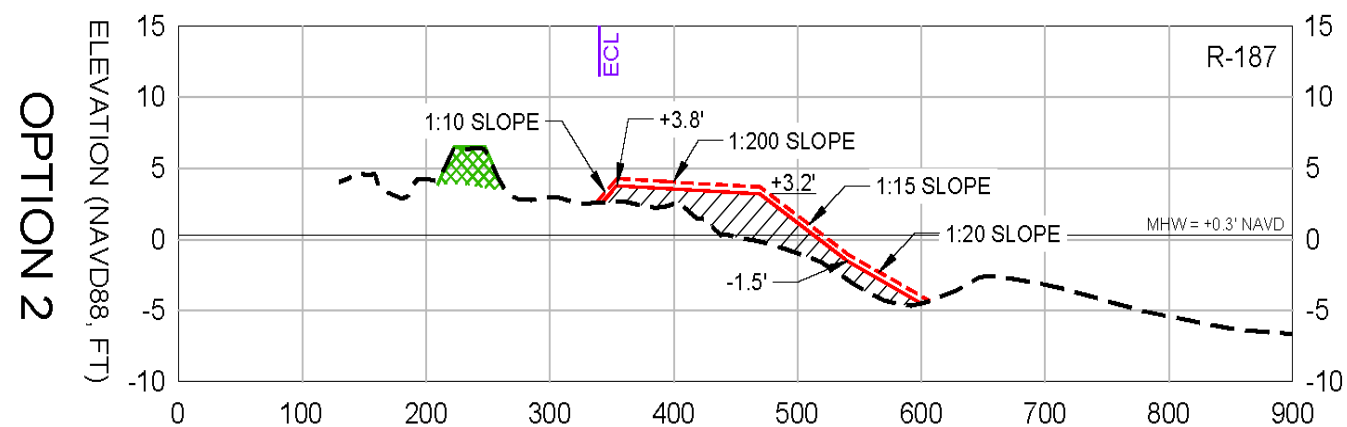
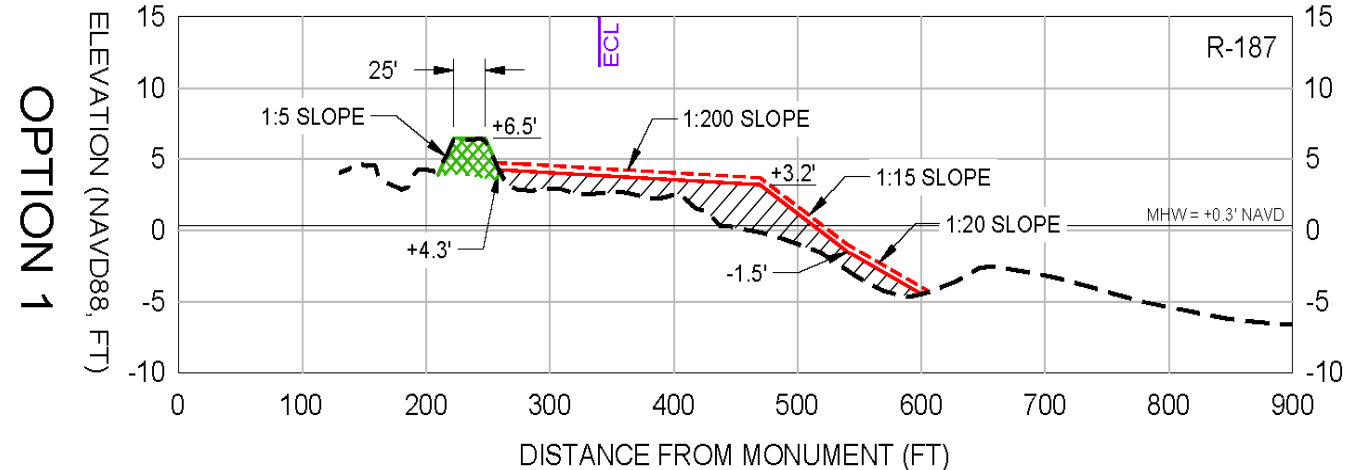
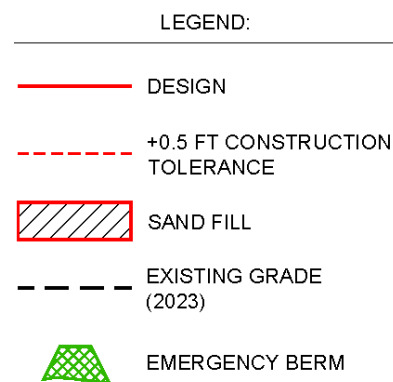
*Easement Status as of July 25, 2023

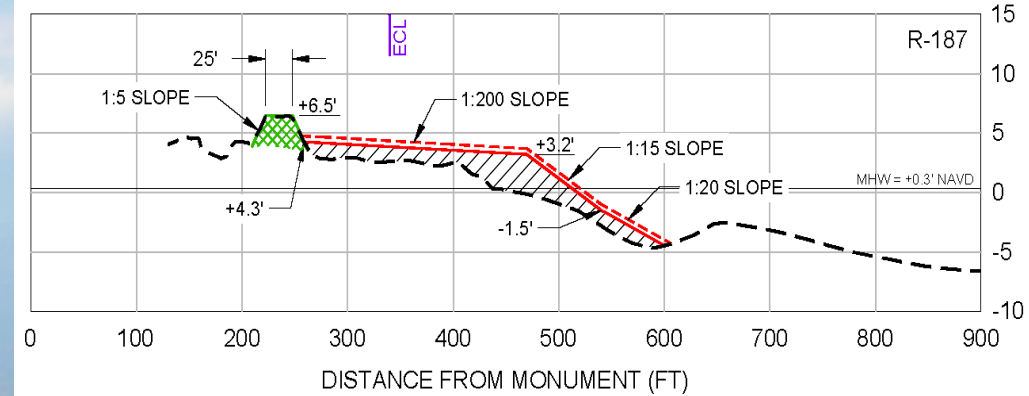
Actions Needed Today:

- Provide direction on what to do with properties that are No Response
- Decide on Option 2 or Option 3 for properties that have responded No (no easements)

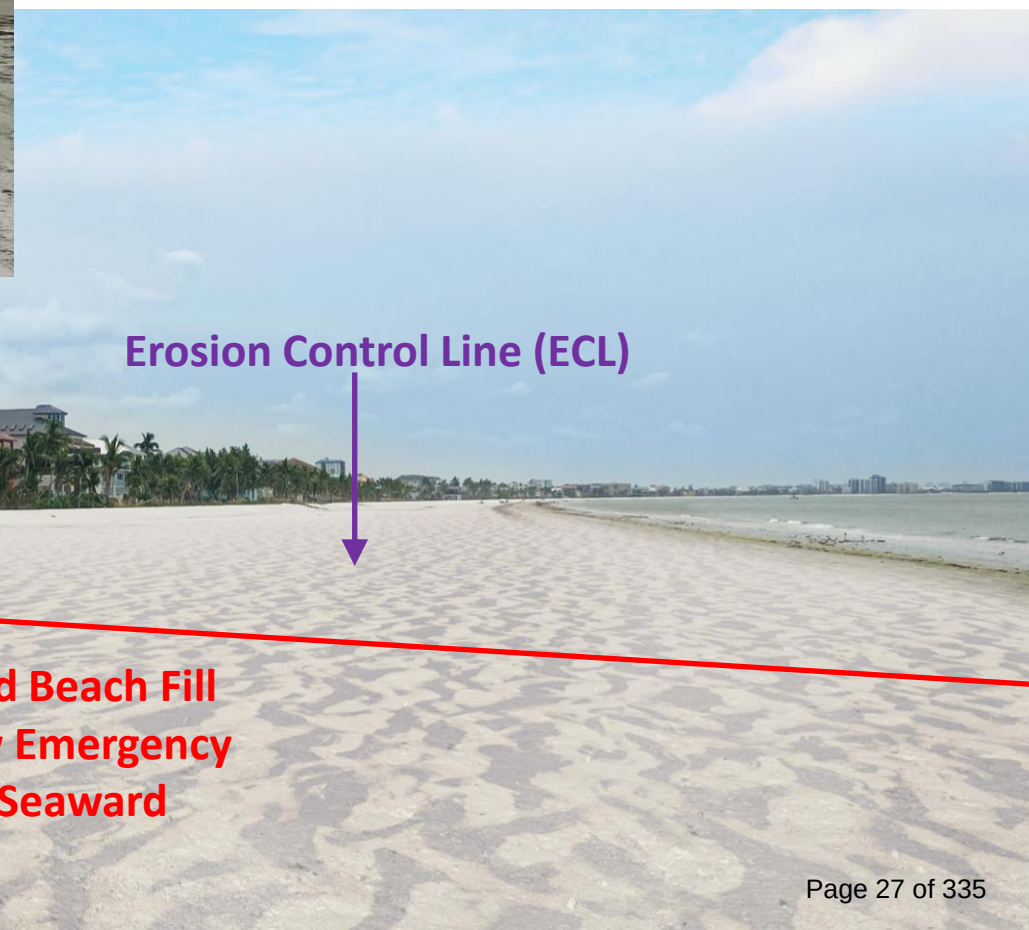


Excerpt from Beach Nourishment Construction Plans

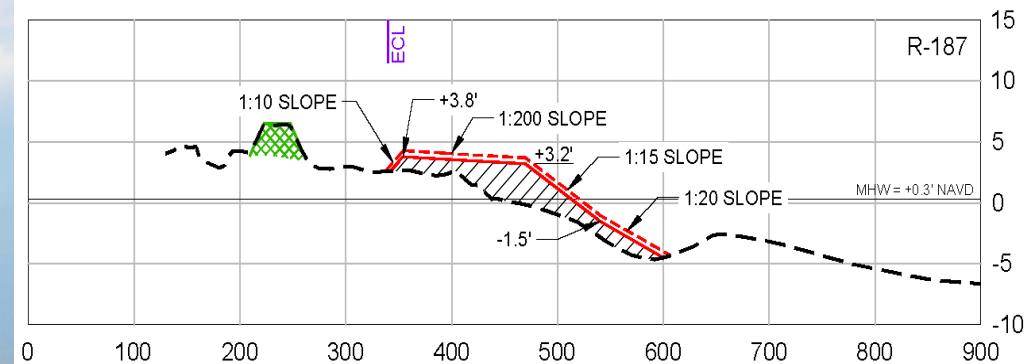




OPTION 1



Photograph looking SE,
~3000 Estero Blvd
courtesy of Chadd Chustz, July 29, 2023

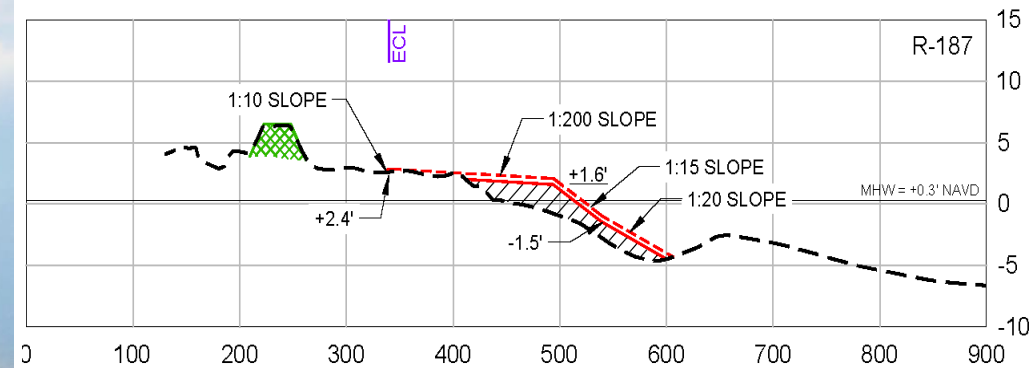


OPTION 2



Photograph looking SE,
~3000 Estero Blvd

courtesy of Chadd Chustz, July 29, 2023



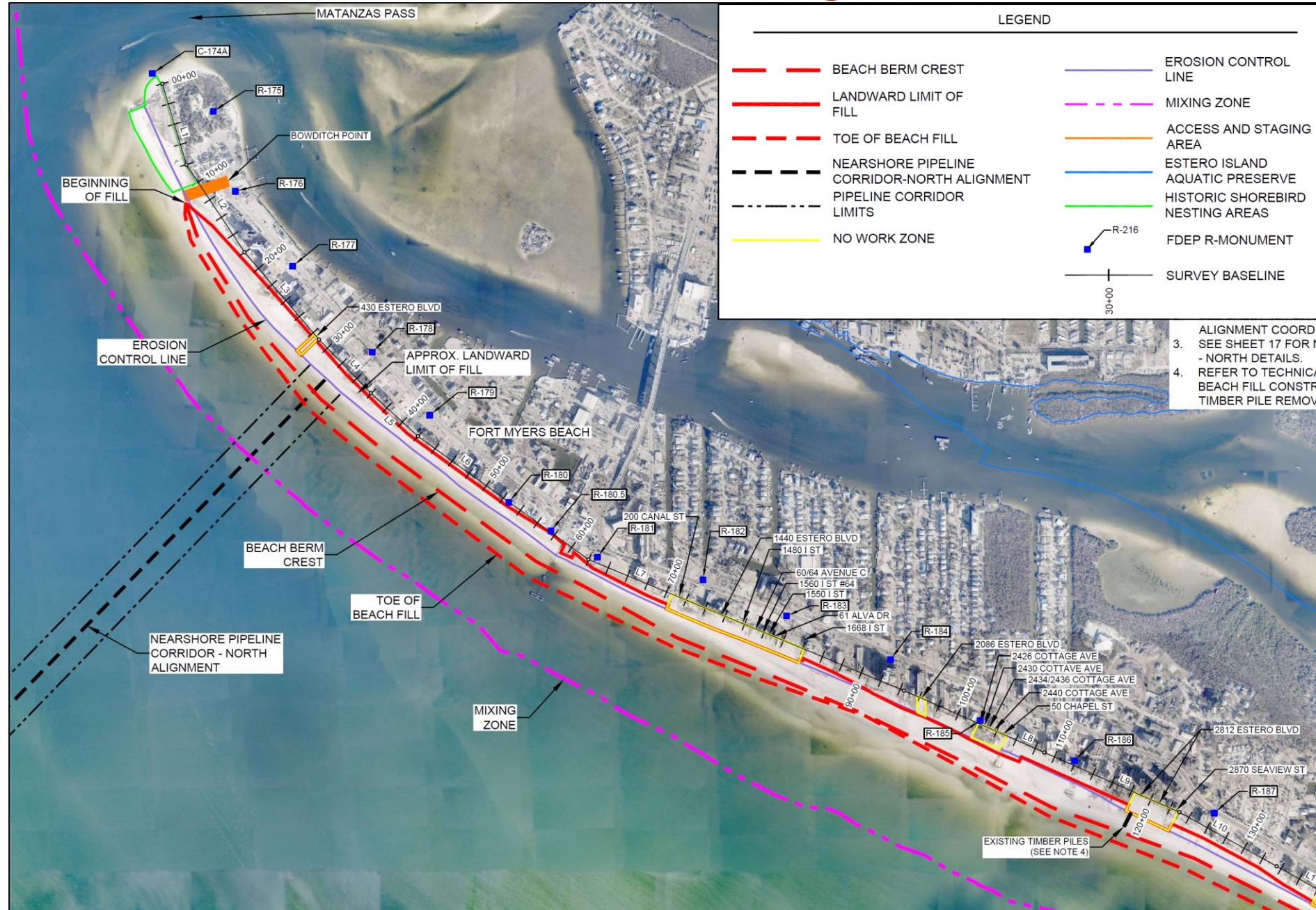
OPTION 3



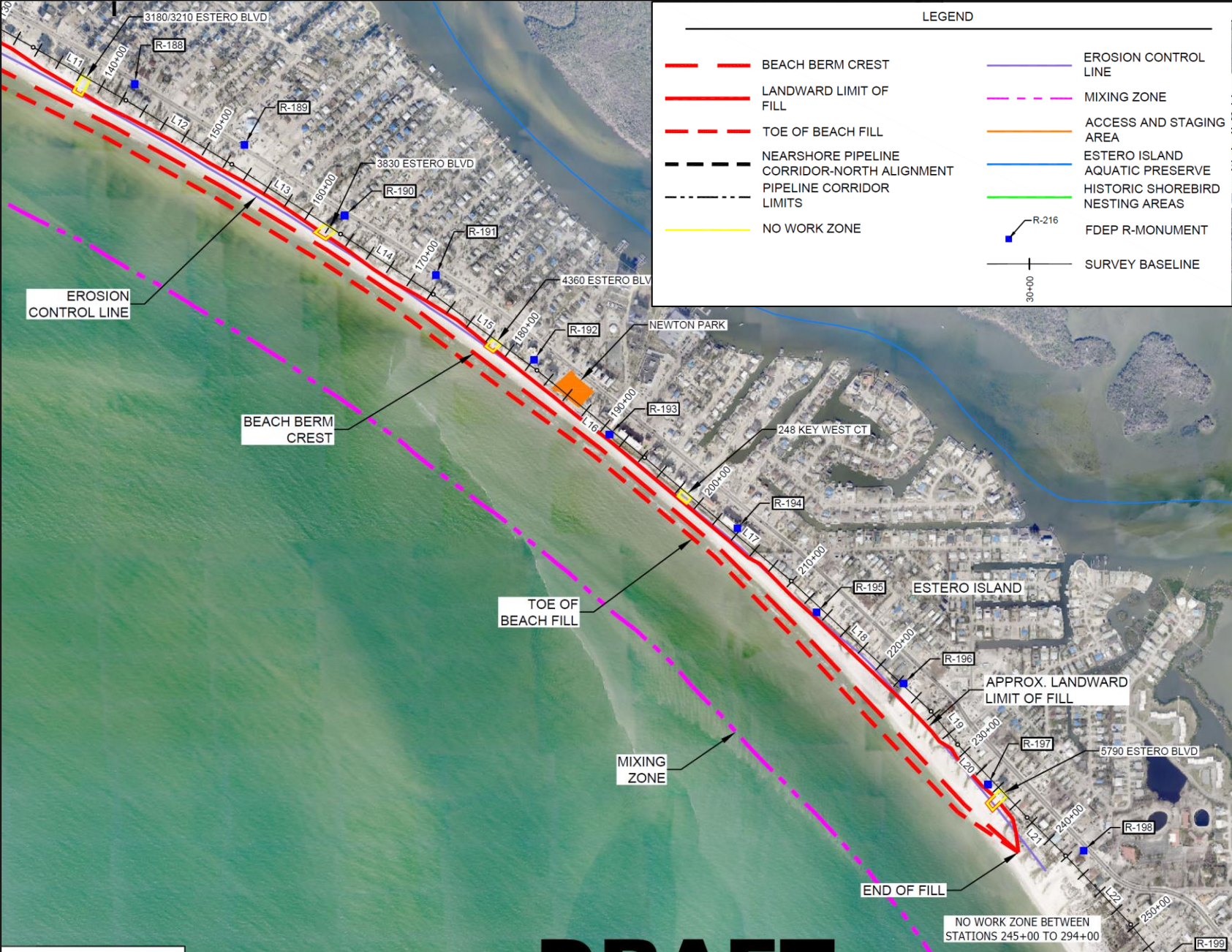
Photograph looking SE,
~3000 Estero Blvd

courtesy of Chadd Chustz, July 29, 2023

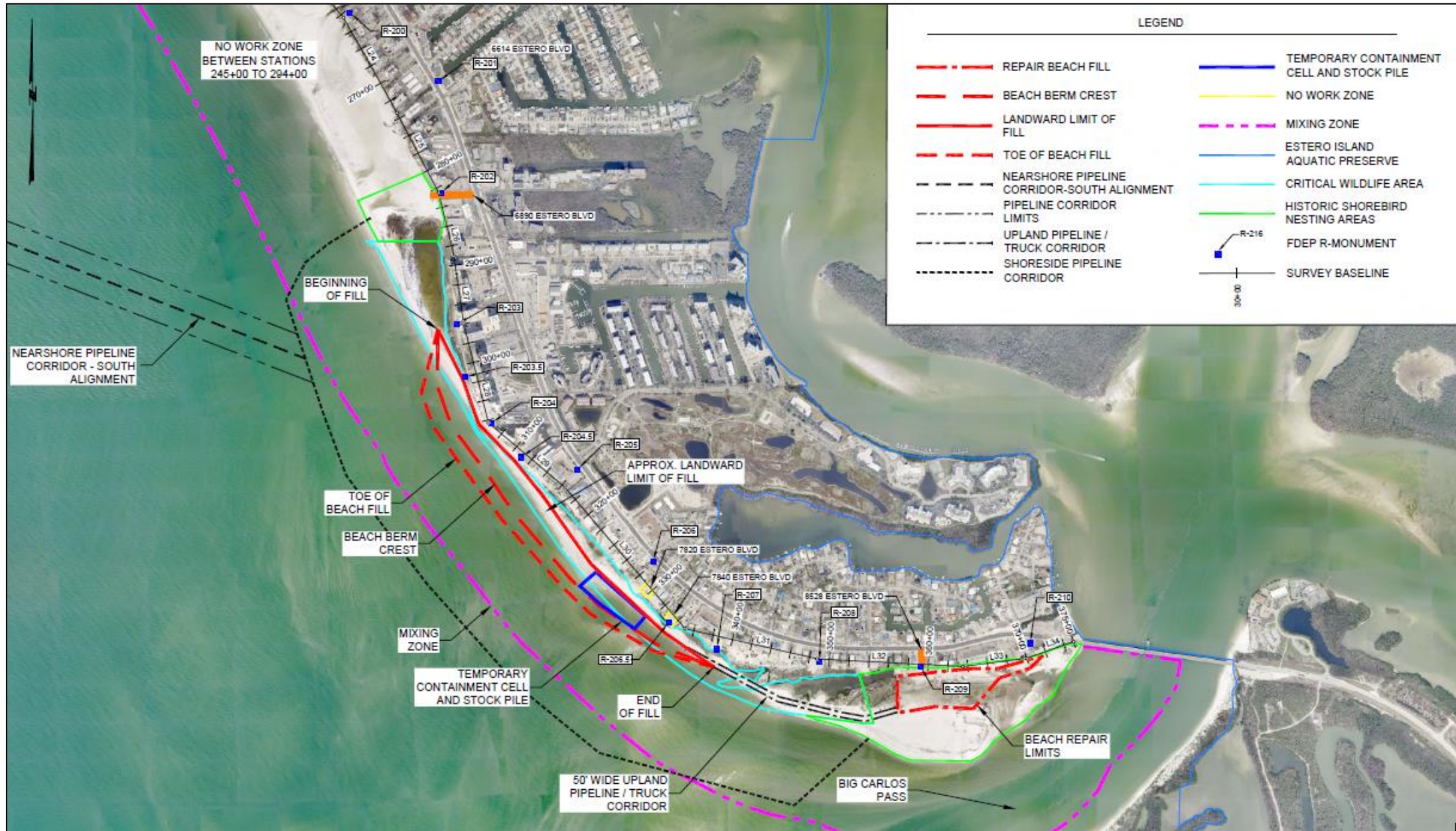
North-Central Segment



Central Segment



South Segment



What to Expect...

- When the pipeline first makes landing at the beach, the Contractor will pump sand to build a pad of sand. Once pad is created, the contractor will add pipe sections and progress along the beach using grading equipment to shape the beach. Bulldozers, grading equipment and movable office will move with the beach fill advance. Active construction typically takes a few days to complete sand placement for 200 feet of beach. However, the pipeline remains in place through the end of pumping. Contractor will then final grade and till the beach.



Post-Construction Requirements

- Beach Tilling
 - Till beach for three consecutive seasons to loosen sand and enhance sea turtle nesting (hydraulically placed sand is artificially compacted)
- Sea Turtle Lighting Compliance
 - Conduct lighting surveys/reporting
- Annual Monitoring
 - Conduct beach profiles, aerial photos, and performance assessment



www.fmbgov.com/BEACH



Hurricane Ian Resources

Beach

Boating

Dolphins

Fertilizer Information

Little Estero Island Critical Wildlife Area

Manatees

Native & Invasive Plants

Sea Turtles

Shorebirds

Water Quality

REPORT A CONCERN

Report a street, beach, utilities, code, permitting, zoning issue
[Read On...](#)

Create a Website Account - Manage notification subscriptions, save form progress and more.

Website Sign In

ABOUT FMB

DOING TOWN BUSINESS

THINGS TO DO

HOW DO I?

Beach Recovery

The Town Is Bringing Sand to the Beach!

Our goals are to restore and maintain critically eroding shorelines using high quality sand to construct an "engineered beach design." This will provide storm damage reduction benefits to properties, enhance recreational space, and improve critical habitat for threatened and endangered shorebirds, tortoises, and sea turtles.

[TEMPORARY CONSTRUCTION EASEMENT FOR BEACHFRONT PROPERTIES \(updated\)](#)

[COASTAL ENGINEERING CONSULTANTS PRESENTATION](#)

[JIM ATERHOLT INTERVIEW WITH TOWN'S COASTAL ENGINEER & ENVIRONMENTAL STAFF](#)

BEACH PROJECT TECHNICAL DOCUMENTS

[Emergency Berm Plans](#)

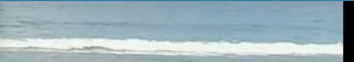
[Estero Island Nourishment Plans](#)

[Dune Management Plan & Exhibit](#)

The beach recovery plan over the next year is to place approximately 1.1 million cubic yards of sand on Fort Myers Beach. First, the Town plans to construct an emergency berm in the easement area to provide protection from storm surge in accordance with Federal Emergency Management Agency (FEMA) & Florida Division of Environmental Protection (FDEP) guidelines. The goal is to provide a berm along the length of the beach to maximize protection and minimize future scour on upland properties from storms. The emergency berm project will begin as soon as FEMA funding is confirmed and a contractor bid is approved to begin construction. The berm project will likely involve trucks hauling mined, beach compatible sand, and will take approximately 90 to 120 days to complete. The Town has also requested funding from FDEP for emergency work.

In addition, the Estero Island Nourishment Project is scheduled to begin construction during the third to fourth quarter of this year. This project is a continuation of the Town's long term goal to maintain our critically eroding shoreline. Sand will be pumped from offshore onto the beach via pipes. The design beach will take approximately six months to construct. State and Federal permitting requires monitoring and tilling for several years after the sand is placed. In addition, the Town has obtained authorization for maintenance grading in the project area to maintain a positive grade for better drainage to reduce pooling on the beach for the life of the State permit, which is 15 years.

Town requests easements to be signed by beachfront property owners





Fort Myers Beach Town Council

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

Minutes

Monday, August 7, 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

The recording started with Mayor Allers discussing allowing testimony via phone. Consensus was reached to decide on a case-by-case basis and both parties would be allowed to comment via phone.

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

Motion carried unanimously.

V. PUBLIC COMMENT

Amy Loughrey, resident, apologized for taking up the town's time regarding their garage. She thanked the town for releasing the press release with accurate information and thanked the staff for their help. She described the community and thanked everyone.

Mark Ludwigson, resident and licensed contractor, discussed Amy and Rick Loughrey's garage issue. He inspected the garage and stated it was only attached to the house by a piece of flashing and there was no permanent attachment. He suggested they get more opinions from professionals.

Ed Rood, resident, thanked the Town Council for standing behind their decision. The neighbors formed a group called The Friends of Little Estero Island. He stated the FWC (Fish & Wildlife Conservation Commission) supported their dune

walkover.

Becky Guidry, resident, received a violation regarding a stone landfill without a permit and was contesting it. She described her experience and asked that someone explain the situation to her.

John Dussliere, resident, donated photos on aluminum that he took of the pier.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member King thanked Beach Talk Radio for the Fourth of July event and clean-up. He sent condolences to Ed and Kim Ryan regarding the loss of Ed's brother. He attended Jim Rodwell's memorial service and noted his service to the country and town. He congratulated Scott Wirth on his new position as Fire Chief. Vice Mayor Atterholt stated there was no animus towards Amy or Rick and they had every right to petition the government for grievances.

Council Member Woodson wished the Loughrey's all the best. She indicated she was gone for a month and noted all the progress made on the island when she returned.

Council Member Veach discussed Jim Rodwell's life and commented that he improved many people's lives. He appreciated what the Loughrey's were going through and added that the Town Council could give them a variance to remedy the issue. He described and thanked the volunteers who were rescuing turtles. Mayor Allers agreed that Mr. Rodwell left the world a better place. He congratulated Scott Wirth on his official appointment and looked forward to working with him. He gave credit to town staff and the residents for continuing to work together and keeping communication open.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Steve Johnson, MERTF (Marine and Environmental Resources Task Force) Chair, displayed an award presented to Lee County Extension for the Master Gardeners who were responsible for the vegetation project organized by MERTF and Rose Larkin. MERTF unanimously voted to correct the record regarding false allegations made by Council Member King during the Council meeting on June 20 concerning the MERTF conversation on June 14. He reviewed the allegations and stated no names were mentioned and no one was disparaged. He stated there were two witnesses, photos and a video of the raking activity he described at the meeting. He discussed how people were hurt by the allegations. He requested that Council Member King watch the recording of the meeting. He thanked the Council for allowing him to correct the record. Mayor Allers stated the issue should be dealt with privately, but he would not prevent anyone from speaking. Council Member King defended himself.

VIII. PRESENTATION

A. Evergreen Solutions**Compensation and Classification Study**

Karl Fuchs, Senior Consultant of Evergreen Solutions, utilized PowerPoint for his presentation. Slides include Overview; Study Goals; Employee Meetings Comments & Concerns; Current System Findings; Compression Analysis; Market Targets; Market Results; Key Recommendations and Implementation Options and Costs. Discussion was held regarding implementing a merit-based avenue for pay increases.

IX. APPROVAL OF MINUTES

A. Town Council June 20, 2023

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

Motion carried unanimously.

B. Management & Planning Session June 22, 2023

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

Motion carried unanimously.

C. Special Town Council June 26, 2023

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

Motion carried unanimously.

X. CONSENT AGENDA

Council Member Veach moved to approve the consent agenda; second by Council Member King.

Motion carried unanimously.

A. Resolutions 23-77 & 23-78: Extending Local State of Emergency

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 resolution; second by Council Member King.

Motion carried unanimously.

B. Resolution 23-79; BankUnited Signatory Authority

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY FLORIDA, AUTHORIZING TOWN OFFICIALS ACCESS AND AUTHORITY ON TOWN CERTIFICATES OF DEPOSIT(S) AND ANY OTHER TOWN ACCOUNTS WITH BANKUNITED: PROVIDING AN EFFECTIVE DATE.

Council Member Veach moved to approve the resolution; second by Council Member King.

Motion carried unanimously.

C. Resolution 23-81; Florida Municipal Investment Trust

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY FLORIDA, AUTHORIZING TOWN OFFICIALS ACCESS AND AUTHORITY ON TOWN ACCOUNTS THROUGH THE FLORIDA MUNICIPAL INVESTMENT TRUST; PROVIDING AN EFFECTIVE DATE.

Council Member Veach moved to approve the resolution; second by Council Member King.

Motion carried unanimously.

D. Resolution 23-83; Broadening Allowable Use of ARPA Funds

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE USE OF AMERICAN RESCUE PLAN ACT (ARPA) FUNDS FOR GOVERNMENT SERVICES AND INFRASTRUCTURE; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Veach moved to approve the resolution; second by Council Member King.

Motion carried unanimously.

E. Resolution 23-82; Purchase of Ford F-150 Trucks

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A PIGGYBACK CONTRACT BETWEEN THE TOWN AND SAM GALLOWAY FORD IN AN AMOUNT NOT TO EXCEED \$120,000.00, UTILIZING LEE COUNTY CONTRACT 031121, AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT, EXPEND FUNDS, AND TAKE ALL APPROPRIATE ACTIONS TO PURCHASE THREE F150'S FOR NEW HIRES OF BUILDING INSPECTORS; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Veach moved to approve the resolution; second by Council Member King.

Motion carried unanimously.

F. ITB 23-10-AD Amended Contract Services

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING A CHANGE ORDER TO THE CE GLEESON CONTRACT FOR ARCHITECTURAL DESIGN OF BAY OAKS REC CENTER; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Veach moved to approve the resolution; second by Council Member King.

Motion carried unanimously.

G. Beach Maintenance Lift Truck

Approving the direct purchase of a beach maintenance lift truck in the amount not to exceed \$190,000 as budgeted in the Town and TDC Grant Request for the current fiscal year from TruckMax, waiving the Town's competitive procurement policies and procedures and authorizing the Town Manager to execute any purchasing documents.

Council Member Veach moved to approve; second by Council Member King. Motion carried unanimously.

H. Additional funds for Calvin, Giordano & Associates

Requesting approval to allocate additional building enterprise funds towards contractual services in the amount of \$300,000. Contractual services include vendors such as Calvin, Giordano & Associates, who provide plans examining and building code inspection services for the Town of Fort Myers Beach. This allocation of funds is necessary to enable the Town to continue plans examining and inspecting operations for building permits for the remainder of FY2023.

Council Member Veach moved to approve; second by Council Member King. Motion carried unanimously.

I. RFQ-20-22-AD; Misc. On-Going Professional Services

Motion to approve STA #9 authorizing the appropriation of additional funds for Axis International to continue to provide planning and zoning professional services.

Council Member Veach moved to approve; second by Council Member King. Motion carried unanimously.

J. Use of Town's logo by FMB Community Foundation

Approve use of the Town's circular logo by the FMB Community Foundation for a fundraiser.

Council Member Veach moved to approve; second by Council Member King. Motion carried unanimously.

XI. PUBLIC HEARINGSA. Ordinance 23-09; TPI FMB

Second Reading and Public Hearing on proposed Ordinance 23-09 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH ORDINANCE NO. 18-04, AND AMENDING THE CONDITIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-

0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Baker stated that the agenda items were properly advertised. Mayor Allers disclosed a conflict of interest and will complete the required paperwork to recuse himself. Town Attorney Vose commented that testimony by neighbors was allowed to provide fact-based testimony. She stated that decisions should be made based on what was presented at the hearing. Town Clerk Baker swore in those providing testimony. Mayor Allers read the title of the ordinance. Ex parte communications: Council Member King - emails from Tracey Gore and Joanne Shamp; Vice Mayor Atterholt - received emails from Tracey Gore and Joanne Shamp; Council Member Woodson - email from Joanne Shamp and conversation with someone else; Council Member Veach - met with Mr. Torgerson, toured the facility, and received emails from Tracey Gore and Joanne Shamp and Mayor Allers - received emails from Tracey Gore and Joanne Shamp, met with the applicants and toured the property. Community Development Planner Sarah Propst and Senior Planner Jason Smalley were approved as experts.

Council Member Veach moved to accept Ms. Propst and Mr. Smalley as expert witnesses; second by Council Member Veach.
Motion carried unanimously.

Planner Propst reviewed the background of the ordinance as stated on the blue sheet. She noted that the town had received several letters of objection and the LPA (Local Planning Agency) recommended approval at their May 9, 2023 meeting.

Council Member Veach clarified the strike-out portions of item 14. Planner Propst stated that the applicant must come before the Council to request more density.

Attorney Steve Hartsell from Pavese Law Firm represented the applicant. Council members agreed they did not need to see the presentation again. Attorney Hartsell reviewed the applicant's request and reiterated that they were not asking for changes to the approved development plans and there were no plans to request additional density. He displayed a clean version of Revised Condition #14.

Tom Torgerson, applicant, explained that they were able to modify the construction of the restroom to fit within the property boundaries.

John Dammerman, applicant, assured Council that they had no plans to veer from the CPD (Commercial Planned Development).

Public comment:

Mike Miller, resident, supported the request. He questioned whether the parking lot donated to the town would remain where it is. He stated the parking lot was vital to businesses. He noted that no one else had the same restrictions the previous Council put on the applicant.

Public comment closed.

Attorney Hartsell stated that the parking lot had been conveyed to the town. Vice Mayor Atterholt explained why he supported the ordinance and noted they could not bind future Councils. Council Member Veach and Vice Mayor Atterholt discussed binding future Councils.

Council Member King moved to approve the ordinance; second by Vice Mayor Atterholt.

Motion carried 3-1, with Council Member Veach dissenting and Mayor Allers abstaining.

B. Resolution 23-80; SEZ 20230052 / 1249 Estero

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20230052 TO AMEND RESOLUTION 13-09 CONDITIONS OF APPROVAL WHICH LIMITED THE AREA OF CONSUMPTION ON PREMISES TO THE BUILDING AND DID NOT ALLOW LIVE MUSIC FOR THE PROPERTY LOCATED AT 1249 ESTERO BLVD.; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Ex parte communications: All Council Members received emails in opposition and Mayor Allers and Vice Mayor Atterholt visited the site.

Senior Planner Smalley reviewed the request as stated on the blue sheet. He noted that the LPA recommended a six-month limit on removal of the approvals and a reassessment in six months. They also recommended limitations regarding prohibiting drums and hours of operation. A handout of decibel levels during performances from June 16, 2023, through August 5, 2023, was entered into the record. Planner Smalley asked how the sound was measured and whether the meter was correctly calibrated.

Greg Montgomery, co-owner of The Whale, explained that they installed four 8x10 sound-absorbing panels on June 24, 2023. He measured the decibel levels throughout the performances. He stated that the decibel meter was calibrated and described where he took the readings. He discussed the difference between amplified and unamplified sounds. He was okay with prohibiting drum sets and said he would stay at 65 decibels throughout the afternoon and drop to 60 decibels after 10:00 p.m. He revealed that he received text messages and phone calls about the music before they were even open for business. Mr. Montgomery noted a 60.1% drop in sales during the eight weeks they did not play music on Thursday nights. He requested that they be allowed to play music until 8:00 p.m. or half an hour after sunset on weekdays.

Council Member Woodson supported allowing music until 8:30-9:00 p.m. on weekdays and 10:00 p.m. on weekends.

Public comment:

Bob Taborini, local musician and resident felt it was essential to reach an agreement because the music was very important to the community and visitors. He supported the request.

Brady Smith, resident and musician, described how proactive The Whale was in minimizing the sound. He supported the request and reiterated that places with music fared much better.

Patrick Duclos, resident, supported The Whale's request and requested that they be allowed to play amplified music. He stated he specifically moved to the downtown district because of the entertainment.

Mike Miller, resident, distributed a handout of emails and defended The Whale from some of the complaints. He requested the same considerations as everyone else once their building was completed.

Public comment closed.

Council Member Veach supported amplified music after 6:30 p.m. at a lower decibel level on Sundays through Thursdays.

Council Member Woodson supported following the code and lifting the 6:30 p.m. restriction at a lower decibel level.

Council Member Veach moved to approve the resolution with the LPA recommendations except to allow amplified music from 6:30-9:00 p.m. Sunday through Thursday at the lower decibel level; second by Council Member King.

Motion carried unanimously by roll call vote.

C. Resolution 23-72, VAR20230078- 432/434 Harbor Court

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230078 TO REDUCE REAR YARD SETBACK BY 5 FEET, FROM THE REQUIRED 20 FEET TO 15 FEET FOR THE PROPERTY LOCATED AT 432/434 HARBOR COURT; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Ex parte communications: Council Member King - telephone call with the developer; Vice Mayor Atterholt - telephone call with the developer; Council Member Woodson - conversation with the developer; Council Member Veach and Mayor Allers both had drive-bys.

Planner Propst reviewed the background of the request as stated on the blue sheet. She noted that the LPA unanimously recommended approval and she did receive one letter of objection from a property owner in the vicinity.

Planner Propst did not think that the property owner could get the density to build back a duplex on the property.

Samir Malviya from Homebound represented the applicant and Drew Whiting, Homebound architect, pointed out that they were only asking for a rear setback to maintain the streetscape. He clarified the dimensions of the proposed structure.

No public comment.

Council Member Veach felt it was somewhat of a de minimus request. Council Member Woodson felt it would be a huge improvement for the neighborhood.

Vice Mayor Atterholt moved to approve the resolution; second by Council Member Veach.

Mayor Allers discussed the results of the staff report and agreed it was a design choice and not a de minimus variance.

Motion carried 4-1 by roll call vote with Mayor Allers dissenting.

D. Resolution 23-73, VAR20230062- 405 Harbor Court

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230062 TO REDUCE THE HARBOR COURT STREET SETBACK BY 17 FEET, FOR AN 8 FOOT SETBACK WHERE 25 FEET IS REQUIRED FOR THE PROPERTY LOCATED AT 405 HARBOR COURT; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Ex parte communications: Council Member King - received an email from Mr. Crow; Vice Mayor Atterholt - received the same email; Mayor Allers received the same email and visited the site; Council Member Woodson - received the same email and spoke to the neighbors and builder and Council Member Veach - received the same email and researched LEEPA (Lee County Property Appraiser's Office).

Planner Propst reviewed the background of the request as stated on the blue sheet. She noted the LPA recommended approval with conditions on a 5-2 vote. One property owner voiced opposition.

Samir Malviya from Homebound described the property and the cul-de-sac. Homebound architect Drew Whiting clarified that the proposed setback was 11 feet and the front stair would encroach up to the 8-foot line. Mayor Allers questioned why the company had not tried to conform to the LDC and comprehensive plan's current requirements instead of requesting homes' variances. Mr. Malviya replied that this was his third variance request and 30 other homes were being built without variances. He added that these lots were irregular and it did not make sense to change their home designs for each property. He stated they wanted to offer property owners an affordable way to rebuild. Council Member Veach commented that a house could be built on the property without a variance. Mr. Whiting described the driveway placement and indicated that they agreed to leave the underside of the ground unit open to provide parking.

Planner Propst clarified that she based the resolution on the first plan, not the second. The stairs must be modified and plans resubmitted because the stairs can only encroach 5.5 feet. Mr. Whiting clarified that it was an 8-foot setback.

No public comment.

Council Member Veach stated the house should be built to fit the lot they have. He did not support the request.

Council Member Veach moved to deny the resolution; second by Mayor Allers. Motion defeated, 3-2 by roll call vote, with Council Members King and Woodson and Vice Mayor Atterholt dissenting.

Council Member Woodson moved to approve the resolution with the conditions stated; second by Vice Mayor Atterholt.

Vice Mayor Atterholt explained that the plats were bizarre and presented rebuilding challenges.

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

E. Resolution 23-76, VAR20230063-810 Third St

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VAR20230063 VARIANCE OF 12 FEET, 8 INCHES FROM THE REQUIRED 25 FOOT STREET SETBACK. FOR THE PROPERTY LOCATED AT 810 THIRD STREET; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Ex parte communications: Council Member King - email from Mr. Crow; Vice Mayor Atterholt - the same email and Mayor Allers - the same email.

Senior Planner Smalley reviewed the background of the request as stated on the blue sheet. He addressed two additional feet for parking. The LPA voted 5-2 to recommend approval. Senior Planner Smalley indicated that the property owner would have to request a right-of-way permit for the driveway. He added that the property owner would have to work with the adjacent lot for a shared parking plan and the town was not planning on paving the area.

Mr. Malviya stated that both property owners would cooperate to share parking. Construction should start in about 12 weeks and it took 8 to 9 months to build. Mr. Whiting commented that the driveway was already being shared; although there was no formal agreement.

No public comment.

Mayor Allers cannot support the request.

Council Member Woodson moved to approve the resolution with conditions; second by Vice Mayor Atterholt.

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

F. Resolution 23-74, VAR20230061- 800 Third Street

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230061 TO REDUCE THIRD STREET SETBACK BY 2.5 FEET, FROM THE REQUIRED 25 FEET; TO REDUCE THE SIDE SETBACK BY 2.5 FEET, FROM THE REQUIRED 7.5 FEET; AND TO REDUCE REAR WATERBODY SETBACK BY 7.5 FEET, FROM THE REQUIRED 25 FEET FOR THE PROPERTY LOCATED AT 800 THIRD STREET; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Ex parte communications: Council Member King - email from Mr. Crow; Vice Mayor Atterholt - the same email; Mayor Allers - the same email; Council Member Woodson - the same email, conversations with neighbors and spoke to the owner and builder and Council Member Veach - the same email.

Senior Planner Smalley reviewed the background of the request as stated on the blue sheet. He noted that all measurements were made to the property line, which was not necessarily parallel with the sea wall. The LPA voted 4-3 to recommend approval. He noted that the town technically owned the tip of the property, but some lots did not mirror a seawall and he thought it was a mismatch. The property owners could request that it be vacated from the town.

Mr. Malviya from Homebound explained why multiple building options were offered. He described their home designs, construction and price. Mayor Allers stated that the decks could be shortened to fit into the side setbacks. Mr. Whiting replied that the owners changed to a 6.5-foot setback on one side and 6 feet on the other. Mayor Allers described how the decks could be reduced. Mr. Whiting responded that the house would have to be shifted back.

No public comment.

Council Member Veach stated that they could build without variances. Mayor Allers could live with pushing the house closer to the property line in the back but could not support the request. Council Member Veach pointed out that staff recommendations were not mentioned, but the LPA recommendations were.

Mayor Allers moved to deny the resolution based on the LPA decision and testimony from expert witnesses; second by Council Member Veach.

Motion defeated 3-2 by roll call vote with Council Members Woodson and King and Vice Mayor Atterholt dissenting.

Vice Mayor Atterholt moved to approve the resolution based on the majority decision of the LPA; second by Council Member King.

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

G. Resolution 23-82; VAR 20230057 - 4830 Coral Rd.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VAR20230061, FOUR VARIANCES FROM LDC TABLE 34-3 FOR TWO LOTS, TO DECREASE REQUIRED LOT WIDTH BY 28.75 FEET FROM THE REQUIRED 75 FEET AND LOT AREA BY 2,412.5± SQUARE FEET FROM THE REQUIRED 7,500 SQUARE FEET, IN THE RS ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 4830 CORAL RD; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Ex parte communications: Mayor Allers - spoke to the applicant and Council Member Woodson - watched the LPA meeting. No disclosure from other members.

Planner Propst reviewed the background of the request as stated on the blue sheet. She noted the LPA voted 4-3 to approve the request with conditions. The applicant submitted an updated application to expand the variance request. The staff felt it was an appropriate request. Creating two lots would allow the property owner to construct a single-family home on a single parcel for himself and a single-family home on a single parcel for his adult children. Planner Propst stated that both proposed houses would meet all required setbacks.

Lonnie Letteri, applicant and business owner, distributed and discussed a handout. He shared the property's history and described the condition when he purchased it. He described the layout of the structure and provided pictures. He included letters of support from neighbors and separate utility bills. Page 13 showed what he wanted to do with the property and provided an aerial view. He indicated that he would eventually fill in the pool in the front yard and install a pool in the back yard. Mr. Letteri stated that he wanted to build two structures within the code.

No public comment.

Vice Mayor Atterholt thought it was an excellent proposal and had his support. Mayor Allers agreed. Council Member Veach supported the request but was concerned about splitting one lot into two non-conforming lots.

Vice Mayor Atterholt moved to approve the resolution; second by Council Member King.

Motion carried unanimously by roll call vote.

H. Resolution 23-75, VAR20220027- 4601 Estero Blvd

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20220027 TO ALLOW A SWIMMING POOL CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 4601 ESTERO BLVD; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Ex parte communications: All members received emails from Miller and Funk. Vice Mayor Atterholt disclosed additional email exchanges and a brief conversation with a person in the hall before the meeting.

Planner Propst reviewed the background of the request. The LPA unanimously recommended approval of the request and staff received letters of objection from adjacent property owners. Planner Propst indicated a pool could be installed in the back, but the applicant wanted a larger pool design. Tony Vuksinic, applicant, stated this would be his retirement home. He referred to an overhead snapshot on packet page 515. He explained that the pool would be too close to the neighbors if the pool were in the back. He requested a hardship based on the pool size and included two pages of average-sized pools in the town. He explained why he wanted a larger pool and noted his wife would benefit medically from a jacuzzi.

Mr. Vuksinic stated the home would be rented until they moved permanently. He explained how he dealt with concerns regarding the renters and noted he had not received any complaints.

Public comment:

Greg Miller, resident, stated his opposition was not personal, but he opposed it because it did not adhere to the LDC. He read the corresponding code and listed other concerns. He did not want a micro-resort with a pool in the front yard and indicated no hardship was involved.

Public comment closed.

Council Member King was concerned that people wanted to testify via phone at the LPA meeting but were not allowed. Vice Mayor Atterholt commented that the only neighbors left strongly opposed the project and because of that, he would vote no. Council Member Woodson agreed with Vice Mayor Atterholt and felt it was more of a choice than a hardship. She could not support the request. Council Member Veach thought the pool in the front would be less intrusive to the neighbors, but he did not approve the request. Mayor Allers felt there was enough room in the back to install a larger pool than the illustration with a variance of an extra foot.

Mayor Allers moved to deny the resolution; second by Council Member Veach.

Motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. RFQ-23-16-TC; Legal Services Agreement

Authorize legal services agreement with Vose Law Firm - either Version 1 or Version 2

Town Attorney Vose requested a flat fee of \$25,000.00 per month and explained why. She stated the position was incredibly intense and she noted that she would have to hire another attorney. She agreed not to request an increase for two years and described the difference between Version 1 and 2. Town Manager Hyatt described the differences between the former and current attorneys and felt that \$25,000.00 was adequate. He expressed confidence in her abilities and supported Version 2. Town Attorney Vose agreed to provide an attorney in-house for eight hours per week but commented that it was not the most efficient way to do things. Mayor Allers supported Version 2.

Mayor Allers moved to approve RFQ-23-16-TC for Legal Services Agreement Version 2; second by Vice Mayor Atterholt.
Motion carried unanimously.

B. Floor Area Ratio Discussion

Provide input to the way Floor Area Ratio is calculated

Planner Propst reviewed the Floor Area Ratio (FAR) calculations and displayed a slide with examples of the Commercial Office Zoning District options. The following slide showed examples of the Downtown Zoning options. Discussion was held regarding amendments to the comp plan, CPDs and exceptions. Planner Propst confirmed that changing the calculation of FAR would not affect the comprehensive plan. The final slide showed CPD Examples in Pedestrian Commercial Zones. All Council members agreed with leaving the ground floor open in most places. (Council Member Veach had to leave the meeting.)

XIII. FINAL PUBLIC COMMENT

John Cameron, resident, addressed comments made by the MERTF (Marine and Environmental Resources Task Force) Chair at their June meeting regarding activities at the south end of the island. He stated his neighborhood is frustrated at the Audubon's actions for suing the town. He noted that MERTF needed to apologize to property owners on the south end. He felt that MERTF had an agenda to stop the project that benefited the neighborhood and the environment. He noted that the south end supported all efforts of the FWC and wanted to work with them to protect the wildlife.

Ed Rood, resident, stated that he and the neighborhood were grateful to the Council for their decision. He reviewed the project's history and noted eleven residents could now use their walkover.

Terry Persaud, resident, requested to meet with the lawyers in person to discuss the agreement.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt reported that he was reorganizing staff and interviewing people. Budget reviews will be ongoing in the next couple of days. Utilities Manager Steve Matuska stated that the Lee County Board of Commissioners adopted a resolution on June 20, 2023, which included a 5-year 8% annual increase on all Lee County utility services effective July 1, 2023. Residents will be notified in this month's bill regarding their utility bill and Lee County will review the increase during the next Commissioner's meeting on August 15, 2023, at 9:30 a.m. on Main St. in Fort Myers. On September 1, 2023, the town will resume typical utility procedures and policies.

Operations & Compliance Director Frankie Kropocek reported that Bayside Park would open on September 1, 2023, for 1/3 of the original price of \$1.2 million and everything was reimbursable by FEMA.

Public Works Director Jason Freeman stated the clock was in their possession and the base would have to be replaced.

Director Culture, Parks & Recreation Jeff Hauge reported that work on the Bay Oaks ball field, including labor, time and supplies were donated by Jason Clark and ICS and the field should be ready for Scotts Lawn to start in a couple of weeks. Peter Plumbing was replacing the campus water line, and Director Hauge is waiting for estimates from three pool companies. He could not provide a timeline for the completion of the pool, but the staff was looking for a pool to use for water aerobics. The softball field assessment was being conducted and ICS would level out the current softball field for future projects. Bay Oaks was in the process of being approved by the fire department and a pre-construction meeting was held with Gleason. The project was on schedule. Summer camp was a big success, and the outdoor exercise equipment would be replaced, although it would require additional funding, possibly through grants.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Vose was happy to be there. She stated there would be additional shade meetings regarding litigation. Vice Mayor Atterholt questioned whether they could create an ordinance to empower the permitting staff to approve some variances administratively. For example, if a resident wants to replace a fence precisely like it was before the hurricane, they should not have to come before the Town Council to request a variance. Council members agreed with the vice mayor.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Woodson stated that Rick Loughrey invited all community members to a press conference at his house tonight at 6:00 p.m. She agreed with Mr. Camon's comments and thought they should look at how advisory committees address the community.

Council Member King attended meetings at the fire department and library and noted neither entity raised its millage rates. He attended the Resilient Lee meeting and met with the project manager of the Matanzas Pass Bridge project. Vice Mayor Atterholt suggested that the Town Manager invite Matt Caldwell to talk to the Town Council about the tax base.

Mayor Allers stated that Lee County would present its CDBG on August 15th, 2023 at 5:30 p.m. at Diamondhead and the town would share their plan at the same time. All appropriation requests were submitted. The lighting solution had a snag, but it was resolved. He noted he would be in Tallahassee on Thursday.

XVII. ADJOURNMENT

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

The meeting was adjourned at 3:13 p.m.



Fort Myers Beach Management & Planning Session

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

Minutes

Thursday, August 10, 2023

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

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

Excused: Mayor Allers

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Presentation: Estero Island Garden Club

Cathy Turner, Vice President of Communications will speak about native plants

Ms. Turner represented the Estero Island Garden Club. She reviewed the background and mission of the organization and noted that nonmembers could visit the website for more information. Monthly meetings are available to the public and the first post-lan meeting will be held in November at the Mound House. Ms. Turner indicated that the garden club, the town, and Director Hauge would collaborate on the Memorial Garden at Bay Oaks. The Estero Island Garden Club offered to be advisors to the town in any capacity needed. They cannot provide labor as a club, but individual members may volunteer. She requested a copy of the volunteer waiver to display on their site. The garden club is not set up as a non-profit, so dues are charged to cover expenses. She noted that the club would have to fundraise for projects to cover expenses. She suggested creating an adopt-the-block campaign to replant or an adopt-a-beach access revitalization campaign. The garden club recommended 75% native and 25% Florida-friendly plants for the new Town Hall property. She indicated that she would not replant until after the rainy season and the Sanibel Captiva Foundation put out guidelines for assistance.

She noted that the Sunshine Mimosa planted on Estero had not been planted correctly, but it was a good choice for the area. Council Member Veach added that some of the mimosas were coming back. Ms. Turner commented that an Introduction to Native Plants was on the Estero Island Garden Club's website and thought it was also on the town's website. She described why native plants fared the best after the hurricane. Consensus was reached for Public Works to work with the Estero Island Garden Club.

B. Presentation: FY23/24 Budget

Preparation for the upcoming FY23/24 Town of Fort Myers Beach Budget

Finance Director Joe Onzick utilized PowerPoint for his presentation. Slides included: Overview, Budget Process, Challenges, Major Revenue Losses, Uncertainty of Funding to Support Disaster Recovery, Maintaining Millage Rate, Additional Personnel to Support Recovery, Resulting Budget and Net Change Between FY23 & FY24 General Fund Expense Budgets. Director Onzick reported that the total amount of the general fund budget was \$12.3 million and the total amount of all funds combined was \$53 million. The presentation continued with a Summary of Changes Between FY24 & FY23 General Fund Expense Budgets, General Fund Expenses by Department, Where the Money Goes - General Fund Only, Funding Strategy for General Fund, Where the Money Comes From - General Fund Only, Expense Budgets of All Funds, Where the Money Goes - All Funds and Where the Money Comes From - All Funds.

Director Onzick stated he was concerned and hopeful regarding the bridge loan. He added that we were not required to repay the loan until the town could afford to pay it. He hoped to receive other funding sources to replace the bridge loan and noted that the loan might be forgiven. Town Manager Hyatt thought the bridge loan had to be spent before it could be forgiven.

Director Onzick commented that he would review it.

C. Presentation: FY 23-24 Health Insurance Renewal

Review of Health Insurance Renewal Recommendations for 23-24 FY

Town Manager Hyatt introduced Human Resource Manager Talissa Oliveira and Human Resources Analyst Shelby Arment. Manager Oliveira displayed slides for her presentation. The first slide was: October 1, 2023 Recommendations, Due Diligence Process, Results of Market Assessment, Proposal Costs, Appendix - Benefit Design Breakdown, Executive Summary and Benecon- Run Out Costs, Ancillary Coverages. Manager Oliveira recommended that they move to FMIT. She explained the difference between self-insurance and full insurance. She commented that everything would be automated and insurance brokers would come to the town to educate employees on their current portfolios. Town Manager Hyatt revealed that the health insurance program could include elected officials. Manager Oliveira described a health savings plan and noted they could partner with a bank to set up a plan. Town Attorney Vose recommended that a resolution be adopted. Consensus was reached to draft a resolution.

D. Public/Elected Official participation via phone, Zoom, etc.

A discussion regarding public and elected office participation at meetings via phone, Zoom, etc.

A consensus was reached to vote to allow any member to participate via phone at the beginning of the meetings. Vice Mayor Atterholt felt that comments submitted by the public should become part of the record and be distributed to the Council. He suggested that a policy be created to read or not read written comments out loud. He was concerned about taking time away from the public physically in attendance. Council Member Veach agreed. Council Member Woodson stated that the written emails were automatically entered into the record. Council Member King agreed. Town Attorney Vose will draft a resolution.

E. ResilientLee: Recovery Task Force

An open discussion of the ResilientLee Recovery Task Force

Anne Compson from Tidal Basin reported that the \$7.9 million application for turtle lighting went up under the Florida Legislative Appropriations Program. She noted that Director Guthrie stated that funding the initiative was a priority and Town Manager Hyatt and FP&L (Florida Power & Light) were working together to determine the final cost. Ms. Compson noted that ResilientLee was a planning function and not something that would go toward the CDBG (Community Development Block Grant). She said they submitted 21 applications in total and FDEM (Florida Department of Emergency Management) indicated they preferred to administer loans rather than the projects that FEMA would reimburse. She stated that it was a complex issue with jurisdictional challenges. An underfunded needs project list was being addressed and the most significant unmet need was the Lee County Draft Action Plan. Public comment will be open through the end of August and Council was provided a copy of the draft with comments.

Ashly Edwards, a consultant to Tidal Basin, introduced himself and his experience with disasters. He noted that the CDBG fund was a normal, annual program, but the CDBG-DR was a specific program made available by direct congressional appropriation. The funds are intended to directly provide resources to meet needs in the hardest hit areas. He described how the program was created and noted CDBG funds began where FEMA funds ended. Lee County was given a direct allocation of \$1.1 billion and Lee County was serving on behalf of the state to distribute funds. He stated it would be difficult for Fort Myers Beach to tap into the majority of the funding streams because the program was designed for comprehensive unmet needs to create a local recovery strategy. His concern was that the draft was not taking advantage of all of the avenues available and he provided a road map to give Fort Myers Beach every bit of flexibility and priority in receiving funds. Items the beach should ask HUD were listed at the end of the document. The comments would be sent directly to HUD and Lee County would have to answer HUD regarding how they planned to amend their action plan to meet concerns.

Mr. Edwards described how difficult it was to administer housing programs. He stated that the action plan created a vehicle through which the money would flow to the projects. He discussed prioritizing planning assistance to provide planning funds quickly to help develop projects for funding. He noted that the CDBG-DR funds filled the gaps that did not fit into other funding streams. He indicated that the \$1.1 billion could be increased over the years. Consensus was reached to move forward with the recommendations.

F. Special Exceptions/Variations/CPDs

The Town Attorney will provide a briefing and an overview of the definitions and appropriate uses of "special exceptions", "variances", "CPDs" and "amendments to the Comprehensive Plan". The Town Attorney will also discuss another tool available to the Town which is included in the Town's current land development code - "Development Agreements".

Town Attorney Vose stated that a variance was something one could ask for as long as it was not a use variance. If there was a requirement in the code, one could ask for a variance and considerations are set out. The variance should not be granted if the applicant cannot meet the findings. The difference between a variance and a special exception is that some zoning categories call out uses that might be allowed in that particular zoning category.

Zoning categories include special exceptions and there was a presumption in the code that they should be allowed. Town Attorney Vose stated that variances were unique and considered on a case-by-case basis.

Planner Propst explained the steps to obtain a variance. Town Attorney Vose suggested that the standards for variances and special exceptions be included in the agenda packet. She noted that a development agreement with deviations might be an innovative way for development. She indicated that a development agreement would be less cumbersome than a CPD and would not involve rezoning. She provided an example of how a development agreement with deviations could be used instead of a CPD. She was unfamiliar with the pink zone process, but her research indicated that it was complex and a waste of time.

Town Attorney Vose stated that procedures to use the development agreement with deviations had to be developed and adopted before it could be used. Planner Propst remarked that the entire code needed to be overhauled all at once and she recommended that the code not be changed in a piecemeal fashion. Council Member Woodson agreed with overhauling the code but did not want to hold up progress in the meantime.

Consensus was reached to explore the development agreement with deviations. Planner Propst stated that the cost of a variance was \$1,800.00 plus \$500.00 for each additional variance and a special exception was \$3,800.00. She indicated the charge was average for the area.

Planner Propst noted that about six condominium pools were partially within the EC (Environmentally Critical) zoning district and extended beyond the current CCCL (Coastal Construction Control Line). They would not be allowed to repair their pools. She requested that the Council inform her if

they wanted to change the code. Consensus was reached to explore solutions for the condos impacted.

G. Presentation: Let's Go FMB

Pink Zones

Not addressed.

H. Discuss Proposed Updates to Tree Ordinance

Discuss Updates to Tree Ordinance

Environmental Project Manager Chadd Chustz reviewed the proposed changes to the tree ordinance. He noted this was the perfect time to eradicate invasive and exotic species post-land. The proposed tree fund to plant trees on public property allowed property owners to buy their way out of having to plant trees on their properties. Planner Propst was not a fan of the tree fund because the town did not have a lot of public property for the trees and there were unintended consequences. Project Manager Chustz commented that the reason for the ordinance is to preserve native trees. He noted that the condos would have to follow the landscape plan submitted in their development order. Planner Propst added that the town probably would not have a problem with condos reimplementing their plan if they did not have one. She recommended that condos refer to the landscape requirements in Chapter 10 and reach out to staff for details.

I. Proposed Ordinance: Vegetation and Trees

Discuss Vegetation and Tree Requirements for Single Family Homes

Project Manager Chustz requested direction from the Council regarding creating a landscape code for single-family homes. He read a list of questions generated by researching ordinances in surrounding municipalities. Vice Mayor Atterholt suggested that MERTF draft a proposed ordinance for the Council to review. Project Manager Chustz and Planner Propst will work on creating language. He noted that he could recruit volunteers to help remove invasive vegetation from properties. Council Member Veach added that the town's website included a list of invasive species on properties; however, he did not know how many were standing post-land.

J. Discuss Water Management District's request to update the Town Water Conservation and Water Shortage Ordinances.

Discuss Water Management District's request to update the Town Water Conservation and Water Shortage Ordinances.

Project Manager Chustz stated that the beach was the only municipality that had not adopted the irrigation standards. Vice Mayor Atterholt requested a copy of the changes.

IV. AGENDA MANAGEMENT**A. August 2023**

Add guidance for staff to utilize administrative variances.

V. ADJOURNMENT

DRAFT

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

The meeting was adjourned at 3:55 p.m.

DRAFT

1. **Requested Motion:**

Meeting Date: August 21, 2023

Town of Fort Myers Beach / Bay Oaks Recreational Campus would like to hold a Little League Ballfield Grand Re-Opening Celebration on August 28, 2023 from 4 pm to 6:30 pm. Set up time will begin at 2 pm. This is a one-time event. Event holder is requesting the use of Town property for music, food, restroom trailer, 20'-30' tent and a generator. Dependent on receiving approval from LCSO and the Fire Department.

Why the action is necessary:

To celebrate the reopening of the little league ballfield

What the action accomplishes:

This event will be one of the first projects completed for the Town of Fort Myers Beach and will host sporting, community events and celebrations.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

Jeff Hauge, Interim Culture,
Parks & Recreation Director

5. **Background:**

Bay Oaks Ballfield was used as a debris field after Hurricane Ian. Staff have been working to rebuild the field which will be completed by August 28, 2023. Major League Baseball and Scott's Turf Builder will hold the ceremony on August 28th, 2023 along with the Town staff presenting. ICS Materials has played a huge part in the reconstruction as well.

Attachments:

1. Little League Grand Re-Opening

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jeff Hauge, Interim Culture, Parks & Recreation Director
Jeff Hauge, Interim Culture, Parks & Recreation Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/16/2023
Approved - 8/16/2023
Approved - 8/17/2023
Approved - 8/17/2023
Final Approval - 8/17/2023



Town of Fort Myers Beach

2525 Estero Boulevard, Fort Myers Beach, Florida 33931
Tel: (239) 765-0202 Fax: (239) 765-0909 Email: Specialevents@fmbgov.com

RECEIVED

AUG 15 2023

235168

Name of event Bay Oaks Little League Grand Re-Opening Celebration

Attach separate sheet of paper with detailed description of event

Date(s) and times of event August 28, 2023

Address of event 2731 Oak Street, Fort Myers Beach, FL 33931

Expected # of participants/attendees 300

Sponsoring Organization Town of Fort Myers Beach

Organization address 2525 Estero Blvd

Contact Person/Phone# Jeff 239-788-7766

E-mail jhaug@fmbgov.com

Amplified Music Y ☒ N ☐ 500 Ft Notifications ☐ Copy of Letter ☐

Renting Town Property Y ☐ N ☒ Renting Parking Spaces Y ☐ N ☒

How many Spaces? How many hours

Extension of Premises? Y ☐ N ☒ ABT Form How many days? (Over 3 days needs to go to Council)

Letters of Permission to use Property

Letters of Permission to use Parking Parking Plan

Site Plan Insurance (Naming Town of FMB as Certificate Holder)

Requesting Water Y ☐ N ☒ Electric Y ☐ N ☒

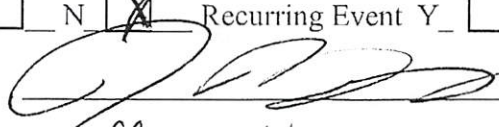
Requires Council Approval:

Waiver of open container Y ☐ N ☒ Waiver of Town parking fees Y ☐ N ☒

Waiver of Noise Ordinance Y ☐ N ☒ Recurring Event Y ☐ N ☒

Applicant Signature

Printed Name


Jeff Haug

This permit is subject to the applicant meeting all requirements contained in Fort Myers Beach Code of Ordinance Book Part 2 Chapter 22 and in compliance with all items in the special event application.

Applicant to Complete:

Company managing trash removal: Town of Fort Myers Beach

No. of dumpsters: _____ Type of dumpsters: _____

Who is responsible for clean-up and payment: _____

City right-of-way Parking Use: _____ Number of spaces: _____

To be completed by Town Hall employees:

FMB Public Works:

Public Works remarks: See attached

Approval: _____ Date: _____

FMB Environment Science: Tel (239)765-0202 Fax (239)765-0909

FMB Environmental Sciences remarks: _____

Approval: _____ Date: _____



Date: 08/18/2023

Permit #: 235168

Permit Date: 08/15/2023

Review Date: 08/15/2023

Permit Type:

Review Type: SEP-Public Works Review

Target Date: 08/16/2023

Scheduled Time: 00:00

Completed Date:

Description:

Review Status: APPROVED

Assigned To: Martin Pitts

Time In: 00:00

Time Out: 00:00

Hours: 0.0

Property Information

Parcel#: 194624W30020D0010

TOWN OF FORT MYERS BEACH

2731 OAK ST

Zoning: INLot: 0010Block: 0020D

TOWN OF FORT MYERS BEACH

2525 ESTERO BLVD

FORT MYERS BEACH, FL 33931

FORT MYERS BEACH FIRE DEPT

17891 San Carlos Blvd – 3rd Floor, Fort Myers Beach, FL 33931

Tel (239) 590-4210

Fax (239) 463-6761

Fire Guards: (how many?) NO

Fee: _____

Flammable Vegetation: _____

First Aid Equipment: _____

Fire Extinguishing Equipment: _____

Special Arrangements: _____

Print Name_____
Approval Signature_____
Date

prevention@fmbfire.org – For Fire Department Handbook and additional application.

LEE COUNTY SHERIFF'S DEPT

15650 Pine Ridge Road, Fort Myers, FL 33908

Tel (239) 477-1830 Fax (239) 432-0268

Parking: _____

Deputies (how many?) _____

Traffic Control: _____

Fees: _____

Special Arrangements: _____

Print Name_____
Approval Signature_____
Date



Patty Prevost

235168

From: Jeff Hauge
Sent: Tuesday, August 15, 2023 2:14 PM
To: Patty Prevost
Subject: RE: Permit Application - Little League Ballfield Grand Re-Opening
Attachments: Ball Fields (6).jpg

Thank you Patty,

What is a letter of notification for the music?

Timeline: (Do you need more details?)

2:00pm – Set Up

3:00pm - Food Trucks set up

4:00pm - Event will begin with food trucks open, music

5:00pm - MLB / Scotts will begin their presentation

5:15pm – 6:00pm MLB will start the kids baseball clinic

6:15pm – Breakdown – End of event

FMBgov.com

From: Patty Prevost <Patty@fmbgov.com>
Sent: Tuesday, August 15, 2023 2:06 PM
To: Jeff Hauge <jhauge@fmbgov.com>
Subject: RE: Permit Application - Little League Ballfield Grand Re-Opening

Hi Jeff,

What time is this? I also need a copy of the letter of notification for the amplified music (within 500 ft of event). I have requested a copy of the Insurance certificate from Finance. I also need a time line with set up/ breakdown and all the details of what is to take place (where the amplifiers, food trucks tables chairs and anything else).



Patty Prevost

Assistant to the Comm Dev Director
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL. 33931
Phone: (239) 765-0202, Ext 1201
Cell: 239 308-5062



From: Jeff Hauge <jhauge@fmbgov.com>
Sent: Tuesday, August 15, 2023 12:32 PM
To: Jason Freeman <JasonF@fmbgov.com>; Chadd Chustz <Chadd@fmbgov.com>; eve@turtletime.org; Campbell, Jennifer <jcampbell@fmbfirefl.gov>; Hillery, Jen <JHillery@sheriffleefl.org>; Patty Prevost <Patty@fmbgov.com>
Subject: Permit Application - Little League Ballfield Grand Re-Opening

Hello Everyone,

Attached is the permit application for the Grand Re-Opening event for the Little League ballfield on August 28th. Could you please review and either sign it or let me know any corrections. Thank you



Jeff Hauge

Culture, Parks and Recreation Director

Town of Fort Myers Beach

2525 Estero Boulevard

Fort Myers Beach, FL. 33931

Phone: (239) 765-0202

Cell: 239-788-7766



FMBgov.com

1. **Requested Motion:**

Meeting Date: August 21, 2023

Requesting approval of charity 5K race

Why the action is necessary:

Ord 20-17

What the action accomplishes:

Allows event to proceed.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Ord 20-17

4. **Submitter of Information:**

5. **Background:**

Beach Talk Radio is requesting to hold a Charity 5K on the beach on September 3, 2023. The course set up is at 7am after Turtle Time checks the beach. The race begins at 8am and ends at 10 am. All other activities are inside Diamondhead. Still awaiting approval sign offs from the Fire Department and Turtle Time. Once these approvals are received the permit can be issued if Town Council approves.

Attachments:

1. 234690_ Day Before Labor Day Charity 5K

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Patty Prevost, Code Supervisor/STR Coordinator
Steve Poposki, Community Development Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/15/2023
Approved - 8/15/2023
Approved - 8/16/2023
Approved - 8/16/2023
Final Approval - 8/16/2023

234690

Name of event DAY BEFORE LABOR DAY CHARITY 5K

Attach separate sheet of paper with detailed description of event

Date(s) and times of event SUNDAY, SEPTEMBER 3, 2023

Address of event 2000 ESTERO BLVD - DIAMOND HEAD

Expected # of participants/attendees 250

Sponsoring Organization BEACH TALK RADIO

Organization address 12700 VISTA PINE CIRCLE, FT. MYERS

Contact Person/Phone# ED RYAN 239-247-3833

E-mail EDRYAN@BeachTalkRadio.com

Amplified Music Y ☐ N ☒ 500 Ft Notifications _____ Copy of Letter _____

Renting Town Property Y ☐ N ☒ Renting Parking Spaces Y ☐ N ☒

How many Spaces? _____ How many hours _____

Extension of Premises? Y ☐ N ☒ ABT Form _____ How many days? _____ (Over 3 days needs to go to Council)

Letters of Permission to use Property _____

Letters of Permission to use Parking _____ Parking Plan _____

Site Plan _____ Insurance yes (Naming Town of FMB as Certificate Holder) ☒

Requesting Water Y ☐ N ☒ Electric Y ☐ N ☒

Requires Council Approval:

Waiver of open container Y ☐ N ☐ Waiver of Town parking fees Y ☐ N ☐

Waiver of Noise Ordinance Y ☐ N ☐ Recurring Event Y ☐ N ☐

Applicant Signature

Printed Name

Edward Ryan
EDWARD RYAN



This permit is subject to the applicant meeting all requirements contained in Fort Myers Beach Code of Ordinance Book Part 2 Chapter 22 and in compliance with all items in the special event application.

Patty Prevost

From: Ed Ryan <edryantheeditor@gmail.com>
Sent: Tuesday, July 11, 2023 9:48 AM
To: Patty Prevost
Subject: Re: Special Events Permit for Labor Day 5K

Course Setup at 7 after we get ok from TT.
Registration is inside
Race begins at 8.
Ends when last runner crosses the line (10am at the latest)!
There are no other events.
Everything else is inside the building in the ballroom.

On Tue, Jul 11, 2023 at 9:44 AM Patty Prevost <Patty@fmbgov.com> wrote:

Need detailed timeline of event please. Also, times of race.

Thank you!



Patty Prevost

Assistant to the Comm Dev Director

Town of Fort Myers Beach

[2525 Estero Boulevard](#)

[Fort Myers Beach, FL. 33931](#)

Phone: (239) 765-0202, Ext 1201

Cell: 239 308-5062

FMBgov.com



From: Ed Ryan <edryantheeditor@gmail.com>
Sent: Monday, July 10, 2023 2:43 PM
To: Patty Prevost <Patty@fmbgov.com>
Cc: Andy Hyatt <Andyhyatt@fmbgov.com>
Subject: Special Events Permit for Labor Day 5K

Applicant to Complete:

Company managing trash removal: Beach Talk Radio

No. of dumpsters: N/A **Type of dumpsters:** _____

Who is responsible for clean-up and payment: We will pick up any trash and use Diamondhead's trash facilities

City right-of-way Parking Use: N/A **Number of spaces:** N/A

To be completed by Town Hall employees:

FMB Public Works:

Public Works remarks: See attached

Approval: _____ **Date:** _____

FMB Environment Science: Tel (239)765-0202

FMB Environmental Sciences remarks: See attached

Approval: _____ **Date:** _____



Date: 07/24/2023

Permit #: 234690

Permit Date: 07/11/2023

Review Date: 07/11/2023

Permit Type:

Review Type: SEP-Public Works Review

Target Date: 07/12/2023

Scheduled Time: 00:00

Completed Date:

Description:

Review Status: APPROVED

Assigned To: Martin Pitts

Time In: 00:00

Time Out: 00:00

Hours: 0.0

Property Information

Parcel#: 194624W40090A0010

DIAMONDHEAD BEACH RESORT LLC

2000 ESTERO BLVD

Zoning: DOWNTOWN**Lot:** 0010**Block:** 0090A

DIAMONDHEAD BEACH RESORT LLC

2000 ESTERO BLVD

FORT MYERS BEACH, FL 33931

dhrgm@sunstream.com



Date: 07/24/2023

Permit #: 234690

Permit Date: 07/11/2023

Review Date: 07/11/2023

Permit Type:

Review Type: SEP-Environmental

Target Date: 07/11/2023

Scheduled Time: 00:00

Completed Date: 07/14/2023

Description:

Review Status: REVIEWED W/CONDITIONS

Assigned To: Chadd Chustz

Time In: 00:00

Time Out: 00:00

Hours: 0.0

Notes

07/14/2023 BEACH EVENT PERMIT CONDITIONS

Beach may be under construction with limited access. Construction vehicles and activities may be at or near the event location. Please plan accordingly.

Event activities shall not disrupt any construction activities on the beach.

SEA TURTLE NESTING SEASON MAY 1 through OCTOBER 31

Event may commence after 9 a.m. or after completion of daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder, whichever occurs first.

EVENT LIGHTING VISIBLE FROM THE BEACH IS NOT AUTHORIZED

Lighting associated with a special event that may directly, indirectly, or cumulatively be visible from any portion of the beach IS NOT AUTHORIZED before sunrise nor after sunset.

No sky lanterns, floating lanterns, confetti bombs permitted. Any and all flower petals, rice, and any other litter shall be collected from the beach and disposed of properly in a garbage bin.

A 10 foot buffer shall be maintained between event activities and:

- any dune vegetation, and
- any listed species nesting habitat including sea turtles and shorebirds

In addition, it is prohibited for any person to:

- Harass, molest or disturb wildlife (Land Development Code Sec. 14-3);
- Destroy or harm a dune or remove dune vegetation (Land Development Code Sec. 14-3);
- Discard or leave litter, garbage, trash or refuse, vegetative clippings, or debris (Sec. 14-3)

Permitting from the Florida Department of Environmental Protection may be required. It is the responsibility of the applicant to obtain State authorization.

Special event permit holders are responsible for ensuring that the area where the event is held is free of all litter and debris within 24 hours of the time the special event ends. In the event this section is not complied with, the town manager has the authority to contract with a cleaning service and the cost of the cleanup will be the responsibility of the permit holder (Sec. 22-12).

No person shall make, continue or cause to be made or continued any noise disturbance in accordance with Land Development Code Sec. 14-23. Noises resulting from a special event authorized pursuant to chapter 22 of the Land Development Code are excepted; provided, such noises are in compliance with any specific limitations as set forth within the special event permit. If no specific limitations are set forth in the special event permit, the provisions of Land Development Code Sec. 14-23 shall fully apply.

Property Information

Parcel#: 194624W40090A0010

DIAMONDHEAD BEACH RESORT LLC

2000 ESTERO BLVD

Zoning: DOWNTOWN Lot: 0010 Block: 0090A

DIAMONDHEAD BEACH RESORT LLC

2000 ESTERO BLVD

FORT MYERS BEACH, FL 33931

dhrgm@sunstream.com

FORT MYERS BEACH FIRE DEPT
17891 San Carlos Blvd – 3rd Floor, Fort Myers Beach, FL 33931

Tel (239) 590-4210
Fax (239) 463-6761

Fire Guards: (how many?) _____

Fee: _____

Flammable Vegetation: _____

First Aid Equipment: _____

Fire Extinguishing Equipment: _____

Special Arrangements: _____

Print Name	Approval Signature	Date
------------	--------------------	------

prevention@fmbfire.org -- For Fire Department Handbook and additional application.

LEE COUNTY SHERIFF'S DEPT Tel (239)477-1830 Fax (239)432-0268
15650 Pine Ridge Road, Fort Myers, FL 33908

Parking: All parking must be in authorized areas on site and must not impede the normal flow of traffic.

Deputies (how many?) None required for this event.

Traffic Control: None required for this event.

Fees: None

Special Arrangements: All amplified sound must adhere to the Town of

Ft Myers Beach noise ordinance. It is understood through this application that

event will be taking place on the water side of Ft Myers Beach.

Sgt. DOMINIC KENNEDY
Print Name

Approval Signature

Date _____

September 27, 2021

Florida DEP: DEP now provides an online application process for minor event approval

Self Certification for CCCL Permit Guidance Document: <http://www.dep.state.fl.us/beaches/>

FOR MAJOR EVENTS ONLY CONTACT

Kelly Cramer

Tel (239)770-7502 Fax(850)412-0590

Email: kelly.cramer@floridadep.gov

Florida DEP remarks: _____

Check list: Application _____ **Site Plan** _____ **Description** _____

Florida DEP approval: _____ **Date:** _____

Turtle Time Inc.: Eve Haverfield

Tel (239)481-5566 eve@turtletime.org

Turtle Season is May 1 through October 31

Turtle Time remarks: _____

Turtle Time approval: _____ **Date:** _____

** I have contacted Eve and will coordinate with her on race day,*



Fort Myers Beach Fire Control District

Life Safety Branch

100 Voorhis Street • Fort Myers Beach, Florida 33931

Phone (239) 590-4210 • Email: prevention@FMBFirefl.gov

Special Events Application and Guidebook

Event Type:

☒ Small Outdoor/Indoor Event	☐ Large Outdoor/Indoor Event	☐ Firework Display
Date of Application: <u>Event Sep. 3, 2023</u>		Date of Event: <u>Application 7-11-23</u>
Location: <u>DIAMONDHEAD RESORT</u>		
Event Start Date/Time: <u>9-3-23 7AM</u>		Event End Date/Time: <u>9-3-23 10AM</u>
Setup Date: <u>9-3-23</u>	Setup Time: <u>7AM</u>	Inspection Time:
Event Sponsor: <u>Beach Talk Radio</u>		
Sponsor Contact: <u>ED RYAN</u>	Sponsor Phone #: <u>239-247-3833</u>	Sponsor Email: <u>edryan@BeachTalkRadio.com</u>
Anticipated Number of Attendees: <u>200</u>	Anticipated Number of Event Workers: <u>20 Volunteers</u>	
Will there be carnival or mechanical rides: <u>NO</u>	Number of Stages: <u>NONE</u>	
Total Number of Vendors: <u>INSIDE</u>	Total Number of Hot Food Vendors: <u>NONE</u>	
Number of Tents larger than 20 x 20: <u>NONE</u>	Number of 10 x 10 Tents: <u>NONE</u>	

Every vendor with a booth will receive a fire inspection and is responsible for paying an inspection fee. Please list the contact information for the responsible party below.

** we would like to request and pay for an ambulance on site - Ed

Please Note: If the event sponsor elects not to pay the vendor's inspection fee, a list of vendors, with full contact information, must be provided to the Fort Myers Beach Fire District. This information shall include contact name, number, and e-mail. All inspection fees will be due at time of service, and must be paid prior to release of any approvals.

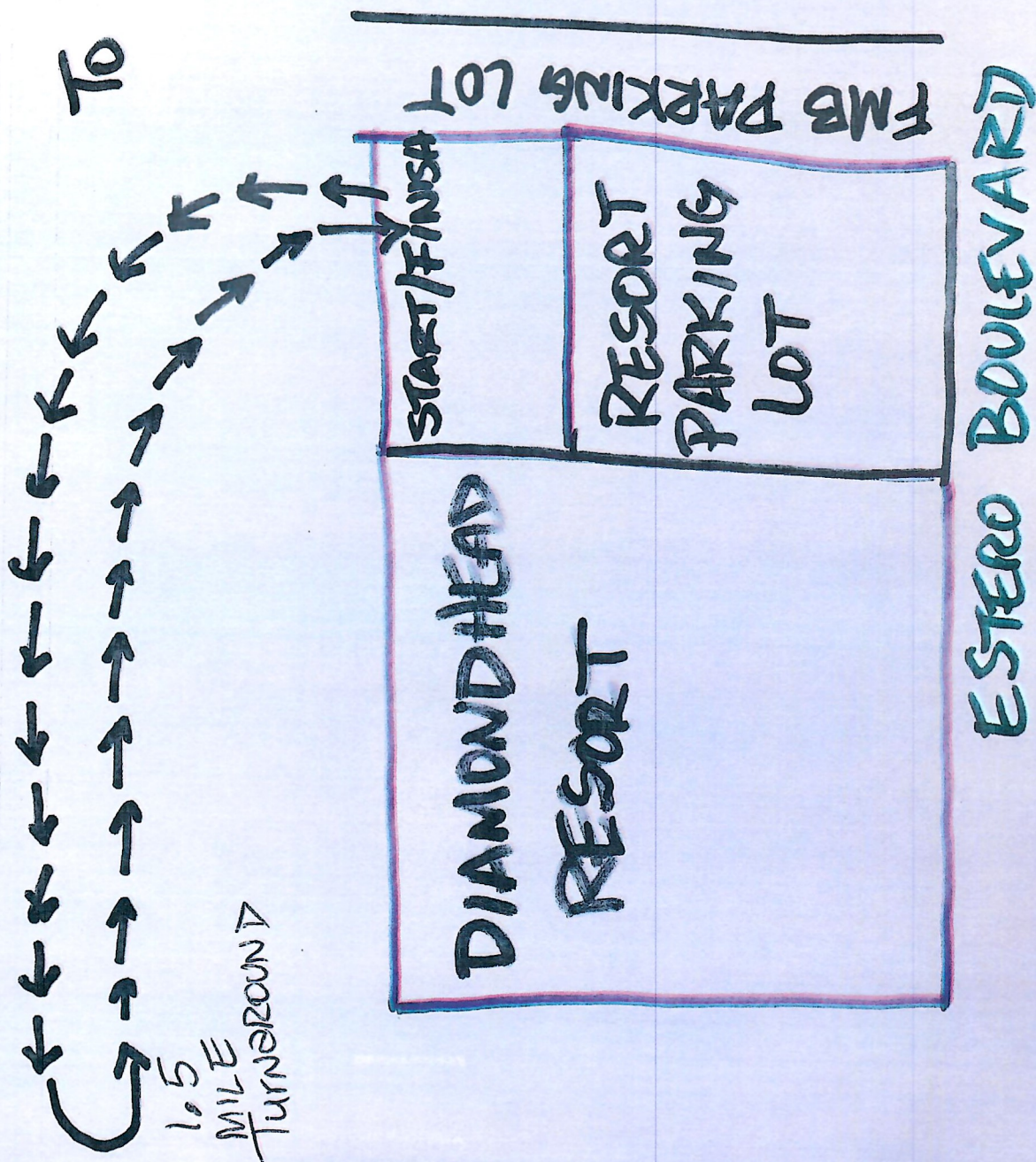
Event applications submitted less than thirty (30) days prior to the event will be subject to additional fees. An expedited review may be requested and will be based upon availability, additional fees will apply.

Applications shall include the following:

1. A legible site plan to include proposed layout of the event; fire hydrant locations; fire/emergency access; and distances to any structures.
2. A life safety evaluation may be required based on the size of the event in accordance with the fire code.
3. All vendors should review FMBFD guidelines, on our website at www.FMBFirefl.gov
4. Failure to comply with requirements of the FMBFD may result in additional fees and/or shutdown of the vendor(s).

<u>Edward Ryan</u>	<u>EDWARD RYAN</u>
Submitting Party Name (Print)	Submitting Party Name (Sign)
Date: <u>7-10-23</u>	

DAY BEFORE
LABOR DAY
5K
TO BENEFIT
FMB STRONG
9-3-2023





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

07/10/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER East Main Street Insurance Services, Inc. Will Maddux PO Box 1298 Grass Valley CA 95945	CONTACT NAME: Will Maddux PHONE (A/C, No, Ext): (530) 477-6521 E-MAIL ADDRESS: info@theeventhelper.com FAX (A/C, No): INSURER(S) AFFORDING COVERAGE INSURER A: Evanston Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	NAIC # 35378
INSURED Edward Ryan 12700 Vista Pine Cir Fort Myers FL 33913		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR Host Liquor Liability Retail Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y	N	3DS5474-M3658044	09/03/2023 12:01 AM	09/04/2023 12:01 AM	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Deductible \$ 1,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$ OCCUR CLAIMS-MADE						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N N/A						PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder listed below is named as additional insured per attached MEGL 2217 01 19. Attendance: 200, Event Type: 5 K Run.

CERTIFICATE HOLDER**CANCELLATION**

Town of Fort Myers Beach 2545 Estero Blvd Fort Myers Beach FL 33931	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

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1. **Requested Motion:**

Meeting Date: August 21, 2023

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:**

Resolution

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. 23-88, Extending Declaration of Local Emergency 8.21.23-8.27.23
2. 23-89, Extending Declaration of Local Emergency 8.28.23-9.3.23
3. 23-90, Extending Declaration of Local Emergency 9.4.23-9.10.23

Financial Impact:

6. **Alternative Action**

Not adopt resolutions and the end the Local State of Emergency for Fort Myers Beach

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/15/2023
Approved - 8/17/2023
Approved - 8/17/2023
Final Approval - 8/17/2023

RESOLUTION 23-88

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 21st day of August 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 21st day of August 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:

Vose Law Firm, Town Attorneys

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

RESOLUTION 23-89

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 28th day of August 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 21st day of August 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:

Vose Law Firm, Town Attorneys

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

RESOLUTION 23-90

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 4th day of September 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 21st day of August 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:

Vose Law Firm, Town Attorneys

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

1. **Requested Motion:**

Meeting Date: August 21, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN AUGUST 16, 2023 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND APPROVAL OF THE PROPOSALS RECEIVED FOR ELECTRIC AND SITE WORK FOR BAYSIDE PARK IN THE AMOUNTS NOT TO EXCEED \$83,400 AND \$60,000; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Purchases over \$25,000 must be approved by Town Council unless the competitive procurement process is waived.

What the action accomplishes:

Retroactively waives the Town's procurement policy and continues work for electrical and site improvements to meet the opening deadline.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

5. **Background:**

The Town is working diligently to repair and open Bayside Park as quickly as possible, with a target initial opening set for September 1, 2023. Discussions with the lighting supplier and local electricians indicated that all of the electric and equipment will need to be replaced due to hurricane and storm surge damage. This scope of work also includes the removal and reinstallation of the existing pavers in coordination with electrical repairs around the park. The electric will be prepared for when the replacement lights arrive at a later date.

Kelly General Contractors and Precision Power have agreed to meet the deadline of completing the underground electric and site work needed by September 1, 2023 and contractors have been more difficult to obtain than normal due to the hurricane.

In order to allow enough time for improvements, Town staff believed it was the in the best interest to proceed with this work and are seeking the retroactive approval from Town Council.

Attachments:

1. 23-91, Ratify Bayside Park Electric Repairs -
2. Estimate Bayside Park Fort Myers Beach 137

Financial Impact:

Not to exceed totals:

- \$83,400 for Kelly General Contracting for Bayside Park Site Work & Reset Payers
- \$60,000 for Precision Power for Bayside Park Underground Electrical Replacement

6. **Alternative Action**

7. **Management Recommendations:**

Retroactively ratify the execution of repair proposals for Bayside Park.

8. Recommended Approval:

Jason Freeman, Public Works Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/16/2023
Approved - 8/17/2023
Approved - 8/17/2023
Final Approval - 8/17/2023

RESOLUTION NUMBER 23-91

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN AUGUST 16, 2023 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND APPROVAL OF THE PROPOSALS RECEIVED FOR ELECTRIC AND SITE WORK FOR BAYSIDE PARK IN THE AMOUNTS NOT TO EXCEED \$83,400 AND \$60,000; 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 ("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, the Town of Fort Myers Beach has been working diligently on coordinating repairs to the Town's Bayside Park facility; and

WHEREAS, the Town can meet the target opening date for Bayside Park through the use of Kelly Contractors and Precision Power to complete electrical, site, and paver work required due to hurricane and storm surge damage to return the park back to previous conditions.

NOW, THEREFORE, BE IT 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. This Resolution memorializes and ratifies the actions of the Town to sign proposals for electrical and site work for Bayside Park and waiving of the Town's procurement policy, directing Town staff to continue coordination with these contractors for repairs in the amounts not to exceed \$83,400 and \$60,000.

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 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, Councilmember
Bill Veach, Councilmember
Karen Woodson, Councilmember

ADOPTED this 21st day of August 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:**

Vose Law Firm, LLP, Town Attorney

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



Bayside Park at Fort Myers Beach

Estero Island, Fort Myers Beach, FL 33931
Date: August 11, 2023



Presented To

City of Fort Myers Beach

Presented By

Kelly General Contracting

Precision Power

Kelly General Contracting and Precision Power have been working with clients throughout Florida helping them meet their construction goals. We are confident that we can meet the needs of your project and stay on schedule and on budget.

- Our team knows how to get the job done in a timely and efficient manor.
- We are honest and dependable. Your property will be treated with care and respect throughout the project.
- We are experienced and knowledgeable.

We look forward to working with you throughout this project and seeing the plans become a reality.



ESTIMATE #	DATE	EXPIRES
137	08/10/2023	

Title: Bayside Park Fort Myers Beach

CUSTOMER

City of Fort Myers Beach

PROJECT

Bayside Park Fort Myers Beach

	Qty	Cost/Unit	Total
Bayside Park Site Services	1	\$68,400.00/Contract Price	\$68,400.00
Scope of Work in conjunction with Electrician of Record: Duration 3 weeks			
Defer to Precision Power (Electrician of Record) for all scopes associated with electrical services.			
1- Locate and mark all underground utilities associated within the site area.			
2- M.O.T. plan and set up of affected construction areas including but not limited to Type 1 DOT barricade and 4' construction fence.			
3- Site location and spot check with Electrician of Record for trenching and areas of excavations.			
4- Ground Penetrating Radar Services-Ground Penetrating Radar (GPR) is an underground utility locator that uses radio waves to locate subsurface structures and objects.			
5- Remove clay brick pavers associated with excavation services/ locations. Material to be handled with care and staged out of the excavation area on pallets. Broken material upon excavation is inevitable.			
6- Provide machine and operator for all excavation and trenching services.			
7- Soils to be staged in the central "Astro-Turf" area. Turf to be installed by others after scopes here-in are completed.			
8- If Applicable Cut concrete sidewalk and repour if required by electrician footings, rebar, and associated structural components/ hardware. Inspections prior to pouring concrete for vegetation planter boxes if applicable.			
9- 18" tall bench to be refinished with like ledge stone material and precast cap as per Public Works specifications.			
10- Backfill, compact, and grade all excavations previously associated with underground services. Paver Install See Option A.			
11- Demobilize and remove barricades / construction fencing.			
Optional A- not Included: (\$15,000)			
12- Install previously removed pavers up to 2829 SF to match existing footprint, framing, and design.			
Bayside Park Electrical Services	1	\$60,000.00/Contract Price	\$60,000.00
Defer to Precision Power (Electrician of Record) for all scopes associated with electrical services.			

Subtotal: \$128,400.00



ESTIMATE #	DATE	EXPIRES
137	08/10/2023	

Subtotal	\$128,400.00
Tax: (0%)	\$0.00
Total	\$128,400.00



EXCLUSIONS

Installation of Turf by others.
Replacement of damaged or broken pavers not included.
Concrete sidewalk repair limited to said scope within Bayside Park. Does not include City sidewalk



ESTIMATE #	DATE	EXPIRES
137	08/10/2023	

TERMS & CONDITIONS

Please review the following terms and estimate due-date prior to work beginning.

Terms:

- 40% Payment upon signing of contract.
- 40% Upon completion of concrete pour back and site backfill.
- 20% Upon completion of final grading and masonry finishes.

APPROVAL

This Estimate has been accepted on _____ by _____

Signature: _____



Proposal

August 11, 2023

Jason Freeman
City of Fort Myers Beach
JasonF@fmbgov.com
239-266-4673

Bid Property:
Bayside Park Fort Myers Beach



Dear Jason,

Precision Power Electric is pleased to present the following proposal for the Installation of underground electrical.

- Precision Power Electric will provide labor, equipment and material to complete the project.
- Provide electrical for project located above to national electrical code.
- Provide and install new underground conduit to all lights as before the storm.
- Install new wiring in conduit to all lights.
- Install customer provided equipment for lighting.
- Install small outdoor panel behind the stage for event outlets. 240vac and 110vac GFCI.
- Installing customer provided light post once received.
- This includes 2 mobilization.

Note: Kelly General Contracting Responsibilities will be additional cost per their quote.

Price: \$60,000.00 USD

(Travel Expenses included)

Thank you for the opportunity to offer you this quote. If you have any additional questions, please feel free to contact me.

Sincerely,

Vice President

Mitchell Beyett

Phone: 239-788-3830

Payment Terms

Precision Power Electric agrees to submit invoices, and The City of Fort Myers Beach agrees to pay invoices, in accordance with the invoice and payment schedule below. All



PrecisionPower
ELECTRICAL
Master Electricians
Bonita Springs, FL

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CONTRACTING
CGC1528270 KellyGC.com



payments shall be made at the address indicated on the Precision Power Electric invoice.

A late payment charge of five one-hundredths (.05) of one percent per day (18% per annum, based upon a 360-day year) will be added to any amount not received by Precision Power Electric on or before the invoice payment date indicated on the payment schedule. Where this rate exceeds the maximum rate permitted by applicable law, the maximum permissible rate will apply.

Terms:

- 50% payment upon signing of contract.
- 40% Upon completion per rough electrical.
- 10% Upon completion of final electrical.
- Please allow 1-2 weeks for any back ordered material to arrive.
- Precision Power Electric is not responsible for back-order materials that are out of our control.

All orders are subject to credit approval by Precision Power Electric

This quote will remain valid for 10 days from the proposal delivery date. In the event this proposal is not accepted prior to this date, the price, schedule and other portions of this proposal may be subject to change. Due to copper pricing in this volatile market.

Customer Signature _____
Date _____

Precision Power Electric Signature _____
Date _____

GENERAL TERMS AND CONDITIONS

This Precision Power Electric Proposal specifically incorporates the following General Terms and Conditions. Collectively the Proposal and these General Terms and Conditions are referred to herein as the "Agreement" between Precision Power Electric and Purchaser. All orders arising from this Proposal and their related terms and conditions are subject to review and approval by Precision Power Electric prior to acceptance.

1. **TAXES:** Unless otherwise indicated, the price does not include any sales, use, excise, value added or similar taxes nor does it include any import or export duties, customs fees or other costs associated with movement of Goods across international borders, and Purchaser shall be responsible for all such taxes, duties or fees, whether or not invoiced by PPE. If taxes, duties or similar fees are included as part of the price and the rate or base of the tax, duty or fee is increased or decreased, Purchaser will pay any increased taxes, duties or fee and PPE will give credit for any tax, duty or fee decrease. Absent written agreement to the contrary, PPE will pay the tax, duty or fee and be reimbursed by Purchaser. In the event Purchaser is exempt from such taxes, duties or fees or should Purchaser elect to pay such taxes, duties or fees directly to the appropriate authority, then Purchaser will provide PPE with a valid tax or exemption certificate or similar document satisfactory in form to PPE.

2. **PAYMENT/SHIPPING TERMS:** Invoices will be issued for the value of the Goods shipped and are due fifteen (15) days from invoice date. Service invoices (including engineering, design, mechanical installation or electrical installation where applicable) may be issued separately and will be based on services performed and/or costs incurred. Such service invoices are due upon receipt by Purchaser.

A late payment charge of five one-hundredths (.05) of one percent per day (18% per annum, based on a 360-day year) will be added to any amount not received by PPE within 15 days of invoice date. Where this rate exceeds the maximum rate permitted by applicable law, the permissible maximum rate will apply.

If this Agreement includes installation, when aggregate payments total 100% of the Agreement price, the remaining, Purchaser will pay the amount within 10 days after PPE's completion of installation commissioning. However, should there be a dispute about the completion of installation commissioning, then Purchaser shall inform PPE of any claimed defects in the Goods and the amount of the retainer necessary to correct claimed defects will be mutually determined. Purchaser will then pay the final invoice less the determined amount. Purchaser will pay the remaining balance upon correction by PPE of any defects in the Goods as mutually determined. Shipping terms will be F.O.B. Origin, Freight Pre-Pay and Add unless otherwise indicated.

3. **WARRANTY:** Unless otherwise specifically stated in this Proposal, PPE will cover free from defects caused by workmanship for a period of one year from the date of installation.

4. **INSURANCE BY PPE:** PPE will maintain insurance covering its operations as follows:

- a. Worker's Compensation Insurance as required by the state having jurisdiction over PPE and Employer's Liability with limit of \$1,000,000.

5. **INSURANCE BY PURCHASER:** Purchaser assumes all risk of loss from damage and destruction of the Goods and any applicable installation charges thereof. Such risk of loss will transfer to Purchaser at the F.O.B. point pursuant to the shipping terms of the Agreement, or if not specified, F.O.B. Origin. Purchaser agrees to acquire and

6. **PURCHASER'S RESPONSIBILITIES:** Where installation is to be performed by PPE, Purchaser agrees to:

- a. Prepare the work site to permit installation and operation of the Goods. Purchaser's responsibility includes structural strength of and any alteration to building, as well as the removal of obstructions.
- b. Provide necessary access roads, dock areas, suitable for receiving and unloading the Goods, and any available elevator or crane service for the handling of the Goods for PPE's use at the installation site.
- c. Provide a clear path for the ingress to and egress from the installation site for PPE's personnel and Goods.
- d. Prior to commencing installation of the Goods, obtain all necessary federal, state and local government licenses or permits.
- e. Accept responsibility for all excavations, drainage, piling, foundations, masonry and concrete work, concrete lining, steel and other building materials necessary to the installation of the Goods.
- f. Provide secure, dry, convenient storage for PPE's Goods, tools and materials used on the site. Adequate working space will also be provided by Purchaser for PPE's installation crews.

8. **CHANGE ORDER:** The parties may agree at any time prior to final payment of the Agreement to make additions, deletions, or other revisions by Change Order or Work Order (defined below) without invalidating the Agreement. No such change will be performed by PPE until an approved Change Order or Work Order is executed as provided below.

- a. When the price, schedule and other conditions relating to the change can be determined prior to the start of work under the change, a document describing this change ("Change Order") will be issued for execution by the parties.
- b. When the change requires immediate action and the issuance of an executed Change Order with firm price would unreasonably delay the change, Purchaser shall place its signature upon a document authorizing PPE to proceed with the change ("Work Order"). After the change under the Work Order has been completed, PPE will calculate the firm price for the change using actual costs (including overhead and reasonable profit) current at time of performance of the work. Completed Work Order(s) will be incorporated into a Change Order for execution by the parties.

Unless expressly modified by a Change Order or Work Order, the provisions of the Agreement and these General Terms and Conditions will govern all work performed under such Change Order or Work Order.

9. **INSTALLATION BY PURCHASER:** The Purchaser is responsible for any improper adjustments, operation, maintenance, repairs or alterations by persons other than PPE.

10. **SAFETY:** Purchaser agrees to train and supervise his operating and maintenance personnel in the proper use of the Goods furnished hereunder in accordance with normally recognized safety requirements, including OSHA, and the American National Standards Institute's "Safety Standards for Conveyors and Related Equipment", ASME B20.1-1996, Section 5 and Addenda (or latest edition). Additionally, when Purchaser installs Goods, Purchaser shall follow proper installation practices as defined in ASME B20.1-1996 and Addenda (or latest edition) or similar authoritative industry standards. Copies of these ANSI Standards can be procured from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, New York 10017. Further, Purchaser agrees to follow all PPE operating and safety instructions relating to the Goods.

11. **LIENS:** PPE will protect Purchaser as to any lien asserted against Purchaser's property for work, material or services furnished by others at PPE's request when Purchaser makes the payments provided for in the Agreement.

12. **SECURITY INTEREST:** Purchaser hereby grants PPE a security interest in the Goods provided by PPE to secure any and all obligations of Purchaser to PPE under the Agreement including but not limited to the purchase price payable by Purchaser under the Agreement and/or Change Orders and all other amounts now and hereafter owing by Purchaser to PPE hereunder.

13. **DELAYS:** If PPE's performance is delayed or prevented by Purchaser or other cause uncontrolled by PPE (such as acts of God, casualty, labor disturbance, strikes, riots, civil disturbance, inability to obtain supplies or transportation, explosion, flood, fire, power failure, embargos, boycotts, governmental or military action, war, terrorism, or any order modification by Purchaser):

- a. Purchaser agrees to pay PPE invoices upon notification that the Goods are ready for shipment in accordance with the shipping schedule and to reimburse PPE for expenses incident to such delay including, without limitation, the cost of engineering, the cost of Goods and labor escalations; maintaining, repairing, refurbishing and replacing Goods; and storage, demurrage, and pullout charges from installation site; and



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Master Electricians
Bonita Springs, FL

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CONTRACTING
CGC1528270 KellyGC.com



- b. The time for delivery of the Goods and performance of the services will be extended for a period at least equal to the time lost by reason of the delay, and PPE will not be liable for any damages caused by the delay.
14. **ASSIGNMENT/SUBCONTRACTS:** Purchaser shall not delegate the performance of any obligation hereunder, nor assign any rights arising under the Agreement, to any third person without the prior written consent of PPE. PPE reserves the right to use subcontractors in the performance of any services to be performed by PPE.
15. **LIMITATION OF REMEDIES:** THE AGREEMENT SETS FORTH PURCHASER'S SOLE AND EXCLUSIVE REMEDIES FOR ANY DEFECT IN OR NON-CONFORMITY OF ANY GOODS OR SERVICES AND FOR ANY NEGLIGENT DESIGN, MANUFACTURE, OR INSTALLATION OF THE GOODS, AND FOR ANY BREACH OF THE AGREEMENT BY PPE. IN NO EVENT SHALL ISD BE LIABLE FOR LOSS OF USE, REVENUE OR PROFIT, OR FOR COSTS OF CAPITAL OR OF SUBSTITUTE USE OR PERFORMANCE, LOSS OF PRODUCTION, OR FOR INDIRECT, SPECIAL, LIQUIDATED, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS OR COST OF A SIMILAR TYPE. ISD'S MAXIMUM CUMULATIVE LIABILITY UNDER THE AGREEMENT FOR ANY AND ALL CLAIMS, DAMAGES, LOSSES OR LIABILITIES OR THE LIKE OF ANY KIND SHALL NOT EXCEED THE CONTRACT PRICE UNDER THE AGREEMENT. PURCHASER AND ISD AGREE THAT THE EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS ARTICLE ARE SEPARATE AND INDEPENDENT FROM ANY REMEDIES WHICH PURCHASER MAY HAVE IN THE AGREEMENT AND SHALL BE GIVEN FULL FORCE AND EFFECT WHETHER OR NOT ANY OR ALL SUCH REMEDIES SHALL BE DEEMED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.
16. **PROPRIETARY INFORMATION:** All the information in the PPE Proposal is confidential and has been prepared for the Purchaser's use solely in considering the purchase of the Goods described. Transmission of all or any part of this information to others or Purchaser's use for any other purpose is unauthorized without PPE's prior written consent.
17. **CHANGES IN LAWS AND REGULATIONS.** PPE's prices and timely performance are based on all applicable laws, rules, regulations, orders, codes, standards or requirements of governmental authorities effective on the date of PPE's Proposal. Any change to any law, rule, regulation, order, code, standard or requirement which requires any change hereunder shall entitle PPE to an equitable adjustment in the prices and any time of performance.
19. **MISCELLANEOUS**
Entire Agreement. The Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior agreement, understanding, discussions, representations or proposals made between the parties. The terms of this sale are expressly limited to the terms and conditions set forth herein. Any changes, modifications, or additions to the Agreement are binding and enforceable only if made in writing and signed by the respective parties. Any and all terms set forth on Purchaser's purchase order or otherwise proposed by Purchaser are hereby objected to and shall be void unless expressly agreed to in a written document signed by both parties.
- Governing Law.** The Agreement shall be interpreted and enforced in accordance with the substantive laws of the State of Florida without regard to its conflicts of law principles.
- Severability.** The invalidity or unenforceability of any provision of the Agreement or these General Terms and Conditions shall not affect the enforceability or validity of the remaining provisions, and the Agreement shall be construed in all respects as if any invalid or unenforceable provision were omitted.
- Nonwaiver.** Failure of either party to require performance of any provision shall not affect its right to thereafter require full performance of that provision. The waiver by either party of a breach of any provision shall not constitute a waiver of any subsequent breach or nullify the effectiveness of such provision.
- Captions.** Captions preceding particular Articles are for convenience only and are not to be construed as part of the Agreement or as a limitation of the scope of the Article to which they refer.
- Ambiguities.** Each party and its counsel have participated fully in the review and revision of the Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting the Agreement.

1. **Requested Motion:**

Meeting Date: August 21, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AUTHORIZING TOWN STAFF TO SUBMIT A FUNDING REQUEST TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ESTERO ISLAND SHORE PROTECTION PROJECT; AND AUTHORIZING LOCAL MATCHING FUNDS FOR FUNDING RECEIVED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND PROVIDING FOR AN EFFECTIVE DATE

Why the action is necessary:

The Beach and Dune System is the Town's most important economic resource. It provides recreational space for residents and tourists, and reduces storm impacts.

What the action accomplishes:

Enables the Town to construct and maintain the engineered Beach, which reduces storm impacts and increases the recreational sandy portion of the beach.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Funding for Florida's critically eroded beaches is managed by the Beach Management Funding Assistance Program. The program provides and manages grants to local governments for planning and implementing beach and inlet management projects on the Gulf of Mexico, Atlantic Ocean or Straits of Florida to protect upland structures and infrastructure, provide critical habitat for threatened and endangered species, provide recreational opportunities, and support local economies through tourism.

Recognizing the importance of the state's beaches, the Florida Legislature in 1986 adopted a posture of protecting and restoring the state's beaches through a comprehensive beach management planning program. The program evaluates beach erosion problems throughout the state seeking viable solutions. The program is authorized by Section 161.101, Florida Statutes, and rules of Chapter 62B-36, Florida Administrative Code.

Attachments:

1. 23-96; Shore Protection Project
2. TFMB Funding Resolution EXHIBIT A 20230812
3. TFMB EI FY24_25_LGFR_Beach_Application 20230728

Financial Impact:

The Town's cost share will be approximately 6.4% of the Total Cost, subject to finalizing the Interlocal agreement with the County.

At the 6.4% Cost Share rate for the Town, the following should be budgeted for our cost share to maintain the beach:

FY24
\$1,501,760

FY25

\$253,312

***Reduced to \$38,912 if State Appropriations for Hurricane Ian Beach Recovery come to fruition.

FY 26

\$154,274

N.B. State Fiscal Year begins July 1 and ends June 30.

6. Alternative Action

Do not authorize Town Staff to submit a funding request to the FDEP for the Estero Island Shore Protection Project and do not authorize local matching funds for funding received from the FDEP.

7. Management Recommendations:

AUTHORIZE STAFF TO SUBMIT A FUNDING REQUEST TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ESTERO ISLAND SHORE PROTECTION PROJECT; AND AUTHORIZING LOCAL MATCHING FUNDS FOR FUNDING RECEIVED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND PROVIDING FOR AN EFFECTIVE DATE.

8. Recommended Approval:

Chadd Chustz, Environmental Services
Steve Poposki, Community Development Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/12/2023
Approved - 8/14/2023
Approved - 8/17/2023
Approved - 8/17/2023
Final Approval - 8/17/2023

RESOLUTION NUMBER 23-96

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AUTHORIZING TOWN STAFF TO SUBMIT A FUNDING REQUEST TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ESTERO ISLAND SHORE PROTECTION PROJECT; AND AUTHORIZING LOCAL MATCHING FUNDS FOR FUNDING RECEIVED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; 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 (“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, Estero Island’s coastal beach, which is among the Town of Fort Myers Beach (“Town”) most important ecological, economic, and recreational assets, is subject to erosion that results in detrimental impacts to nesting and wintering areas for wildlife species such as sea turtles and shorebirds; loss of outdoor recreational opportunities for the Town’s residents and visitors; and damage to and loss of public and private property; and

WHEREAS, beach erosion control and restoration projects are an effective tool for preventing and offsetting some of the negative impacts of beach erosion, including loss of habitat, loss of recreational opportunities, and endangerment of public and private property; and

WHEREAS, the Town Council finds that beach erosion control and restoration projects are in the public interest and in the best interest of the health, safety, and welfare of the residents, property owners and visitors of the Town of Fort Myers Beach.

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.

Section 2. The Town Council expresses its support for the Estero Island Beach Nourishment Project (the “Project”), described in Exhibit “A”, a copy of which is attached hereto and made a part of this Resolution.

Section 3. To conserve sand resources and/or reduce Project costs the Town supports regionalization of the Project and work with Lee County to coordinate bidding and construction of

the Project where possible.

Section 4. The Town authorizes Town staff to take all necessary actions to request and obtain funds from the Florida Department of Environmental Protection for the Project and will provide matching funds/local cost share for the Project and serve as local sponsor for the Project including matching funds from the Town Beach Restoration Reserves and Lee County Tourist Development Council.

Section 5. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution 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:

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

ADOPTED this 21st day of August 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

TTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

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

RESOLUTION NUMBER 23-XX

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AUTHORIZING TOWN STAFF TO SUBMIT A FUNDING REQUEST TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ESTERO ISLAND SHORE PROTECTION PROJECT; AND AUTHORIZING LOCAL MATCHING FUNDS FOR FUNDING RECEIVED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; 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 (“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, Estero Island’s coastal beach, which is among the Town of Fort Myers Beach (“Town”) most important ecological, economic, and recreational assets, is subject to erosion that results in detrimental impacts to nesting and wintering areas for wildlife species such as sea turtles and shorebirds; loss of outdoor recreational opportunities for the Town’s residents and visitors; and damage to and loss of public and private property; and

WHEREAS, beach erosion control and restoration projects are an effective tool for preventing and offsetting some of the negative impacts of beach erosion, including loss of habitat, loss of recreational opportunities, and endangerment of public and private property; and

WHEREAS, the Town Council finds that beach erosion control and restoration projects are in the public interest and in the best interest of the health, safety, and welfare of the residents, property owners and visitors of the Town of Fort Myers Beach.

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.

Section 2. The Town Council expresses its support for the Estero Island Beach Nourishment Project (the “Project”), described in Exhibit “A”, a copy of which is attached hereto and made a part of this Resolution.

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Section 5. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution 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:

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

ADOPTED this ___ day of August 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:

, Town Attorney

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

ESTERO ISLAND EROSION CONTROL PROJECT

EXHIBIT A

PERMIT DRAWINGS

PREPARED FOR:

TOWN OF FORT MYERS BEACH

Approved

0413684-001-JC

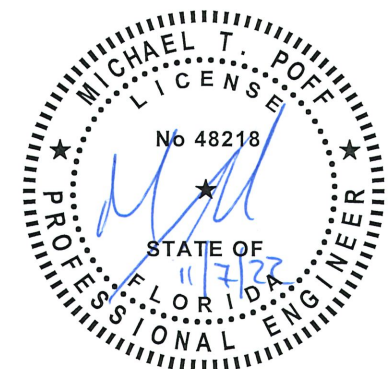
NOTES

1. BEACH PROFILE SURVEY COMPLETED BY COASTAL ENGINEERING CONSULTANTS, INC., MAY 2021.
2. OFFSHORE BORROW AREA SURVEY CONDUCTED BY OCEAN SURVEYS, INC., NOVEMBER 3, 2021.
3. PIPELINE CORRIDOR 1 BATHYMETRIC SURVEY CONDUCTED BY OCEAN SURVEYS, INC., JULY 12, 2021.
4. PIPELINE CORRIDOR 2 BATHYMETRIC SURVEY CONDUCTED BY OCEAN SURVEYS, INC., NOVEMBER 1, 2021.
5. PLANE COORDINATES ARE BASED ON THE TRANSVERSE MERCATOR PROJECTION FOR THE WEST ZONE OF FLORIDA AND REFERENCED TO THE NORTH AMERICAN DATUM OF 1983 (NAD 83).
6. ELEVATIONS SHOWN HEREON ARE IN FEET AND TENTHS AND REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
7. MEAN HIGH WATER ELEVATION OF +0.3 FEET NAVD88 IS BASED ON INFORMATION FROM THE FDEP AND TIDE STATION ID NUMBER 8727366.
8. EROSION CONTROL LINE (ECL) OBTAINED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION ON 1/28/2020, FILE NAME: ECL2505.SHP
9. TIDAL REDUCTIONS WERE OBTAINED UTILIZING REAL-TIME KINEMATIC GPS AND REFERENCED TO NAVD88.
10. SURVEY ACCURACY STANDARDS, QUALITY CONTROL, AND QUALITY ASSURANCE REQUIREMENTS WERE FOLLOWED DURING THIS SURVEY IN ACCORDANCE WITH USACE EM 1110-2-1003, HYDROGRAPHIC SURVEYING MANUAL, 11/30/2013.
11. INFORMATION SHOWN HEREON REFLECTS CONDITIONS AS THEY EXISTED ON THE SURVEY DATE SHOWN AND CAN ONLY BE CONSIDERED INDICATIVE OF CONDITIONS AT THAT TIME.
12. LANDWARD LIMIT OF BEACH FILLS SHALL TIE INTO EXISTING CONTINUOUS DUNE VEGETATION/ARMORING LINE.
13. CONTRACTORS WORK AREA ON BEACHES SHALL EXTEND FROM CONTINUOUS DUNE VEGETATION/ARMORING LINE TO 500 FEET SEAWARD OF CONSTRUCTION TOE OF FILL.
14. PIPELINE ACCESS CORRIDORS SHALL RUN FROM BORROW AREA VIA SUBMERGED LINE TO SPECIFIED LOCATIONS ON BEACH. CORRIDOR ENDPOINTS ARE LISTED ON PLAN VIEWS.
15. OFFSHORE BORROW AREA AVAILABLE VOLUME IS 1 MILLION CUBIC YARDS.
16. AERIAL PHOTOGRAPHY OBTAINED FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION, DATED 2021.

INDEX

1. COVER SHEET
2. PROJECT LOCATION MAP
3. SURVEY CONTROL MAP
4. BEACH FILL PLAN VIEW (C174A-R187)
5. BEACH FILL PLAN VIEW (R187-R198)
- 6-9. NORTH FILL SECTIONS
- 10-17. CENTRAL FILL SECTIONS
18. BEACH FILL PLAN VIEW (R203-R207)
- 19-21. SOUTH FILL TYPICAL SECTIONS
22. BORROW AREA PLAN VIEW
- 23-30. BORROW AREA TYPICAL SECTIONS
31. PIPELINE CORRIDOR 1 DETAILS PLAN VIEW
32. PIPELINE CORRIDOR 2 DETAILS PLAN VIEW 1
33. PIPELINE CORRIDOR 2 DETAILS PLAN VIEW 2
34. OFFSHORE BORROW AREA LOCATION MAP
35. OFFSHORE BORROW AREA PLAN
- 36-37. OFFSHORE BORROW AREA SECTIONS

FOR PERMITTING
PURPOSES ONLY.
NOT TO BE USED FOR
CONSTRUCTION.



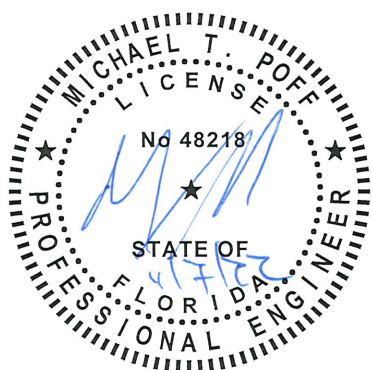
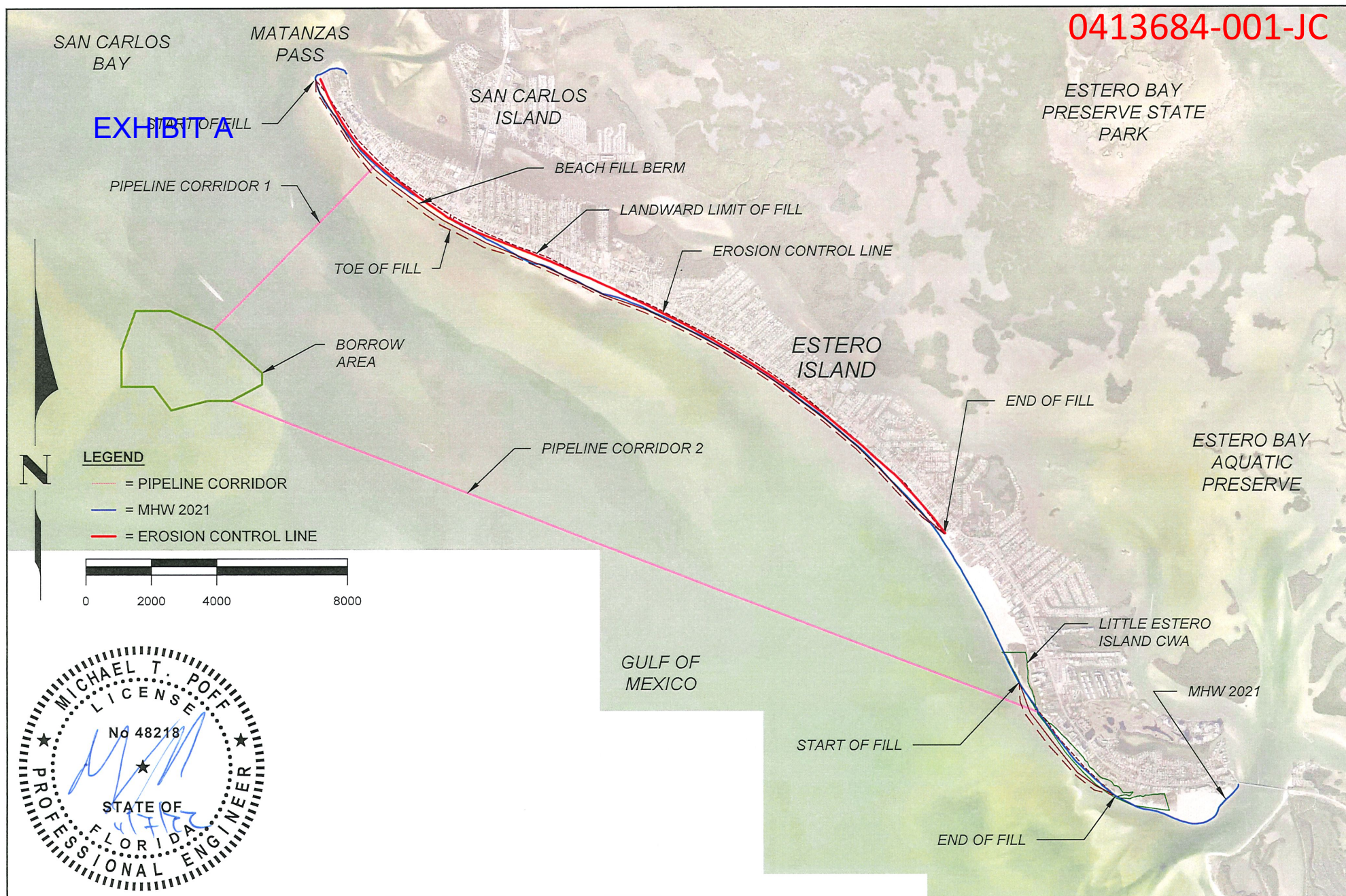
COASTAL ENGINEERING CONSULTANTS, INC.
Serving Florida Since 1977
28421 BONITA CROSSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464
PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@ceciff.com

CLIENT: TOWN OF FORT MYERS BEACH

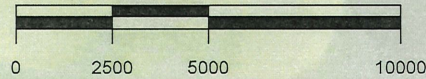
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CHECKED:	MTP	PG.					
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ACAD NO.	21.504-Permit-2021.dwg			2	7/14/2022	MTP	ADDRESSED DEP RAI #2
REF. NO.	21.504			1	4/5/2022	KMG	ADDRESSED DEP RAI #1
				NO.	DATE	BY	REVISION DESCRIPTION



SHEET 2 FILE NO.: 21504-2  COASTAL ENGINEERING CONSULTANTS INC. Serving Florida Since 1977 28421 BONITA CROSSEINGS BLVD BONITA SPRINGS, FLORIDA 34135	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464 PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@cecifl.com	CLIENT: TOWN OF FORT MYERS BEACH TITLE: PROJECT LOCATION MAP	DATE: 11/03/2022 DRAWN: KMG CHECKED: MTP SEC. TWP. RNG. ACAD NO. 21504-Permit-2021.dwg REF. NO. 21.504	SCALE: AS NOTED F.B. PG. RNG. 21.504 NO. DATE BY																																																																																																																								
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EXHIBIT A



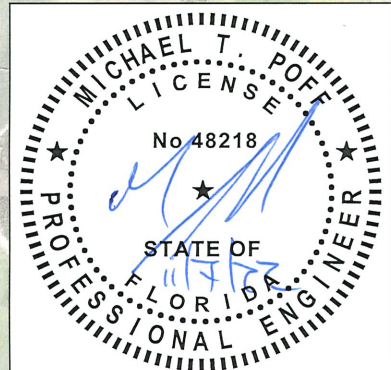
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GROIN 1	666545.625	774582.125	248	R-194	682996.6	763295.6	220
GROIN 3	666581.375	774489.813	248	R-195	683662.1	762625.1	220
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R-177	667878.688	772960.313	220	R-197	685066.5	761215.4	225
R-178	668634.375	772145.125	227	R-198	685859.1	760662.6	225
R-179	669180	771546.125	230	R-199	686470.1	759735.1	225
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R-183	672566.875	769642.625	205	R-203	688193.1	755976.1	255
R-184	673555.375	769229.625	205	R-204	688540.1	754979.6	265
R-185	674405.875	768650.125	200	R-205	689409.9	754511	235
R-186	675299.875	768269.125	205	R-206	690175.2	753582.5	230
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R-188	678055.1	766965.7	210	R-208	691853.9	752572.5	190
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ESTERO ISLAND

ESTERO BAY PRESERVE STATE PARK

ESTERO BAY AQUATIC PRESERVE

MHW 2021



SHEET 3
FILE NO.: 21504-3

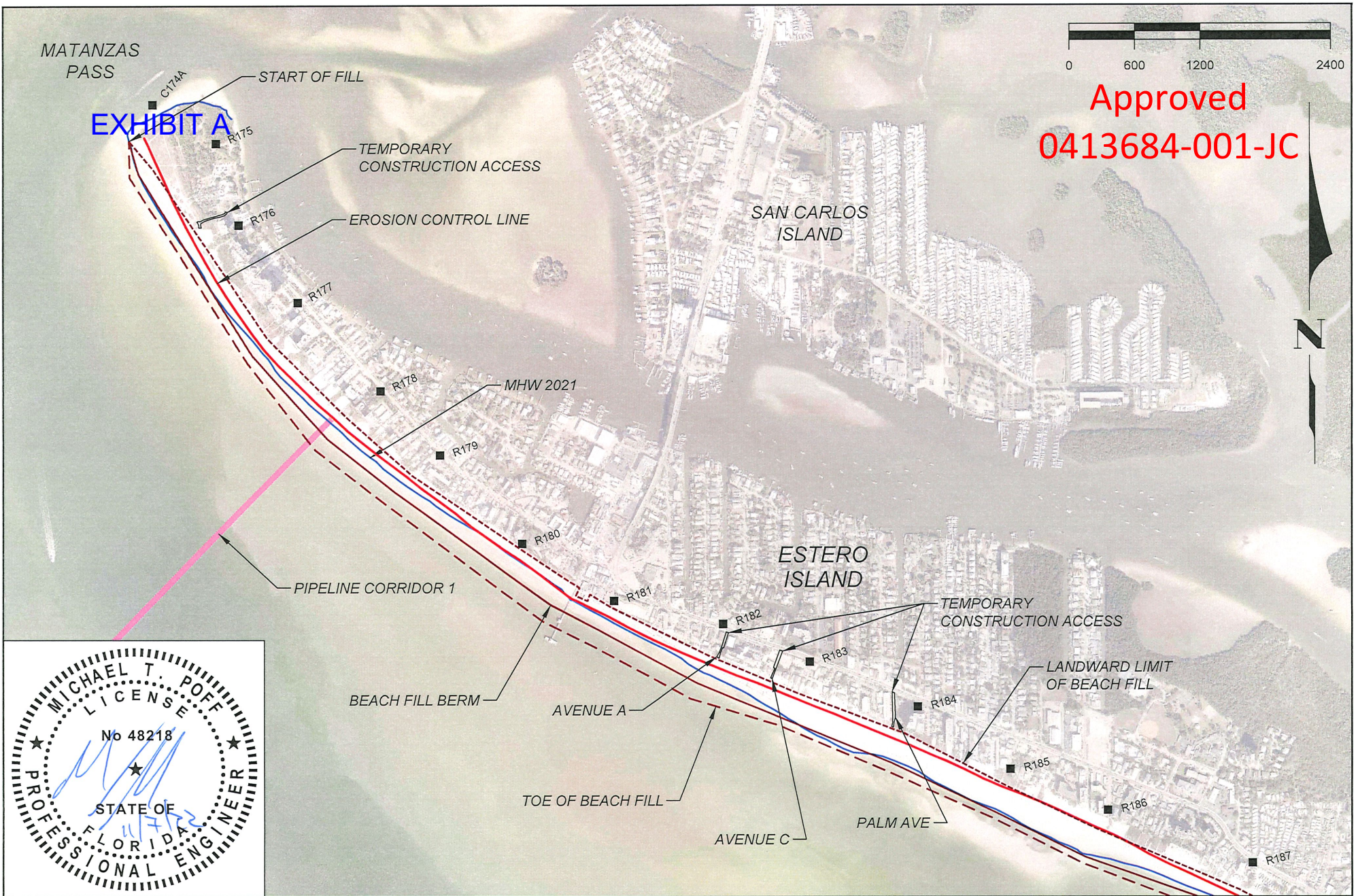
COASTAL ENGINEERING CONSULTANTS INC.
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28421 BONITA CROSSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

COASTAL & MARINE ENGINEERING
ENVIRONMENTAL & GEOLOGICAL SERVICES
SURVEY AND MAPPING
ENGINEERING: CA 2464
SURVEYING: LB 2464
PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: TOWN OF FORT MYERS BEACH

TITLE: SURVEY CONTROL MAP

DATE:	11/03/2022	SCALE:	AS NOTED				
DRAWN:	KMG	F.B.					
CHECKED:	MTP	PG.					
SEC.	TWP.	RNG.					
ACAD NO.	21504-Permit-2021.dwg						
REF. NO.	21.504						
		NO.	DATE	BY	REVISION DESCRIPTION		
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		2	7/14/2022	MTP	ADDRESSED DEP RAI #2		
		1	4/5/2022	KMG	ADDRESSED DEP RAI #1		



SHEET 4 FILE NO.: 15044  Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	COASTAL ENGINEERING CONSULTANTS INC. COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464 PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@cecifl.com	CLIENT: TOWN OF FORT MYERS BEACH TITLE: BEACH FILL PLAN VIEW (C174-R187)	DATE: 11/03/2022 SCALE: AS NOTED DRAWN: KMG F.B. CHECKED: MTP PG. SEC. TWP. RNG. ACAD NO. 21504-Permit-2021.dwg REF. NO. 21.504	
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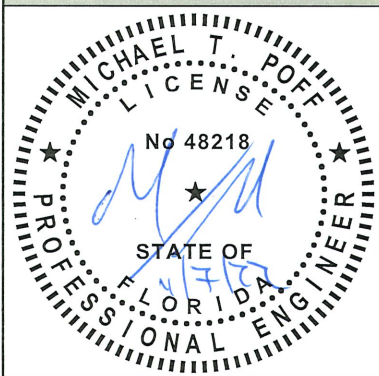
Approved
0413684-001-JC

EXHIBIT A



GULF OF MEXICO

ESTERO ISLAND

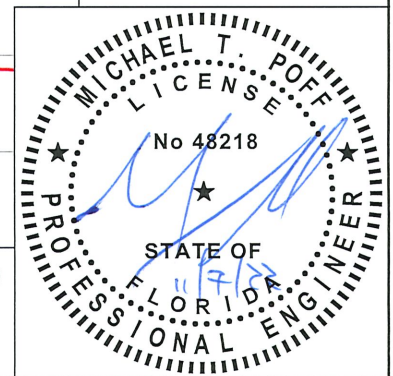
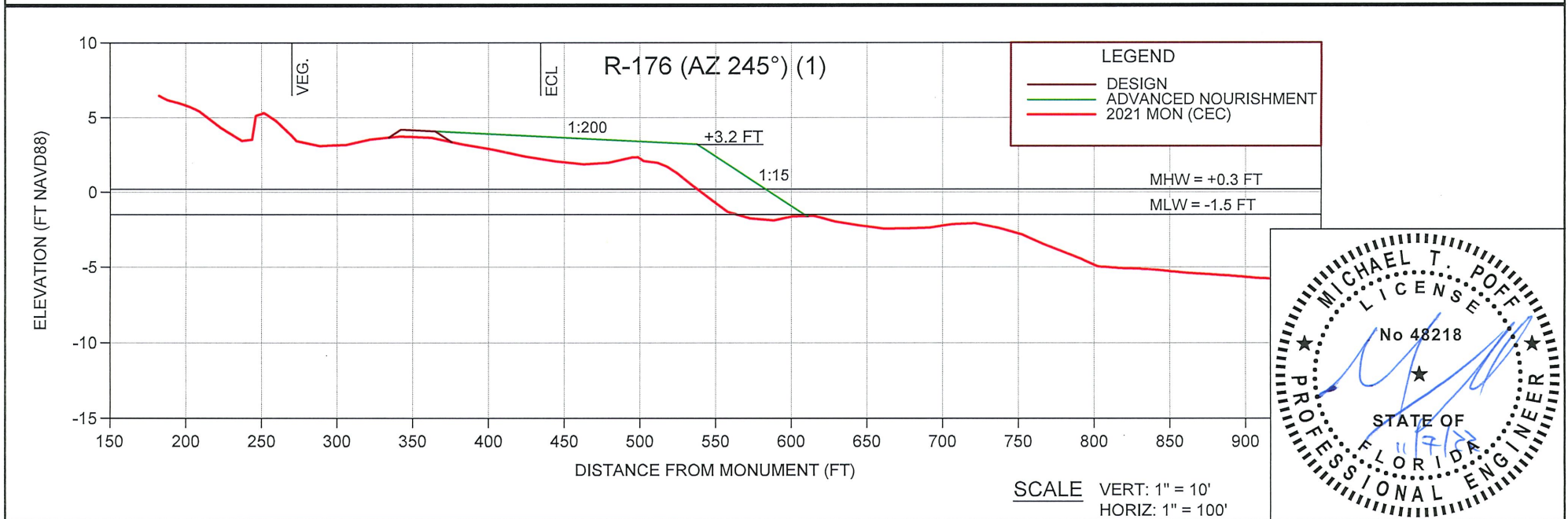
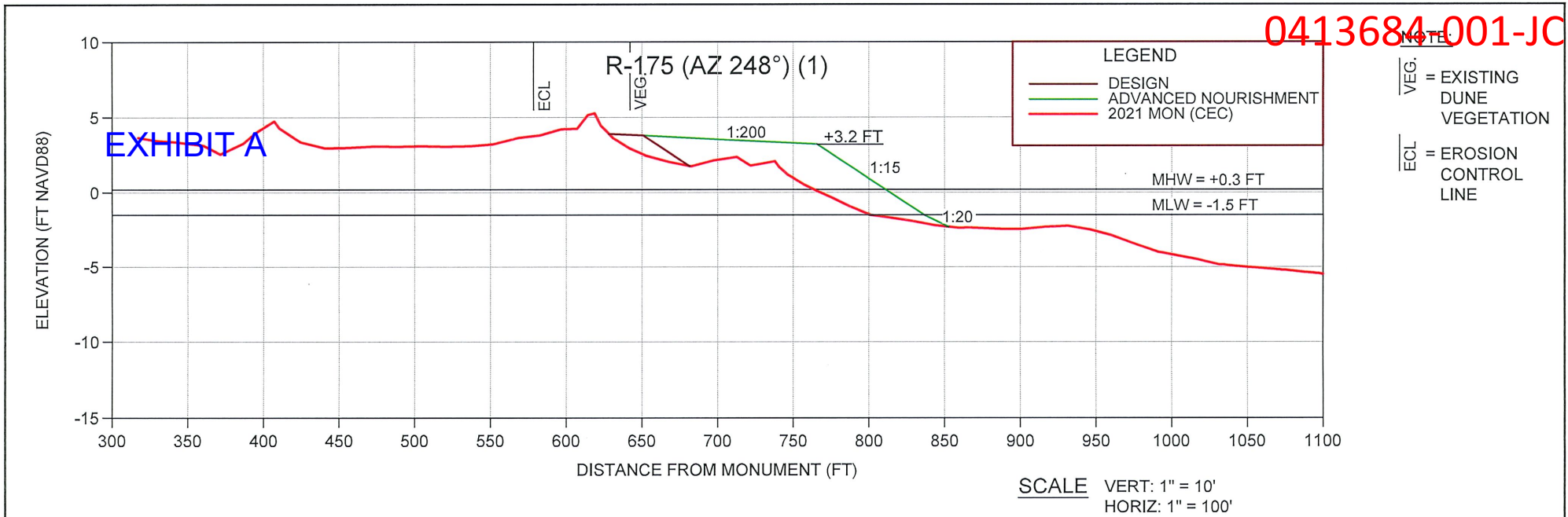


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SURVEYING: LB 2464
PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: TOWN OF FORT MYERS BEACH
TITLE: BEACH FILL
PLAN VIEW
(R187-R198)

DATE:		11/03/2022		SCALE:		AS NOTED					
DRAWN:		KMG		F.B.							
CHECKED:		MTP		PG.							
SEC.		TWP.		RNG.				3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
ACAD NO.		21504-Permit-2021.dwg						2	7/14/2022	MTP	ADDRESSED DEP RAI #2
REF. NO.		21.504						1	4/5/2022	KMG	ADDRESSED DEP RAI #1
								NO.	DATE	BY	REVISION DESCRIPTION



SHEET 6

FILE NO.: 21504-6



COASTAL ENGINEERING CONSULTANTS INC.

Serving Florida Since 1977

28421 BONITA CROSSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

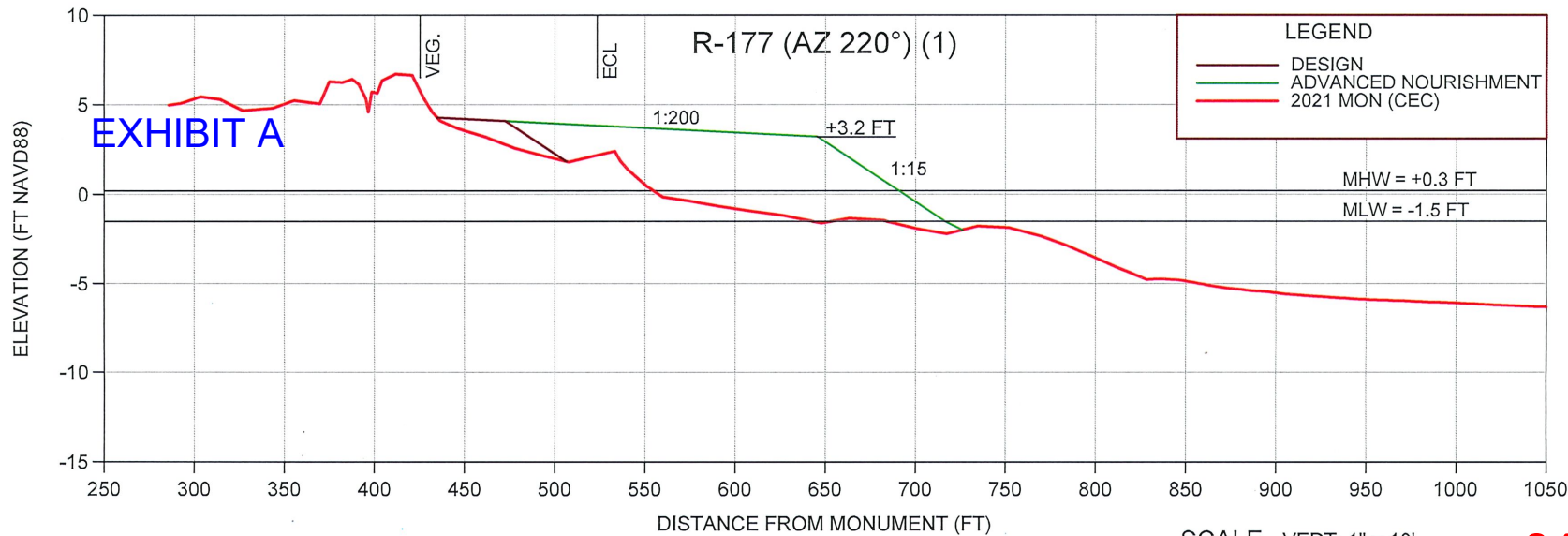
COASTAL & MARINE ENGINEERING
ENVIRONMENTAL & GEOLOGICAL SERVICES
SURVEY AND MAPPING
ENGINEERING: CA 2464
SURVEYING: LB 2464

PHONE: (239)643-2324
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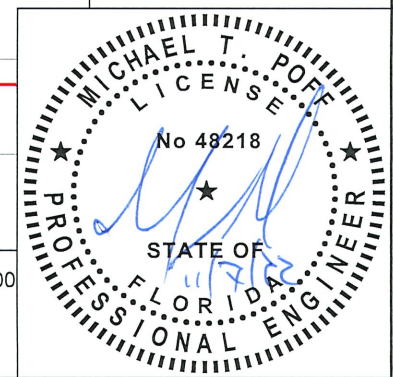
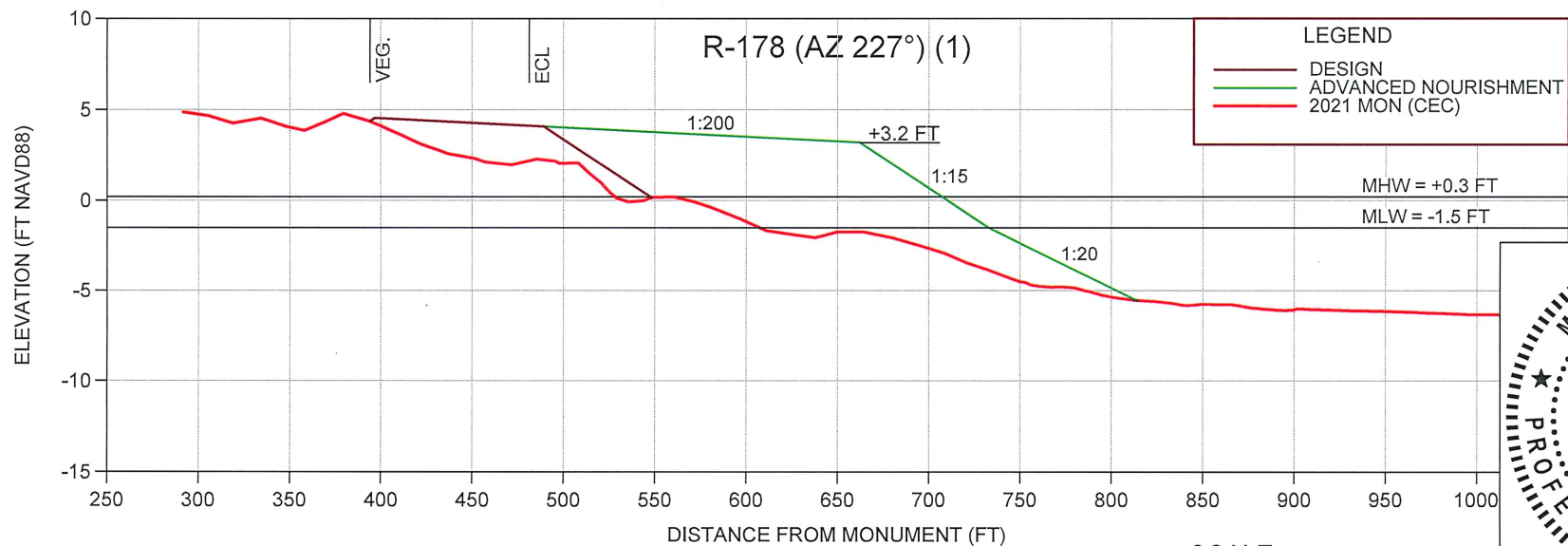
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TITLE: NORTH FILL SECTIONS

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CHECKED:	MTP	PG.					
SEC.	TWP.	RNG.		3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
ACAD NO.	21504-Permit-2021.dwg			2	7/14/2022	MTP	ADDRESSED DEP RAI #2
REF. NO.				1	4/5/2022	KMG	ADDRESSED DEP RAI #1
			21.504	NO.	DATE	BY	REVISION DESCRIPTION



Approved
0413684-001-JC



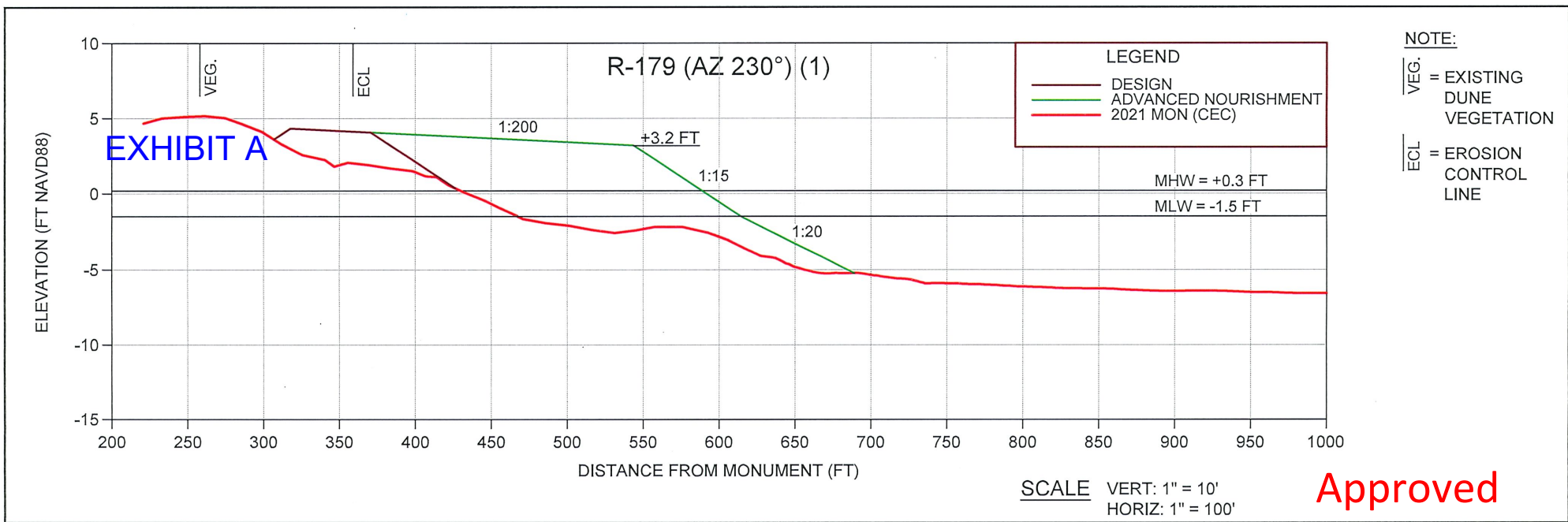
SHEET 7
FILE NO: 21504-7

COASTAL ENGINEERING CONSULTANTS INC.
Serving Florida Since 1977
28421 BONITA CROSSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

COASTAL & MARINE ENGINEERING
ENVIRONMENTAL & GEOLOGICAL SERVICES
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SURVEYING: LB 2464
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FAX: (239)643-1143
www.coastalengineering.com
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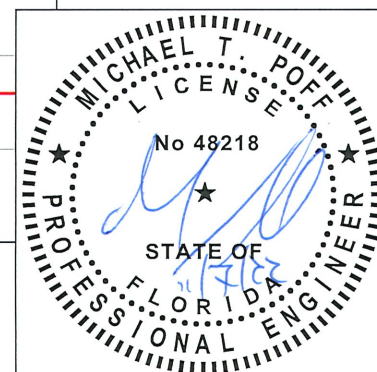
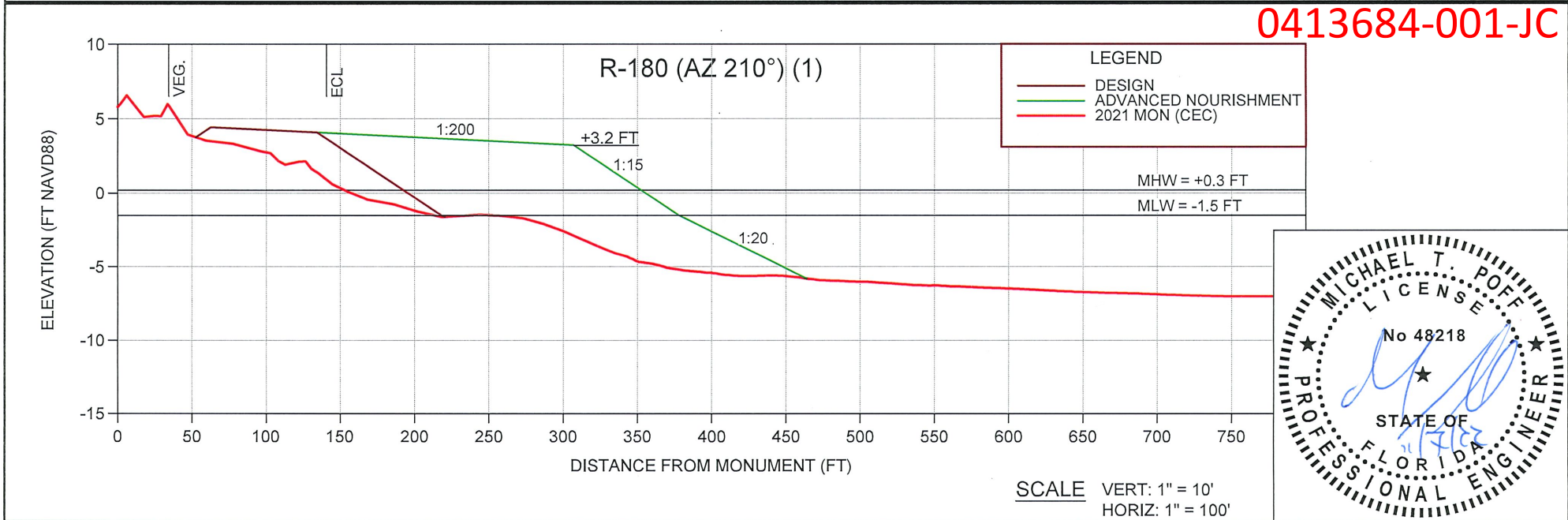
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TITLE: **NORTH FILL SECTIONS**

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CHECKED:	MTP	PG.	
SEC.	TWP.	RNG.	
ACAD NO.	21504-Permit-2021.dwg		
REF. NO.	21.504	NO.	DATE BY REVISION DESCRIPTION
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		2	7/14/2022 MTP ADDRESSED DEP RAI #2
		1	4/5/2022 KMG ADDRESSED DEP RAI #1



Approved

0413684-001-JC



SHEET 8

FILE NO.: 2104-8



COASTAL ENGINEERING CONSULTANTS INC.

Serving Florida Since 1977

28421 BONITA CROSSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

COASTAL & MARINE ENGINEERING
ENVIRONMENTAL & GEOLOGICAL SERVICES

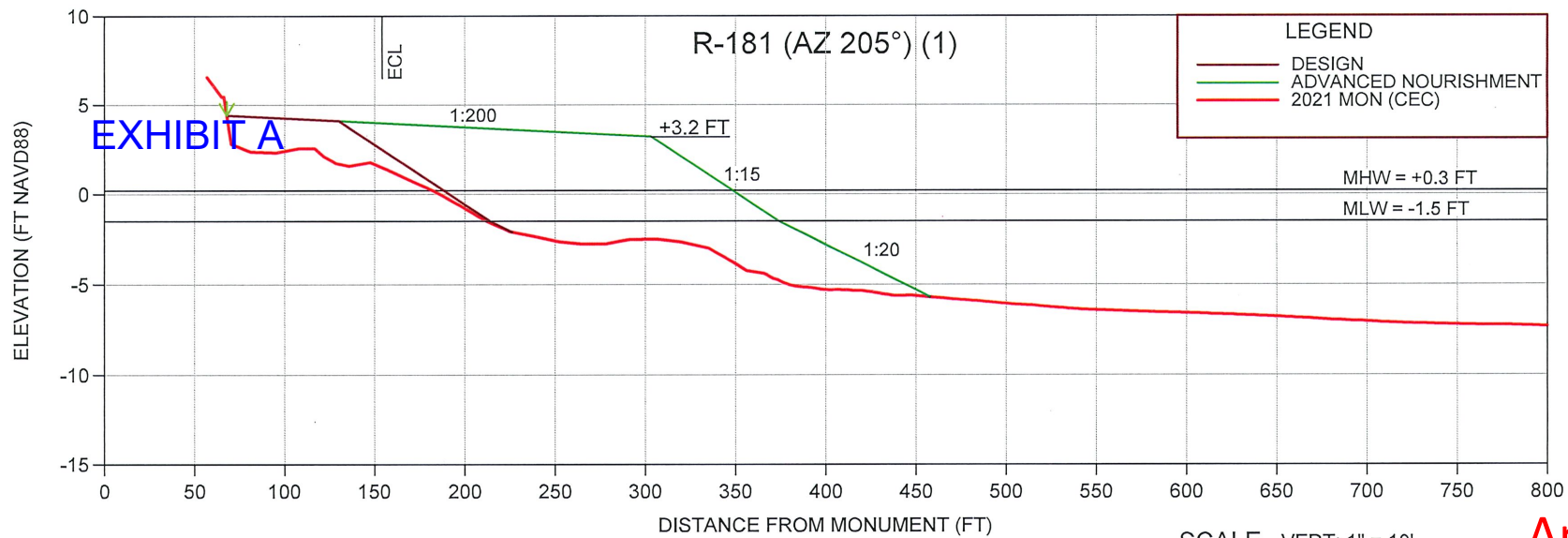
SURVEY AND MAPPING
ENGINEERING: CA 2464
SURVEYING: LB 2464

PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: TOWN OF FORT MYERS BEACH

TITLE: NORTH FILL SECTIONS

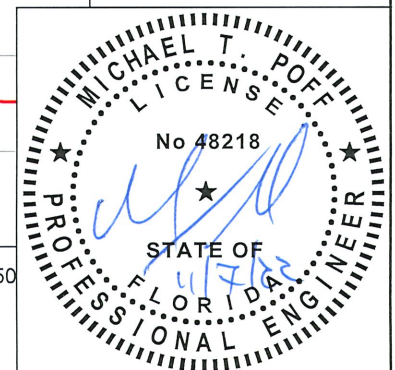
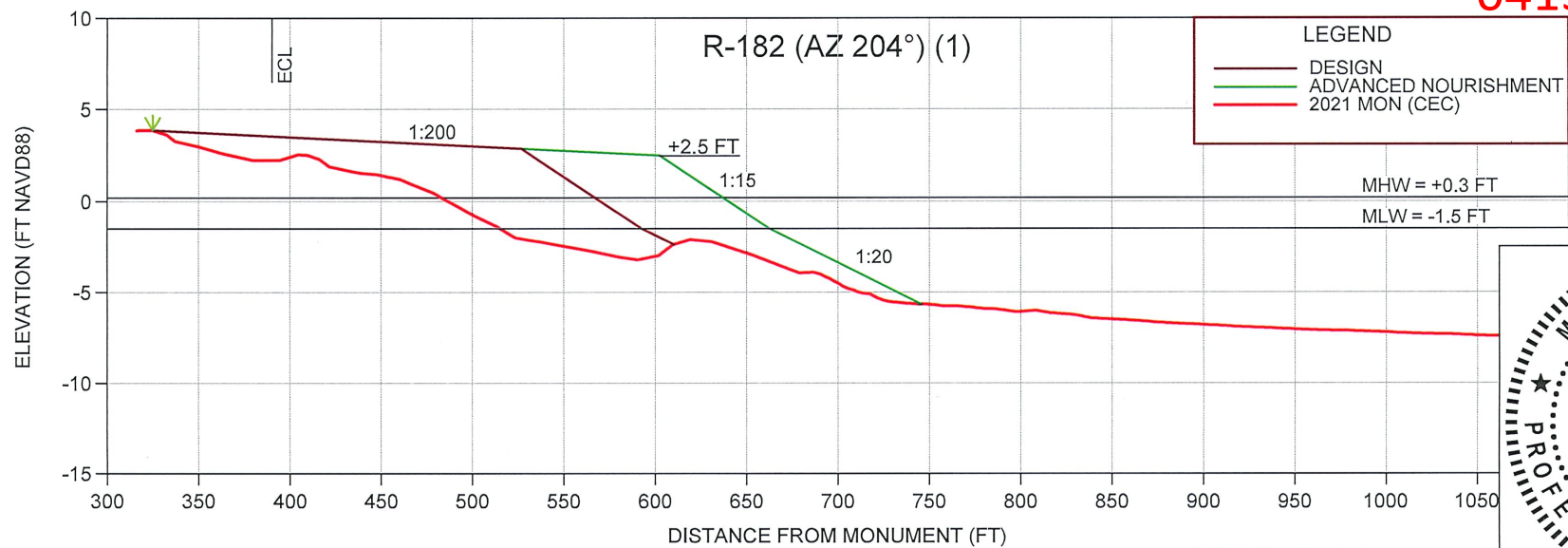
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ACAD NO.	21504-Permit-2021.dwg			2	7/14/2022	MTP	ADDRESSED DEP RAI #2
REF. NO.				1	4/5/2022	KMG	ADDRESSED DEP RAI #1
	21.504			NO.	DATE	BY	REVISION DESCRIPTION



NOTE:
 ▼ = 10' WIDE
 DUNE PLANTINGS
 AT GRADE

Approved

0413684-001-JC



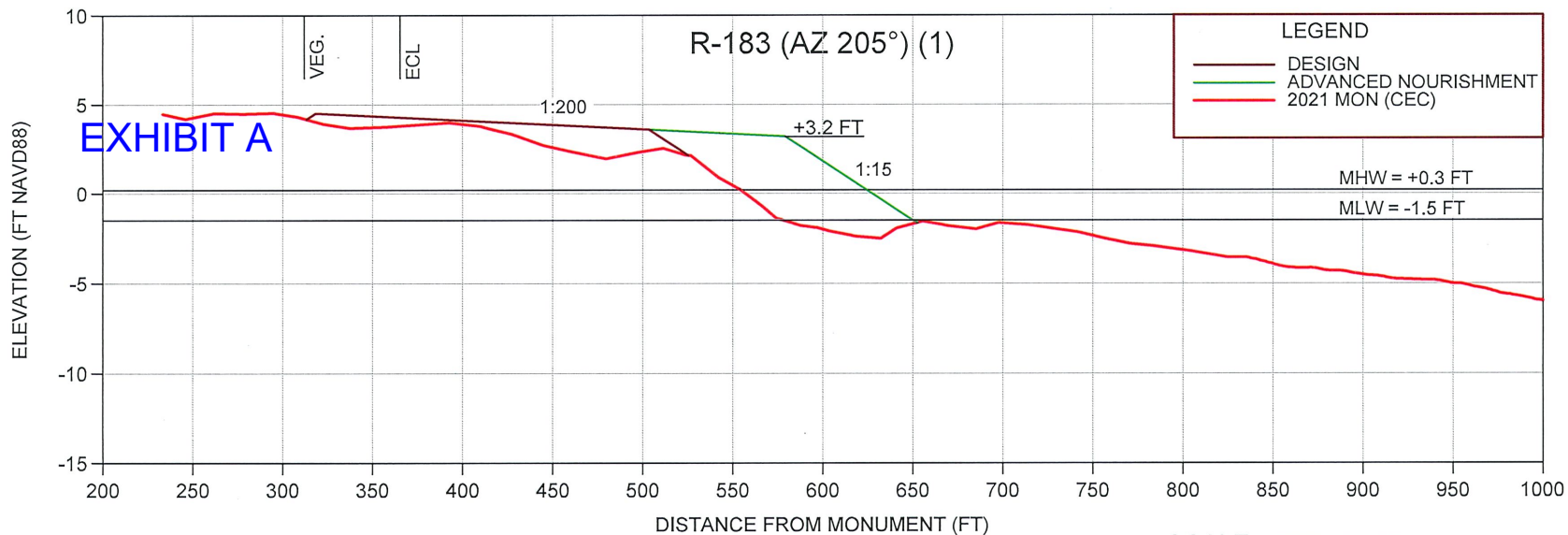
FILE NO. 21504-9

COASTAL ENGINEERING CONSULTANTS INC.
 Serving Florida Since 1977
 28421 BONITA CROSSINGS BLVD
 BONITA SPRINGS, FLORIDA 34135

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 ENVIRONMENTAL & GEOLOGICAL SERVICES
 SURVEY AND MAPPING
 ENGINEERING: CA 2464
 SURVEYING: LB 2464
 PHONE: (239)643-2324
 FAX: (239)643-1143
 www.coastalengineering.com
 E-Mail: info@cecifl.com

CLIENT: **TOWN OF FORT MYERS BEACH**
 TITLE: **NORTH FILL SECTIONS**

DATE:	11/03/2022	SCALE:	AS NOTED				
DRAWN:	KMG	F.B.					
CHECKED:	MTP	PG.					
SEC.	TWP.	RNG.					
ACAD NO.	21504-Permit-2021.dwg						
REF. NO.	21.504						
NO.	DATE	BY	REVISION DESCRIPTION				
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA				
2	7/14/2022	MTP	ADDRESSED DEP RAI #2				
1	4/5/2022	KMG	ADDRESSED DEP RAI #1				



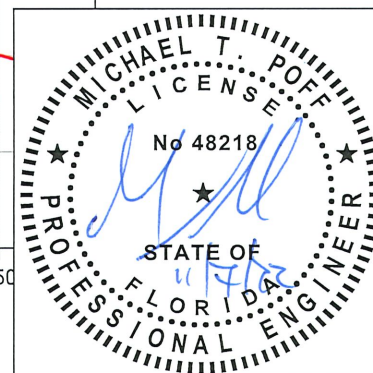
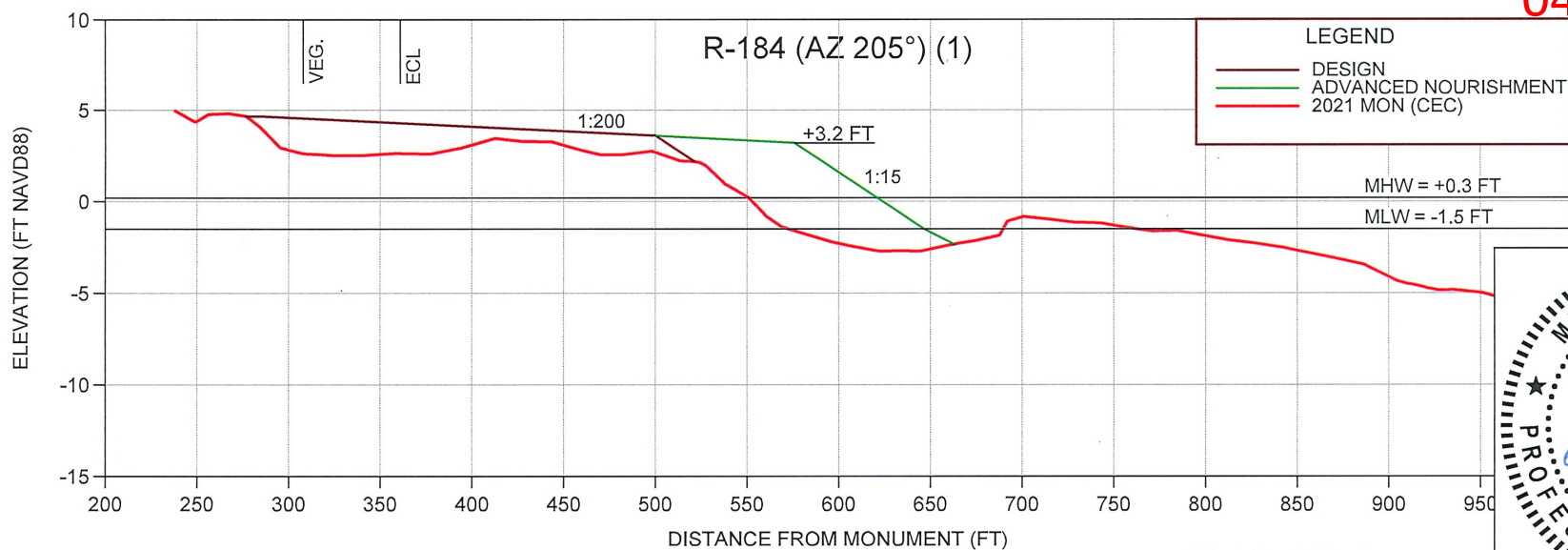
NOTE:

VEG. = EXISTING DUNE VEGETATION

ECL = EROSION CONTROL LINE

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BONITA SPRINGS, FLORIDA 34135

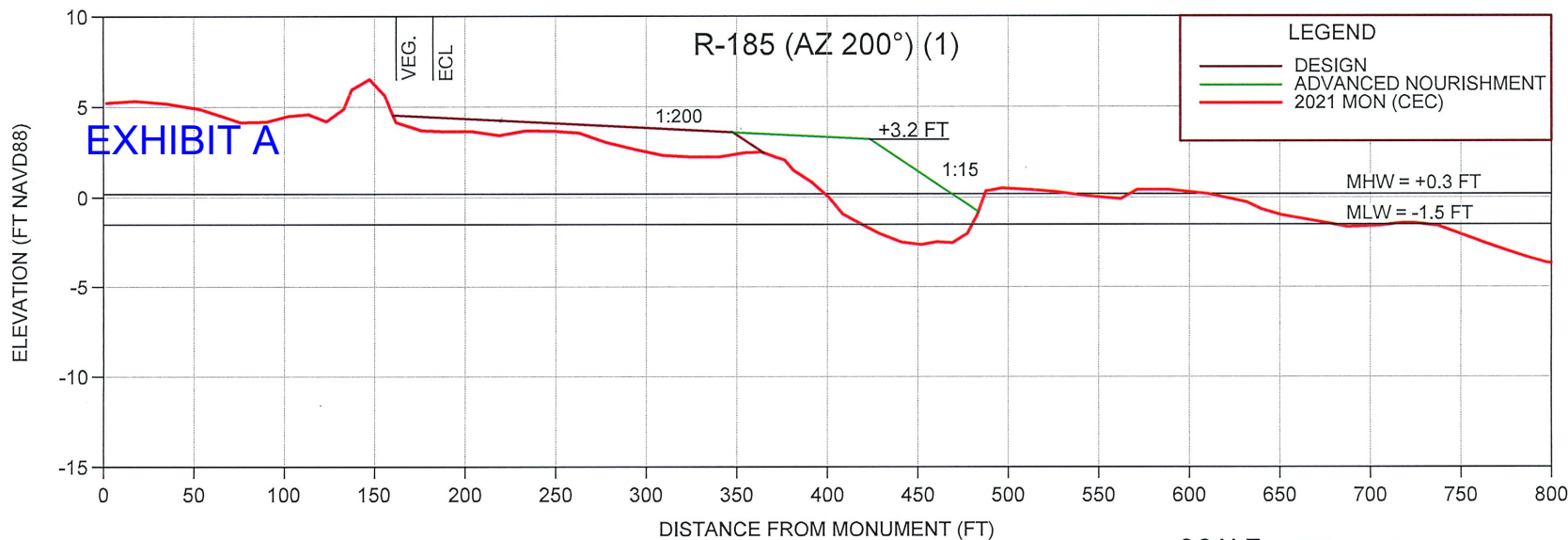
COASTAL & MARINE ENGINEERING
ENVIRONMENTAL & GEOLOGICAL SERVICES
SURVEY AND MAPPING
ENGINEERING: CA 2464
SURVEYING: LB 2464

PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: **TOWN OF FORT MYERS BEACH**

TITLE: **CENTRAL FILL SECTIONS**

DATE:	11/03/2022	SCALE:	AS NOTED		
DRAWN:	KMG	F.B.			
CHECKED:	MTP	PG.			
SEC.	TWP.	RNG.			
ACAD NO.	21504-Permit-2021.dwg				
REF. NO.	21.504				
NO.	DATE	BY	REVISION DESCRIPTION		
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA		
2	7/14/2022	MTP	ADDRESSED DEP RAI #2		
1	4/5/2022	KMG	ADDRESSED DEP RAI #1		



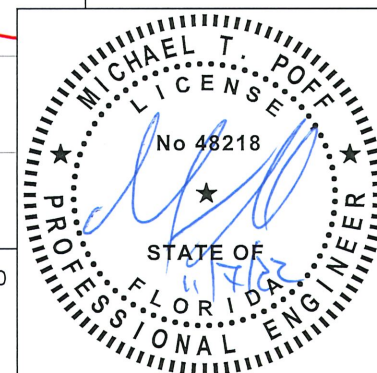
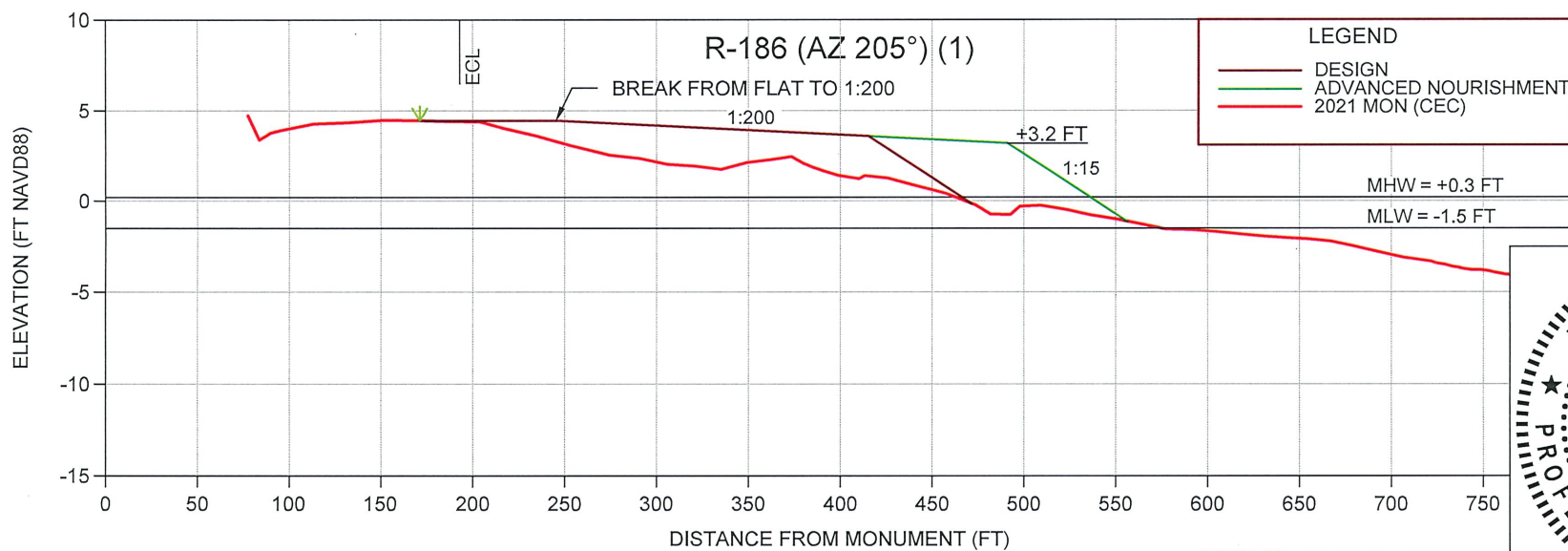
NOTE:
 ▼ = 10' WIDE
 DUNE PLANTINGS
 AT GRADE

VEG. = EXISTING
 DUNE
 VEGETATION

ECL = EROSION
 CONTROL
 LINE

Approved

0413684-001-JC



COASTAL ENGINEERING CONSULTANTS INC.
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 BONITA SPRINGS, FLORIDA 34135

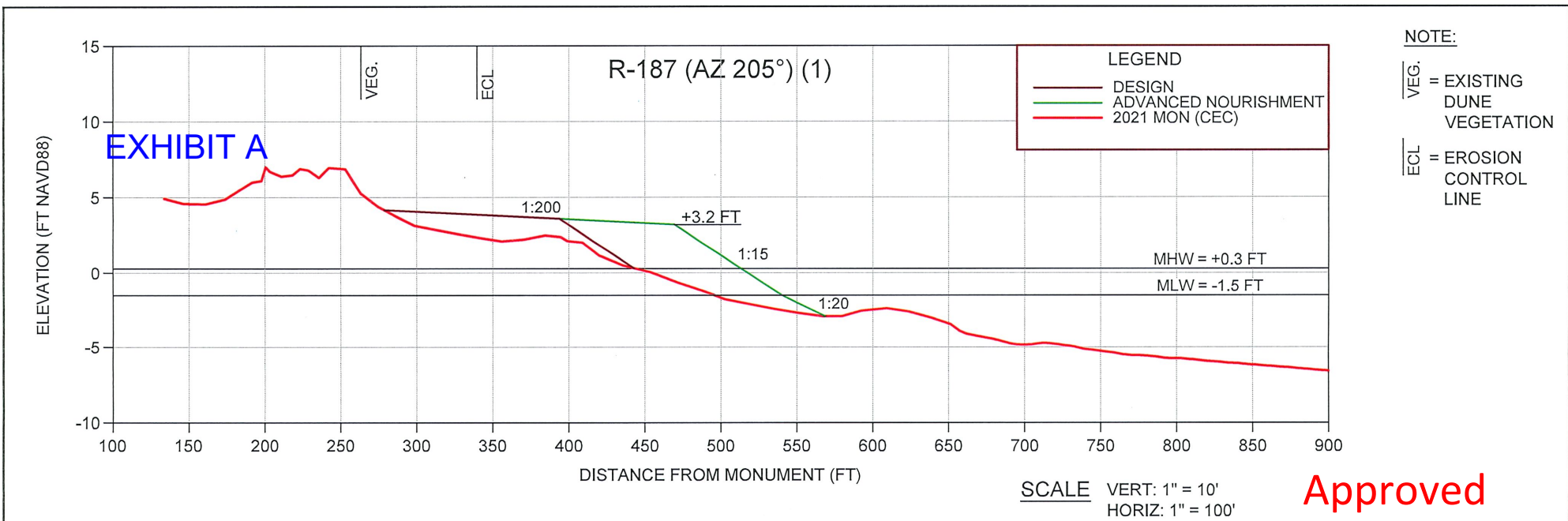
COASTAL & MARINE ENGINEERING
 ENVIRONMENTAL & GEOLOGICAL SERVICES
 SURVEY AND MAPPING
 ENGINEERING: CA 2464
 SURVEYING: LB 2464

PHONE: (239)643-2324
 FAX: (239)643-1143
 www.coastalengineering.com
 E-Mail: info@cecifl.com

CLIENT: **TOWN OF FORT MYERS BEACH**

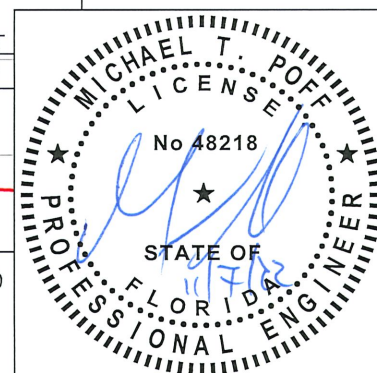
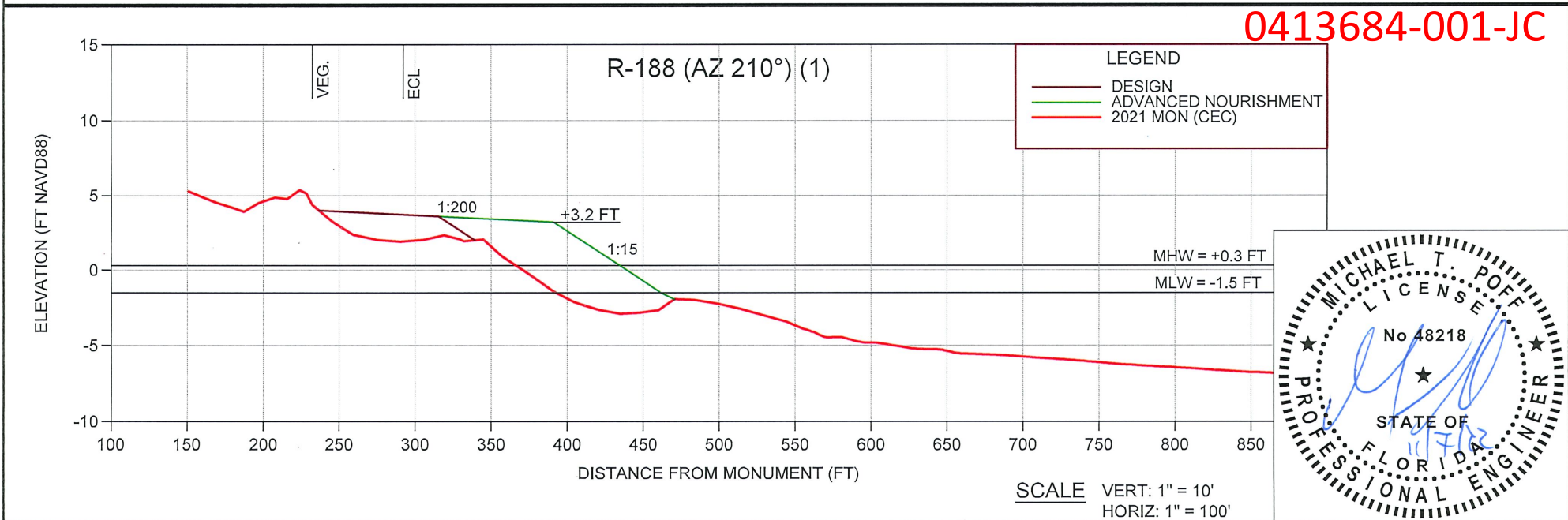
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CHECKED:	MTP	PG.					
SEC.	TWP.	RNG.					
ACAD NO.	21504-Permit-2021.dwg						
REF. NO.	21,504						
NO.	DATE	BY	REVISION DESCRIPTION				
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1	4/5/2022	KMG	ADDRESSED DEP RAI #1				

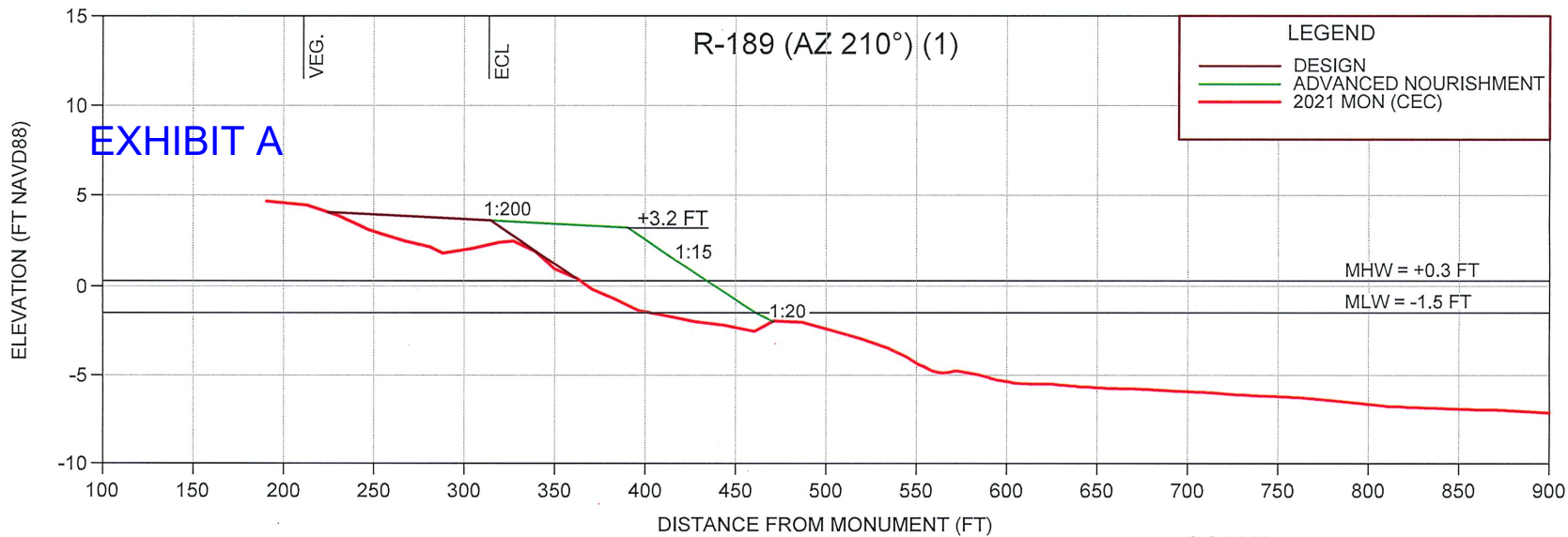


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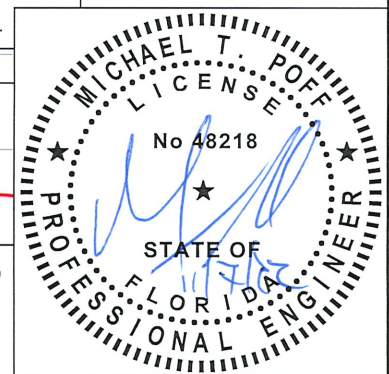
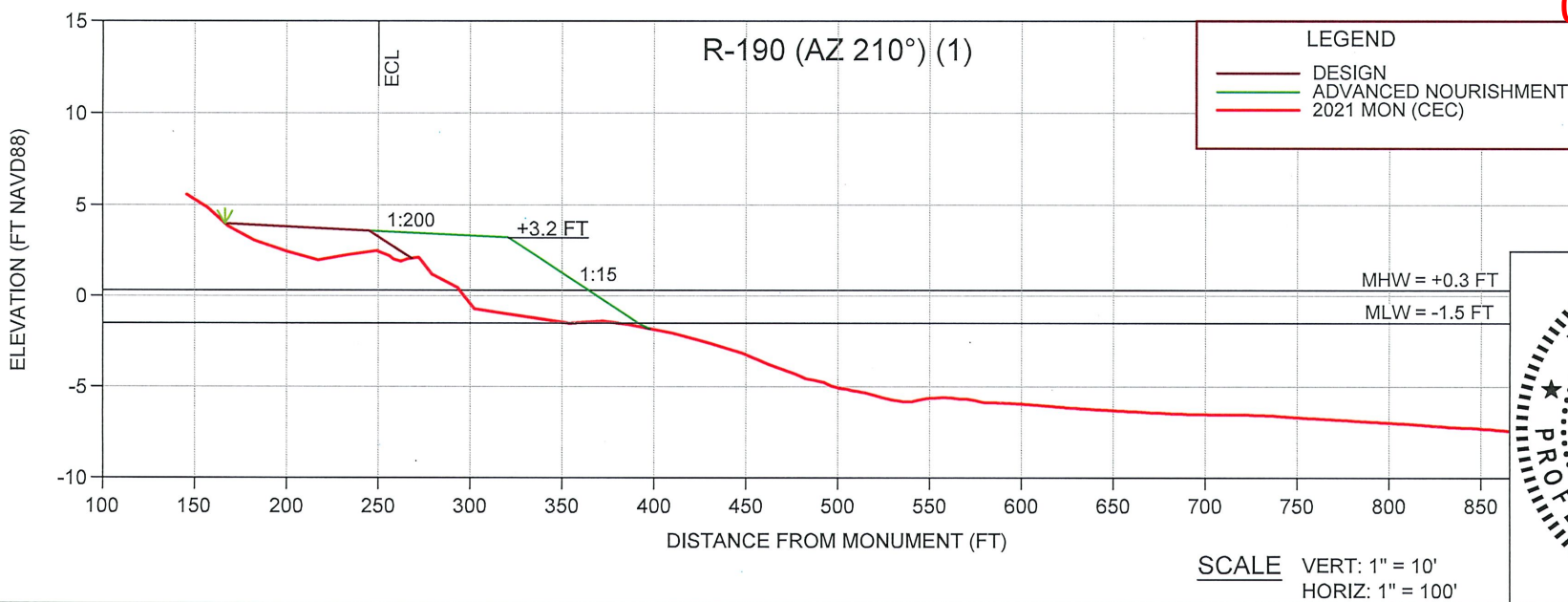


SHEET 12 FILE NO. 21504-12  COASTAL ENGINEERING CONSULTANTS INC. Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135 COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464 PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@ceciff.com	CLIENT: TOWN OF FORT MYERS BEACH	DATE: 11/03/2022	SCALE: AS NOTED				
	TITLE: CENTRAL FILL SECTIONS	DRAWN: KMG	F.B.				
		CHECKED: MTP	PG.				
		SEC.	TWP.	RNG.			
		ACAD NO. 21504-Permit-2021.dwg					
		REF. NO. 21.504					
			NO.	DATE	BY	REVISION DESCRIPTION	
			3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA	
			2	7/14/2022	MTP	ADDRESSED DEP RAI #2	
			1	4/5/2022	KMG	ADDRESSED DEP RAI #1	



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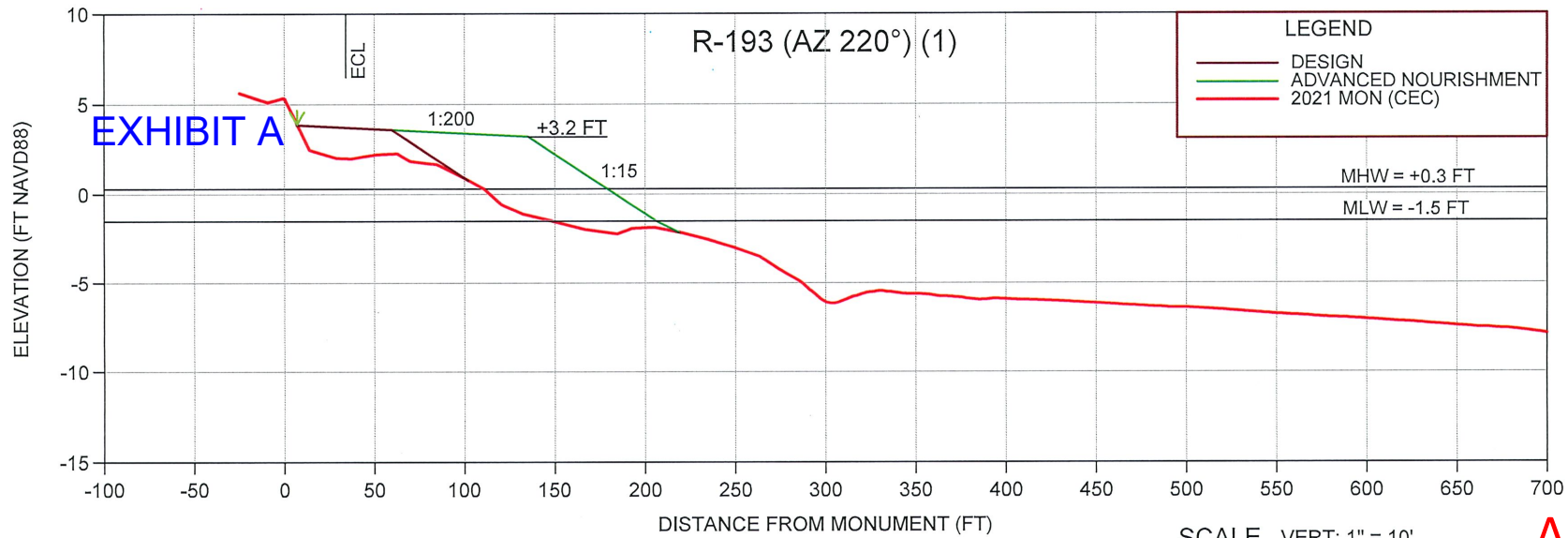
COASTAL ENGINEERING CONSULTANTS INC.
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28421 BONITA CROSSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464
PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: **TOWN OF FORT MYERS BEACH**

TITLE: **CENTRAL FILL SECTIONS**

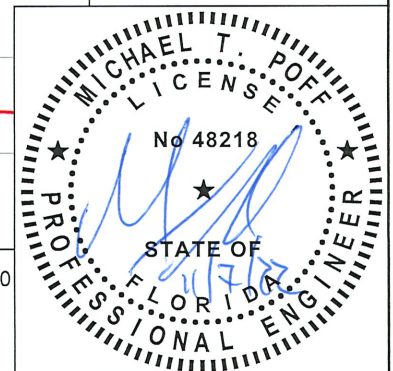
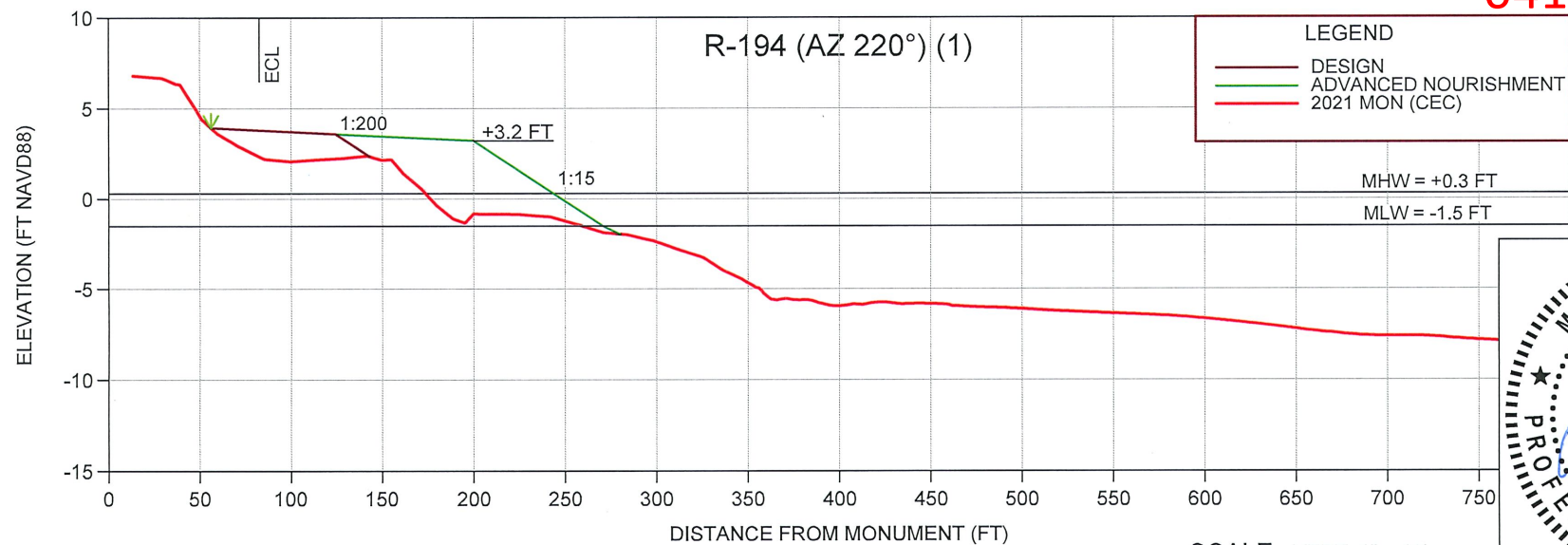
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CHECKED:	MTP	PG.	
SEC.	TWP.	RNG.	
ACAD NO.	21504-Permit-2021.dwg		
REF. NO.	21.504		
NO.	DATE	BY	REVISION DESCRIPTION
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
2	7/14/2022	MTP	ADDRESSED DEP RAI #2
1	4/5/2022	KMG	ADDRESSED DEP RAI #1



NOTE:
 ∇ = 10' WIDE
 DUNE PLANTINGS
 AT GRADE
 ECL = EROSION
 CONTROL
 LINE

Approved

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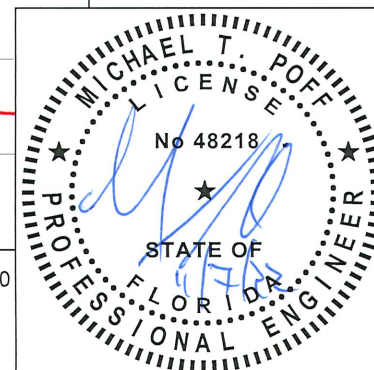
SHEET 15
FILE NO.: 21504-15

COASTAL ENGINEERING CONSULTANTS INC.
 Serving Florida Since 1977
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 BONITA SPRINGS, FLORIDA 34135

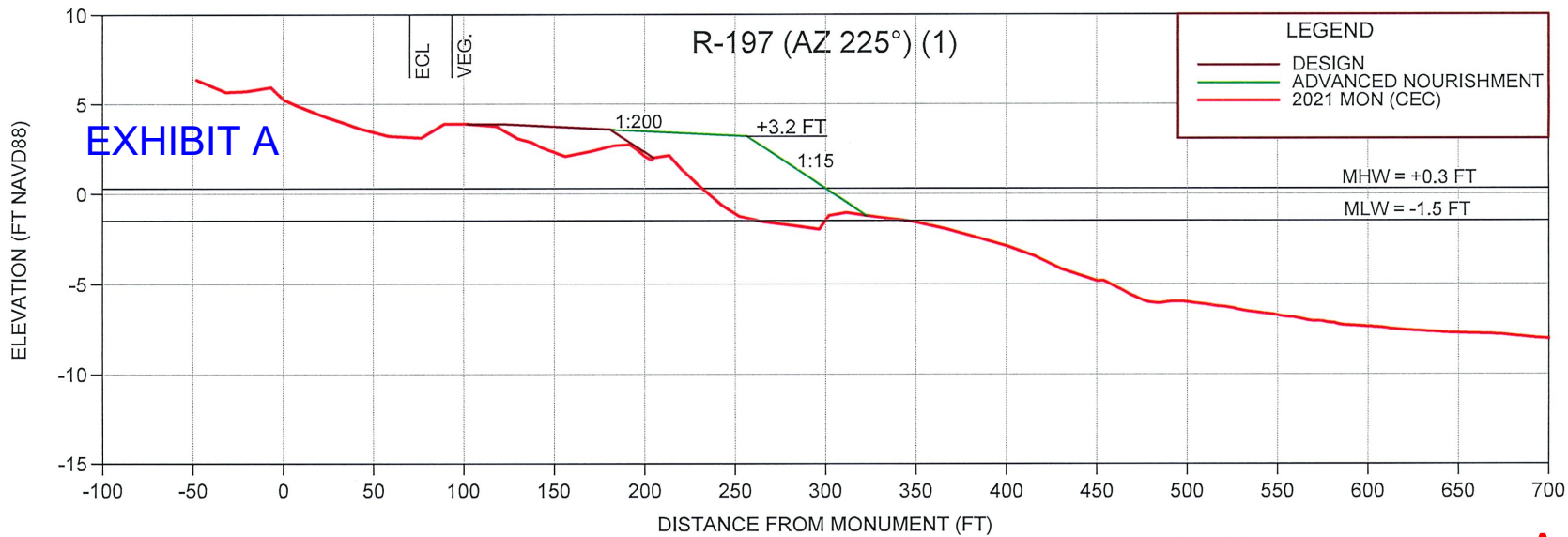
COASTAL & MARINE ENGINEERING
 ENVIRONMENTAL & GEOLOGICAL SERVICES
 SURVEY AND MAPPING
 ENGINEERING: CA 2464
 SURVEYING: LB 2464
 PHONE: (239)643-2324
 FAX: (239)643-1143
 www.coastalengineering.com
 E-Mail: info@cecifl.com

CLIENT: **TOWN OF FORT MYERS BEACH**
 TITLE: **CENTRAL FILL SECTIONS**

DATE:	11/03/2022	SCALE:	AS NOTED				
DRAWN:	KMG	F.B.					
CHECKED:	MTP	PG.					
SEC.	TWP.	RNG.					
ACAD NO.	21504-Permit-2021.dwg						
REF. NO.	21.504						
NO.	DATE	BY	REVISION DESCRIPTION				
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA				
2	7/14/2022	MTP	ADDRESSED DEP RAI #2				
1	4/5/2022	KMG	ADDRESSED DEP RAI #1				



 COASTAL ENGINEERING CONSULTANTS INC. Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464		CLIENT: TOWN OF FORT MYERS BEACH	DATE: 11/03/2022 DRAWN: KMG CHECKED: MTP SEC. 2 ACAD NO. 21504-Permit-2021.dwg REF. NO.	SCALE: AS NOTED F.B. PG. RNG. 21.504	NO. DATE BY REVISION DESCRIPTION	3 11/03/2022 KMG ADDED OFFSHORE BORROW AREA 2 7/14/2022 MTP ADDRESSED DEP RAI #2 1 4/5/2022 KMG ADDRESSED DEP RAI #1
	TITLE: CENTRAL FILL SECTIONS						



LEGEND

DESIGN

ADVANCED NOURISHMENT

2021 MON (CEC)

NOTE:

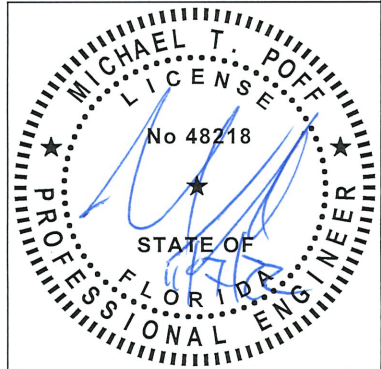
VEG. = EXISTING DUNE VEGETATION

ECL = EROSION CONTROL LINE

SCALE VERT: 1" = 10'
HORIZ: 1" = 100'

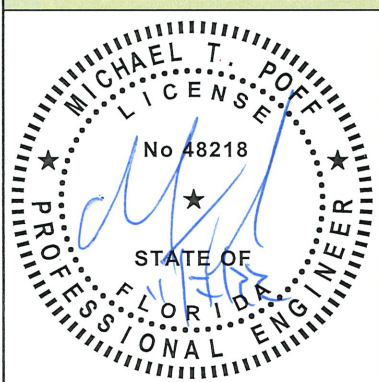
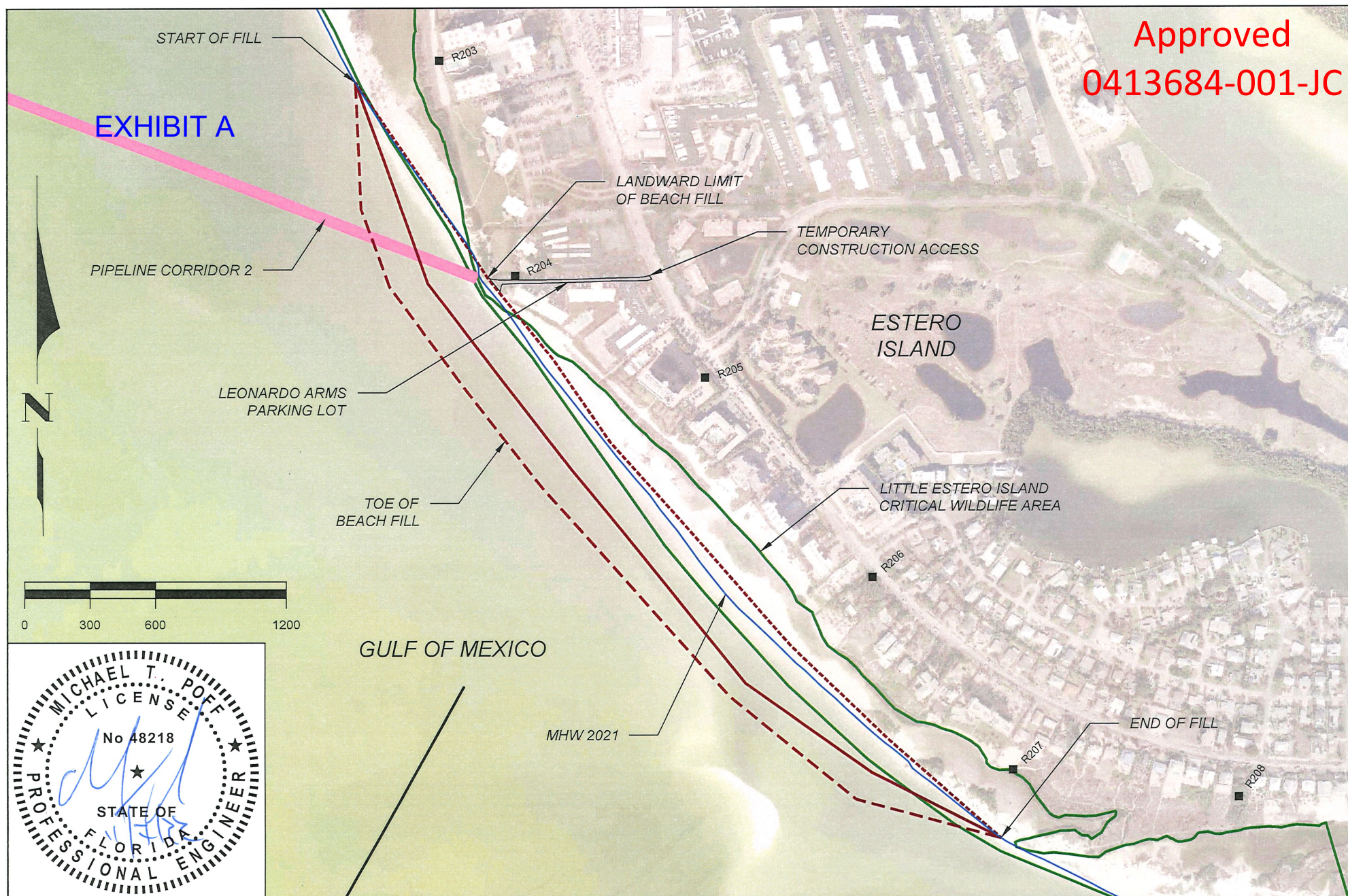
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SHEET 17 FILE NO.: 21504-17  COASTAL ENGINEERING CONSULTANTS INC. Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464 PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@cecifl.com	CLIENT: TOWN OF FORT MYERS BEACH TITLE: CENTRAL FILL SECTIONS	DATE: 11/03/2022 DRAWN: KMG CHECKED: MTP SEC. TWP. RNG. ACAD NO. 21504-Permit-2021.dwg REF. NO. 21.504	SCALE: AS NOTED F.B. PG.	<table><tr><td></td><td></td><td></td><td></td></tr><tr><td>3</td><td>11/03/2022</td><td>KMG</td><td>ADDED OFFSHORE BORROW AREA</td></tr><tr><td>2</td><td>7/14/2022</td><td>MTP</td><td>ADDRESSED DEP RAI #2</td></tr><tr><td>1</td><td>4/5/2022</td><td>KMG</td><td>ADDRESSED DEP RAI #1</td></tr><tr><td>NO.</td><td>DATE</td><td>BY</td><td>REVISION DESCRIPTION</td></tr></table>					3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA	2	7/14/2022	MTP	ADDRESSED DEP RAI #2	1	4/5/2022	KMG	ADDRESSED DEP RAI #1	NO.	DATE	BY	REVISION DESCRIPTION
	3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA																					
	2	7/14/2022	MTP	ADDRESSED DEP RAI #2																					
	1	4/5/2022	KMG	ADDRESSED DEP RAI #1																					
	NO.	DATE	BY	REVISION DESCRIPTION																					

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0413684-001-JC



COASTAL ENGINEERING CONSULTANTS INC.
Serving Florida Since 1977
28421 BONITA CROSSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

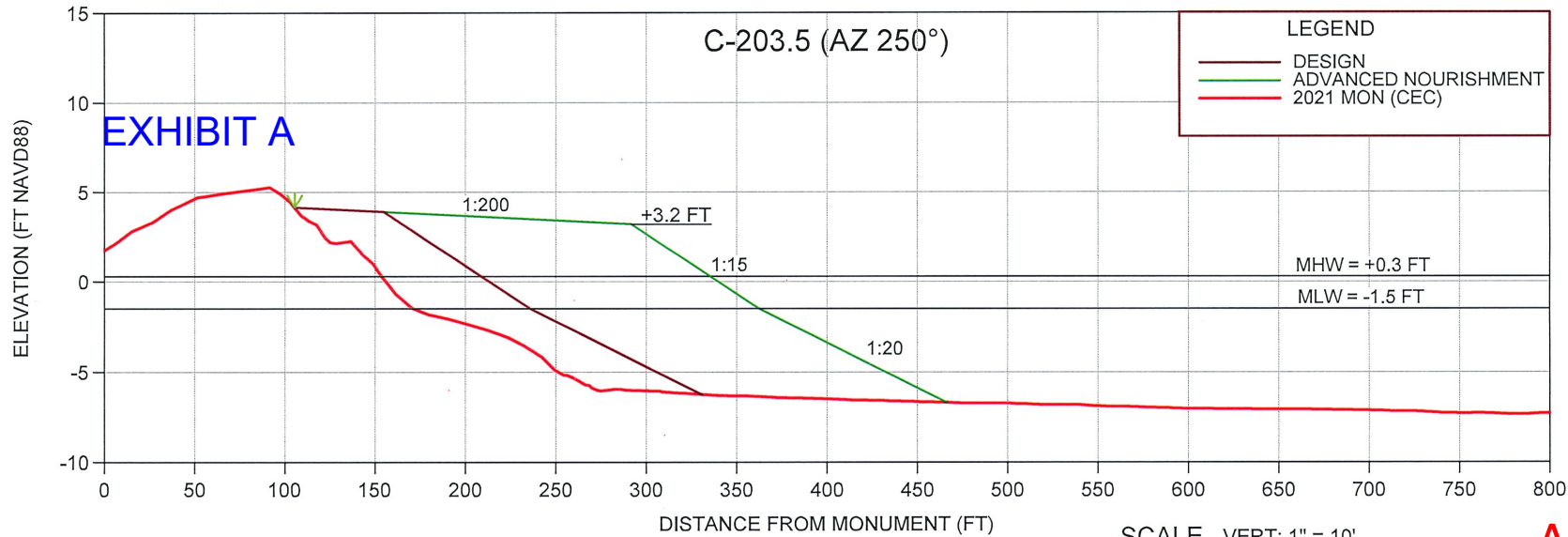
COASTAL & MARINE ENGINEERING
ENVIRONMENTAL & GEOLOGICAL SERVICES
SURVEY AND MAPPING
ENGINEERING: CA 2464
SURVEYING: LB 2464

PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: **TOWN OF FORT MYERS BEACH**

TITLE: **BEACH FILL
PLAN VIEW
(R203-R207)**

DATE:		11/03/2022		SCALE:		AS NOTED					
DRAWN:		KMG		F.B.							
CHECKED:		MTP		PG.							
SEC.		TWP.		RNG.				3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
ACAD NO.		21504-Permit-2021.dwg						2	7/14/2022	MTP	ADDRESSED DEP RAI #2
REF. NO.		21.504						1	4/5/2022	KMG	ADDRESSED DEP RAI #1
								NO.	DATE	BY	REVISION DESCRIPTION



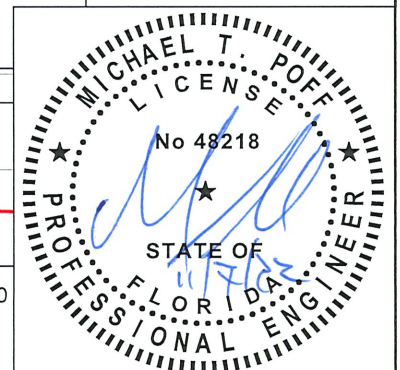
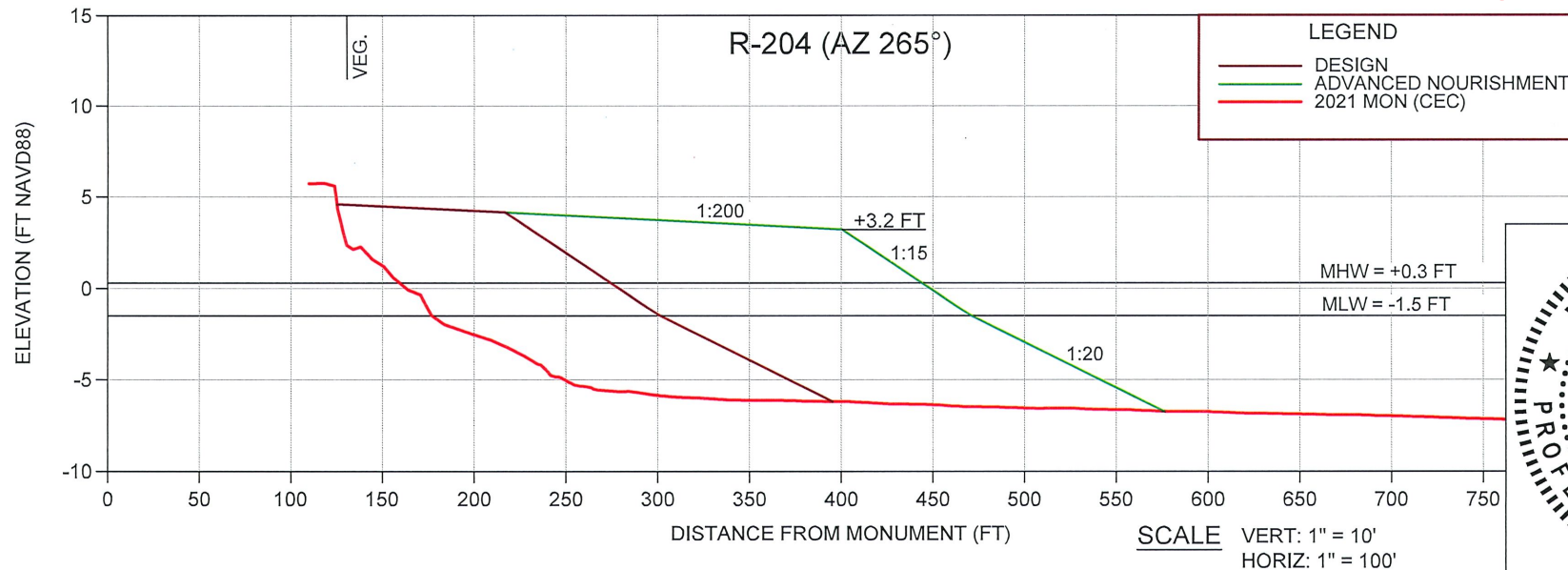
NOTE:

▼ = 10' WIDE
DUNE PLANTINGS
AT GRADE

VEG = EXISTING
DUNE
VEGETATION

Approved

0413684-001-JC



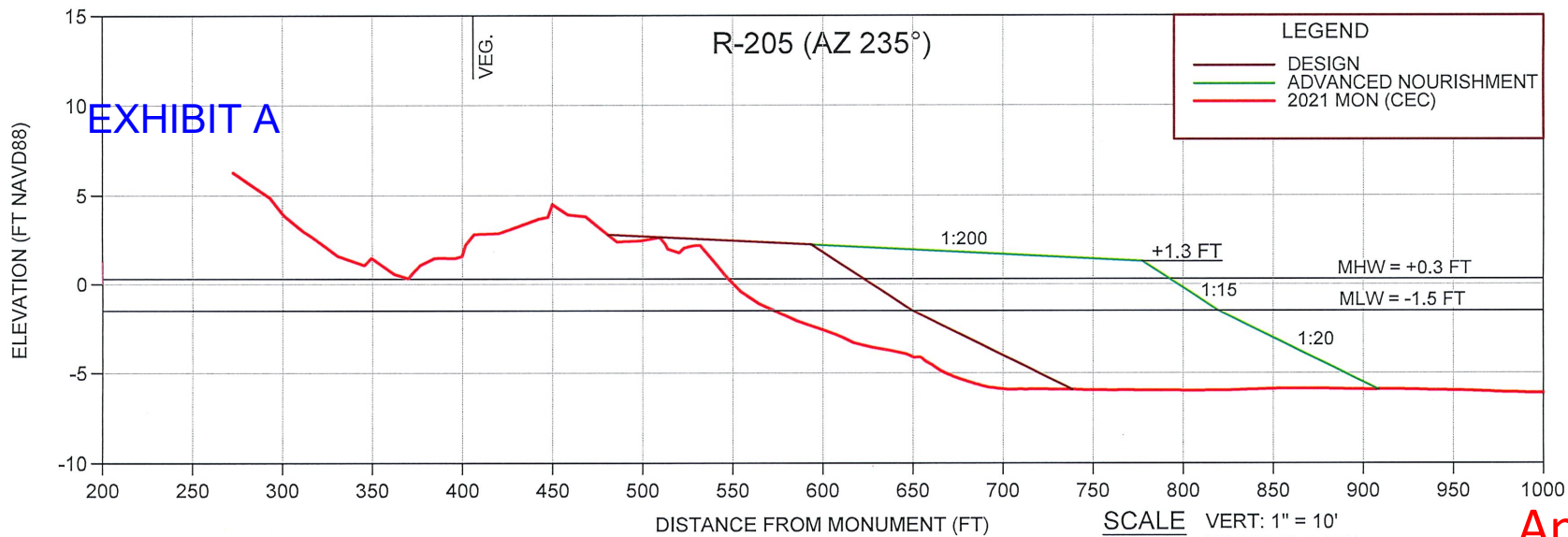
COASTAL ENGINEERING CONSULTANTS INC.
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BONITA SPRINGS, FLORIDA 34135

COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464
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CLIENT: **TOWN OF FORT MYERS BEACH**

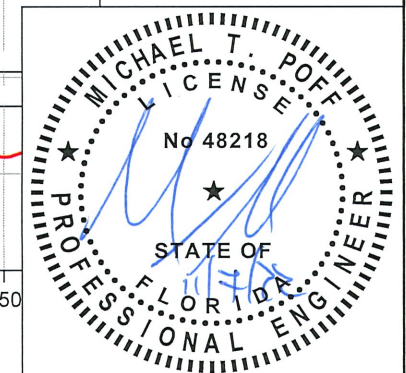
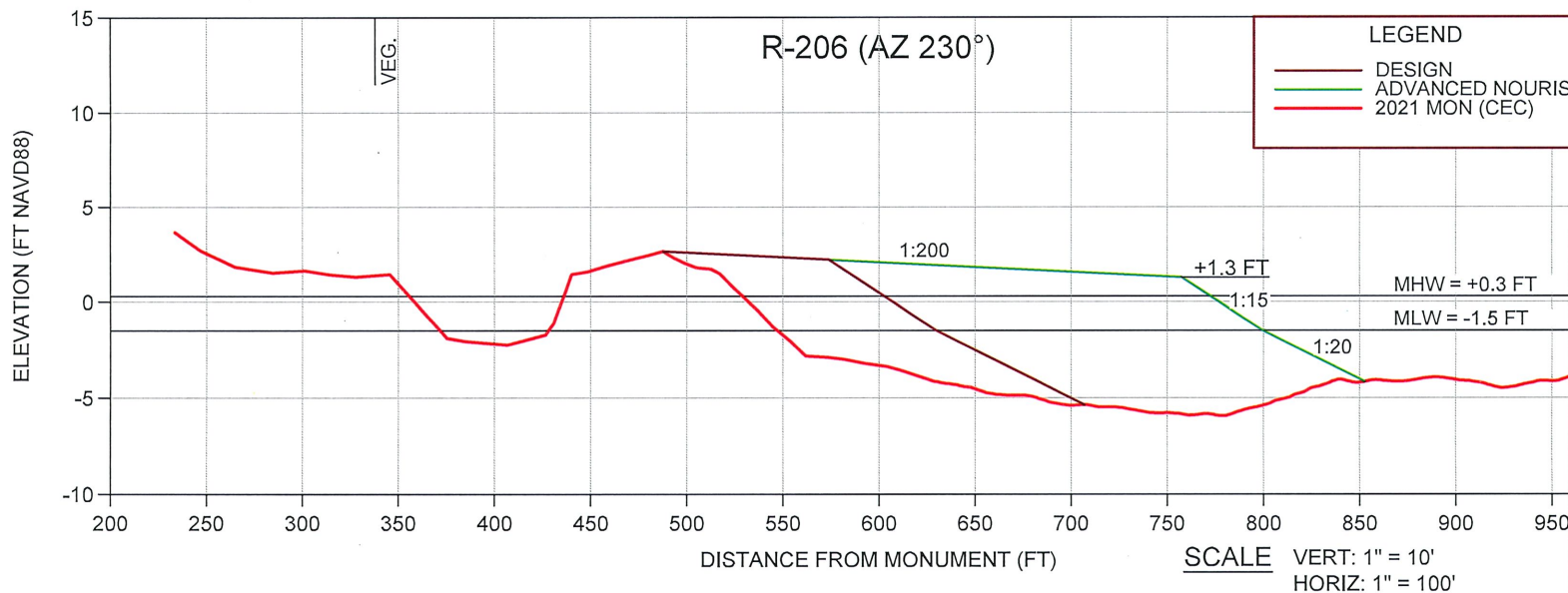
TITLE: **SOUTH FILL
TYPICAL SECTIONS**

DATE:	11/03/2022	SCALE:	AS NOTED				
DRAWN:	KMG	F.B.					
CHECKED:	MTP	PG.					
SEC.	TWP.	RNG.					
ACAD NO.	21504-Permit-2021.dwg						
REF. NO.	21.504						
		NO.	DATE	BY	REVISION DESCRIPTION		
		3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA		
		2	7/14/2022	MTP	ADDRESSED DEP RAI #2		
		1	4/5/2022	KMG	ADDRESSED DEP RAI #1		



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ENGINEERING: CA 2464
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www.coastalengineering.com
E-Mail: info@ceciff.com

CLIENT: **TOWN OF FORT MYERS BEACH**

TITLE: **SOUTH FILL
TYPICAL SECTIONS**

DATE: 11/03/2022 SCALE: AS NOTED

DRAWN: KMG F.B.

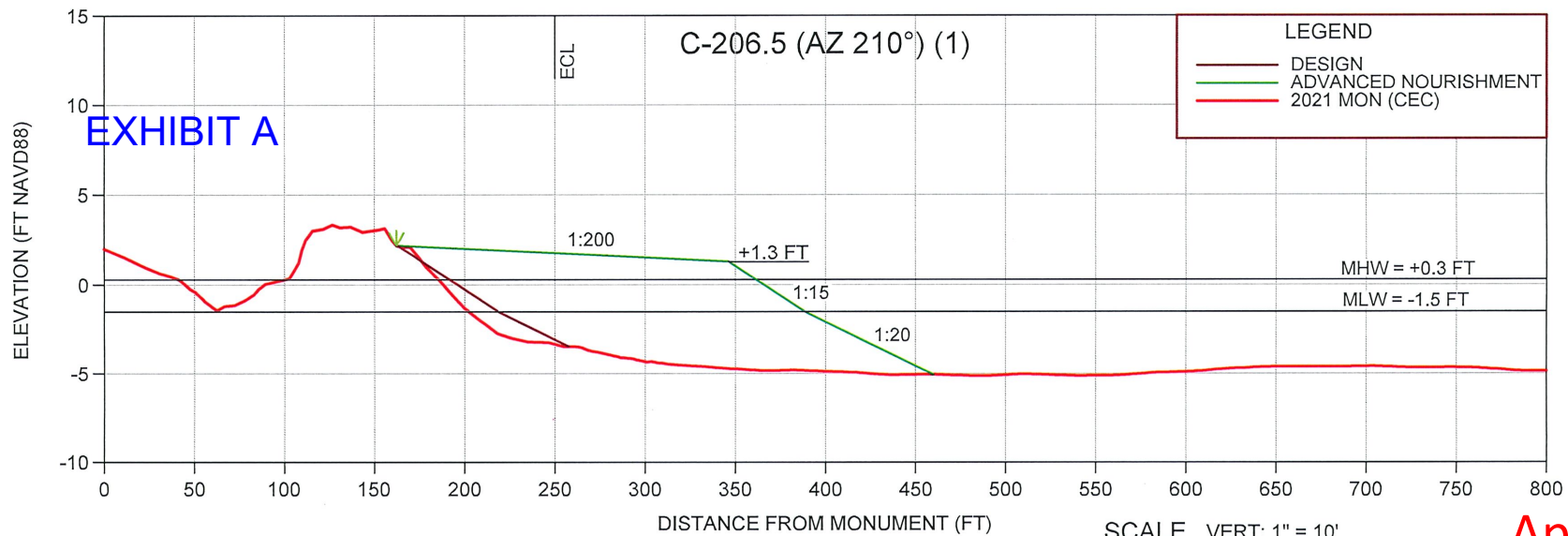
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SEC. TWP. RNG.

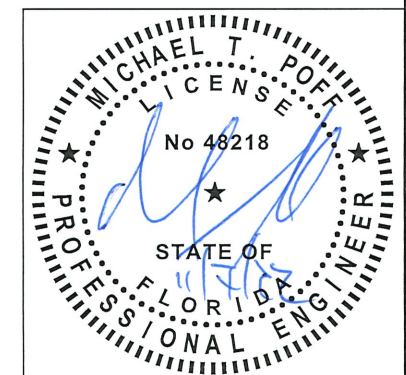
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REF. NO. 21.504

NO.	DATE	BY	REVISION DESCRIPTION
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
2	7/14/2022	MTP	ADDRESSED DEP RAI #2
1	4/5/2022	KMG	ADDRESSED DEP RAI #1



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SHEET 21
FILE NO. 21504-21



28421 BONITA CROSSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

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www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: TOWN OF FORT MYERS BEACH

TITLE: SOUTH FILL
TYPICAL SECTIONS

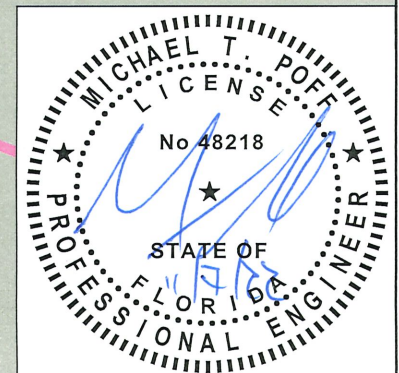
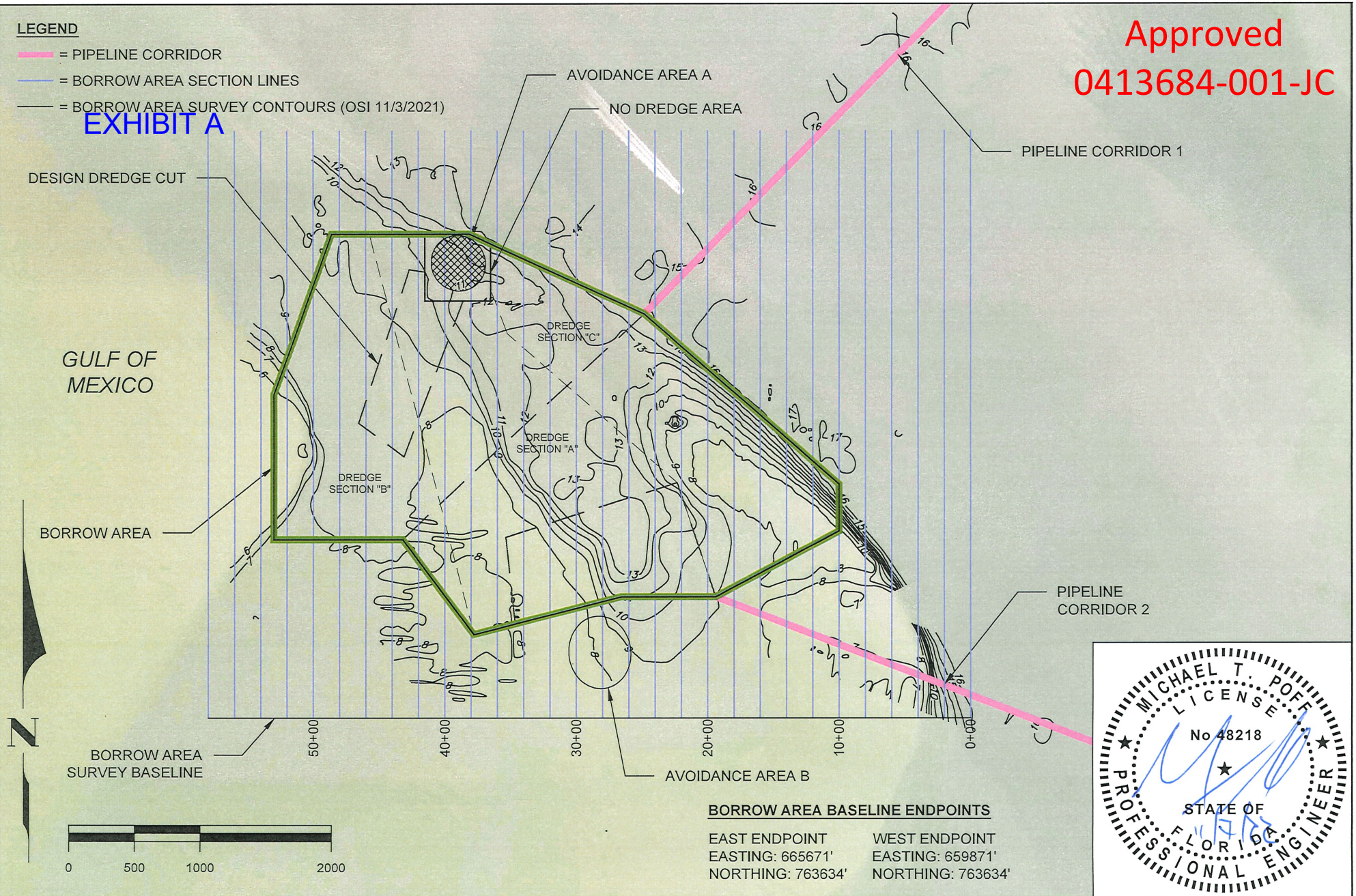
DATE:	11/03/2022	SCALE:	AS NOTED				
DRAWN:	KMG	F.B.					
CHECKED:	MTP	PG.					
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ACAD NO.	21504-Permit-2021.dwg			2	7/14/2022	MTP	ADDRESSED DEP RAI #2
REF. NO.	21.504			1	4/5/2022	KMG	ADDRESSED DEP RAI #1
				NO.	DATE	BY	REVISION DESCRIPTION

LEGEND

- = PIPELINE CORRIDOR
- = BORROW AREA SECTION LINES
- = BORROW AREA SURVEY CONTOURS (OSI 11/3/2021)

EXHIBIT A

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0413684-001-JC



SHEET 22
FILE NO.: 21504-22

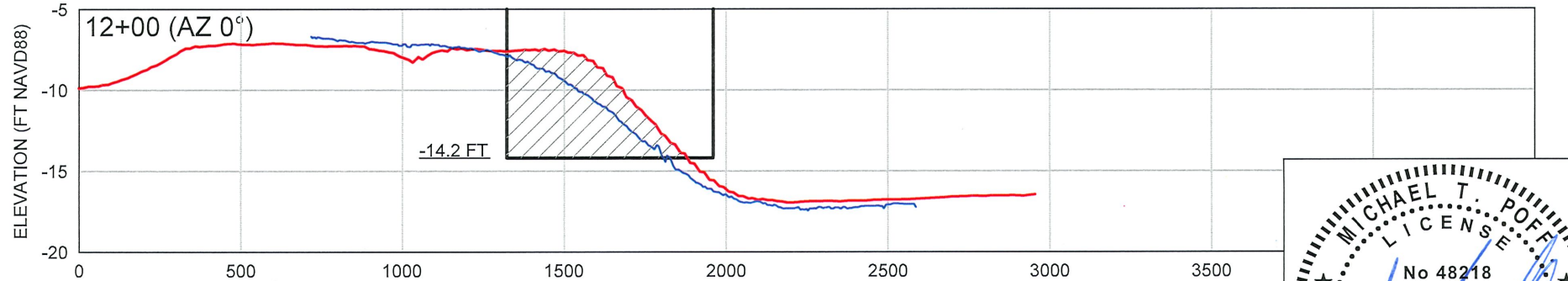
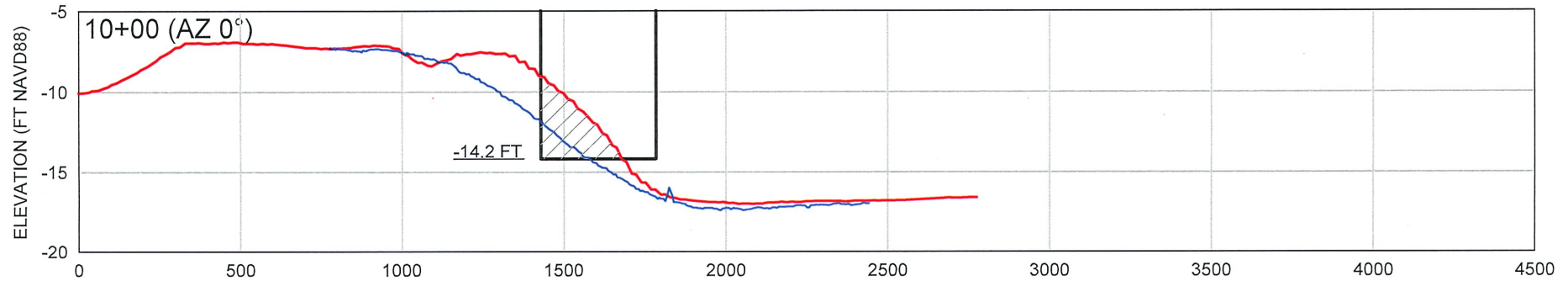
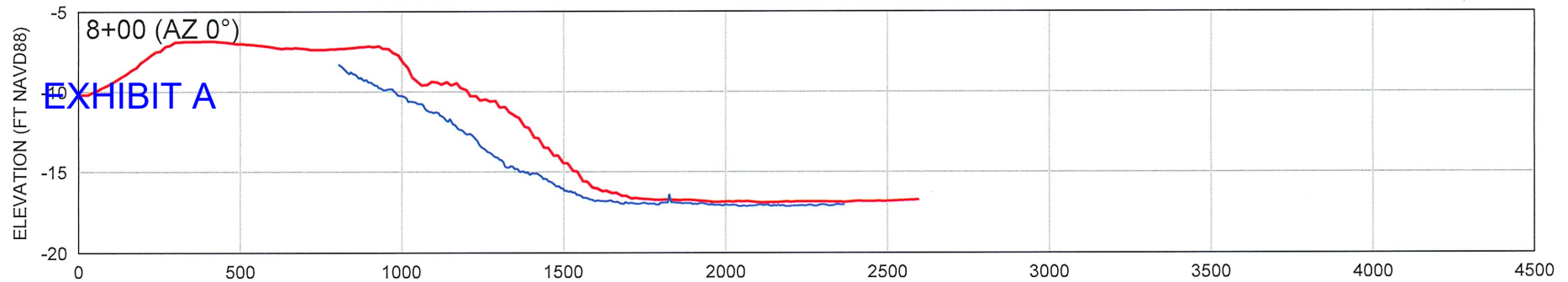
COASTAL ENGINEERING CONSULTANTS INC.
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www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: **TOWN OF FORT MYERS BEACH**

TITLE: **BORROW AREA
PLAN VIEW**

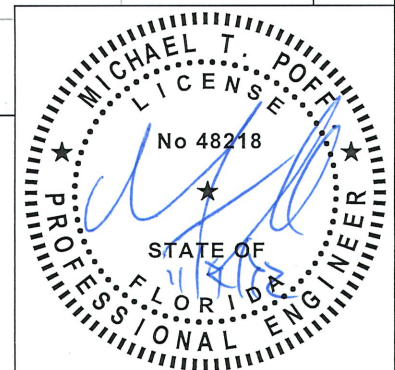
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CHECKED:	MTP	PG.					
SEC.	TWP.	RNG.					
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1	4/5/2022	KMG	ADDRESSED DEP RAI #1				



LEGEND

- JANUARY 6, 2012 POST-CON SURVEY (CPE)
- NOVEMBER 3, 2021 SURVEY (OSI)
- BORROW AREA DREDGE TEMPLATE

SCALE VERT: 1" = 10'
HORIZ: 1" = 500'



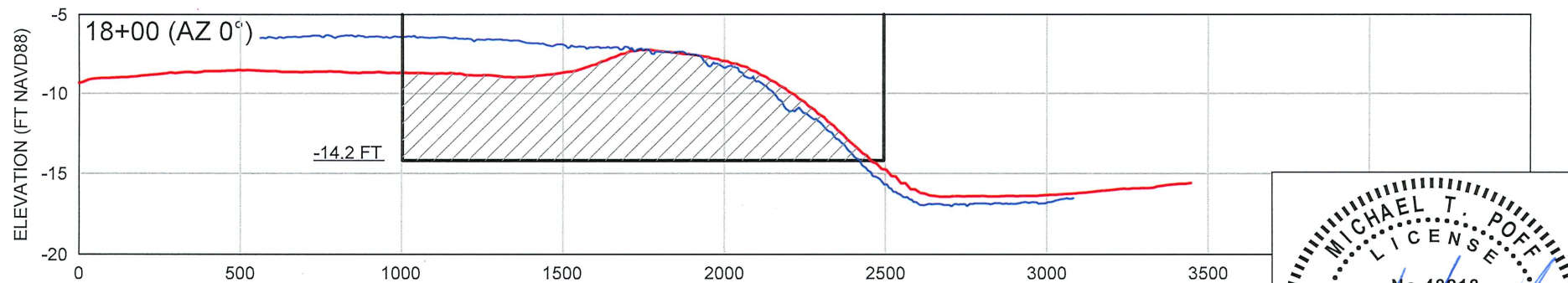
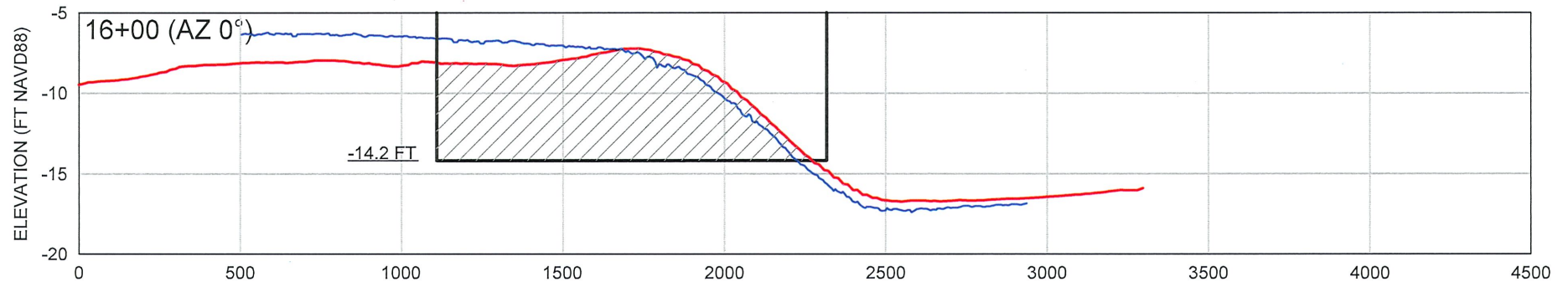
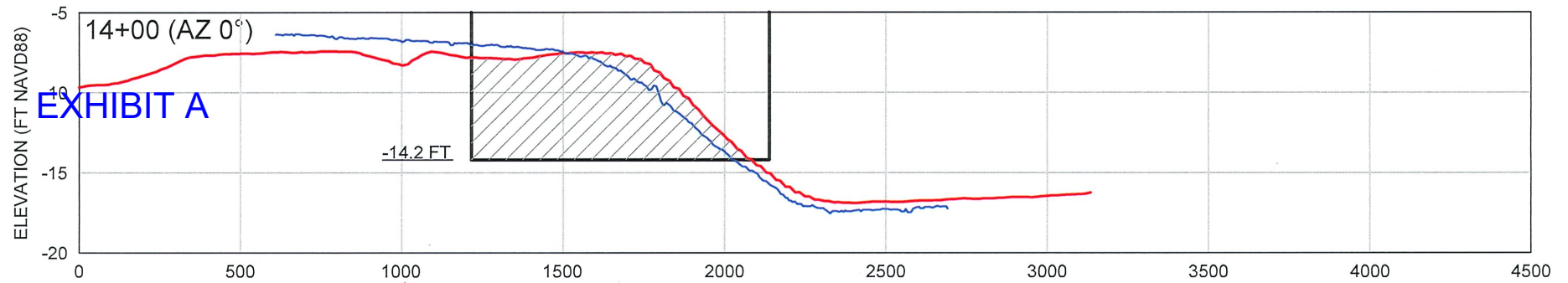
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SURVEYING: LB 2464
PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: TOWN OF FORT MYERS BEACH
TITLE: BORROW AREA SECTIONS

DATE:	11/03/2022	SCALE:	AS NOTED
DRAWN:	KMG	F.B.	
CHECKED:	MTP	PG.	
SEC.	TWP.	RNG.	
ACAD NO.	21504-Permit-2021.dwg		
REF. NO.	21.504	NO.	DATE BY REVISION DESCRIPTION
		3	11/03/2022 KMG ADDED OFFSHORE BORROW AREA
		2	7/14/2022 MTP ADDRESSED DEP RAI #2
		1	4/5/2022 KMG ADDRESSED DEP RAI #1

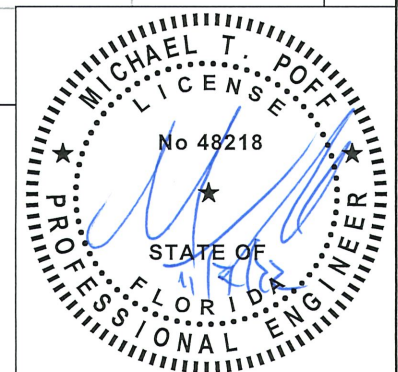
EXHIBIT A



LEGEND

- JANUARY 6, 2012 POST-CON SURVEY (CPE)
- NOVEMBER 3, 2021 SURVEY (OSI)
- BORROW AREA DREDGE TEMPLATE

SCALE VERT: 1" = 10'
HORIZ: 1" = 500'



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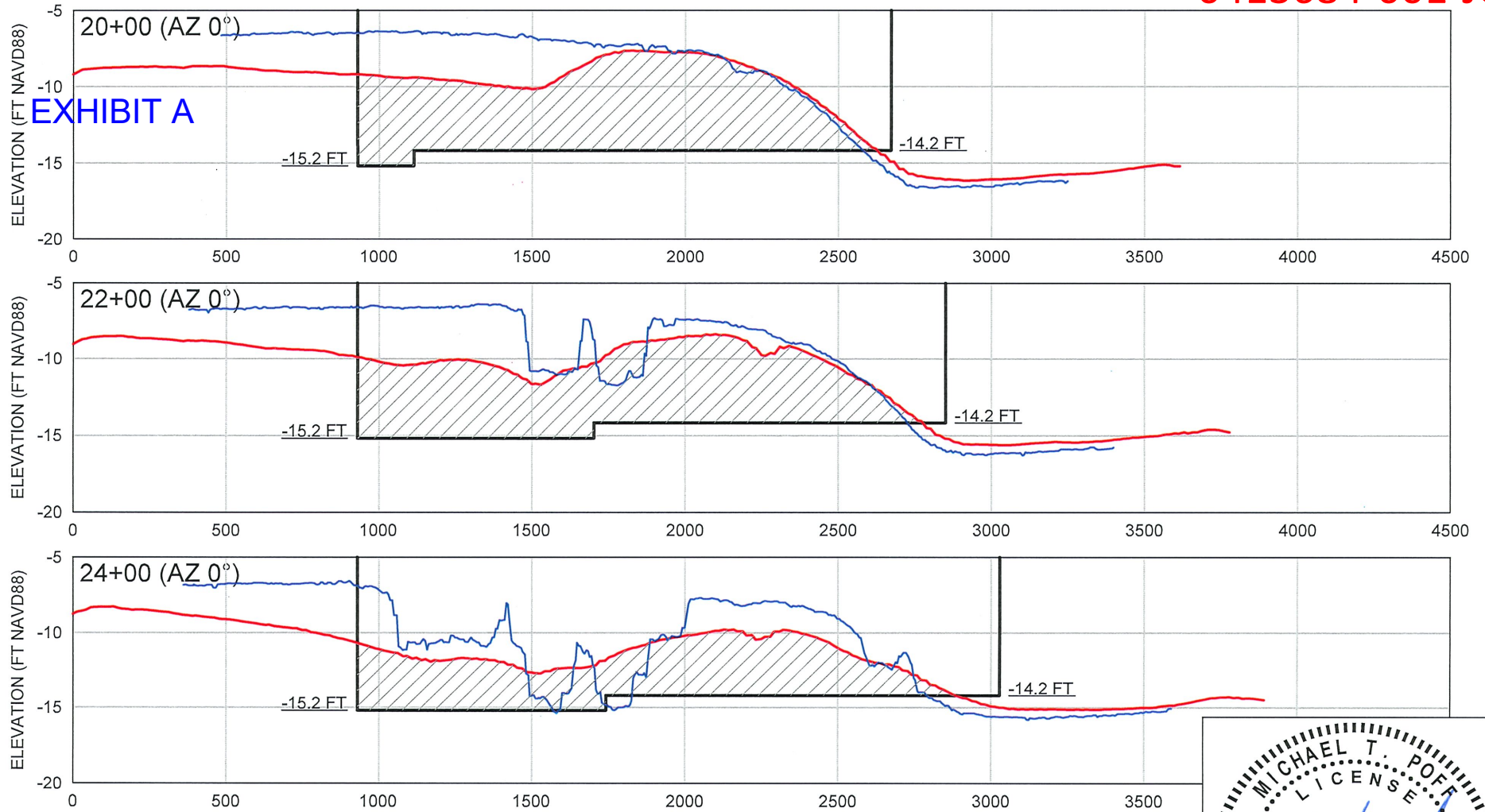
COASTAL & MARINE ENGINEERING
ENVIRONMENTAL & GEOLOGICAL SERVICES
SURVEY AND MAPPING
ENGINEERING: CA 2464
SURVEYING: LB 2464

PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: TOWN OF FORT MYERS BEACH

TITLE: BORROW AREA SECTIONS

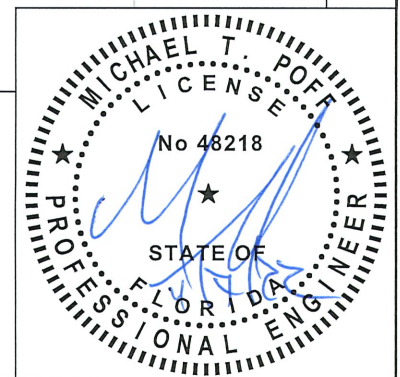
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SEC.	TWP.	RNG.					
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REF. NO.	21.504						
NO.	DATE	BY	REVISION DESCRIPTION				
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA				
2	7/14/2022	MTP	ADDRESSED DEP RAI #2				
1	4/5/2022	KMG	ADDRESSED DEP RAI #1				



LEGEND

- JANUARY 6, 2012 POST-CON SURVEY (CPE)
- NOVEMBER 3, 2021 SURVEY (OSI)
- BORROW AREA DREDGE TEMPLATE

SCALE VERT: 1" = 10'
HORIZ: 1" = 500'



SHEET 26
FILE NO.: 21504-26



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SURVEYING: LB 2464

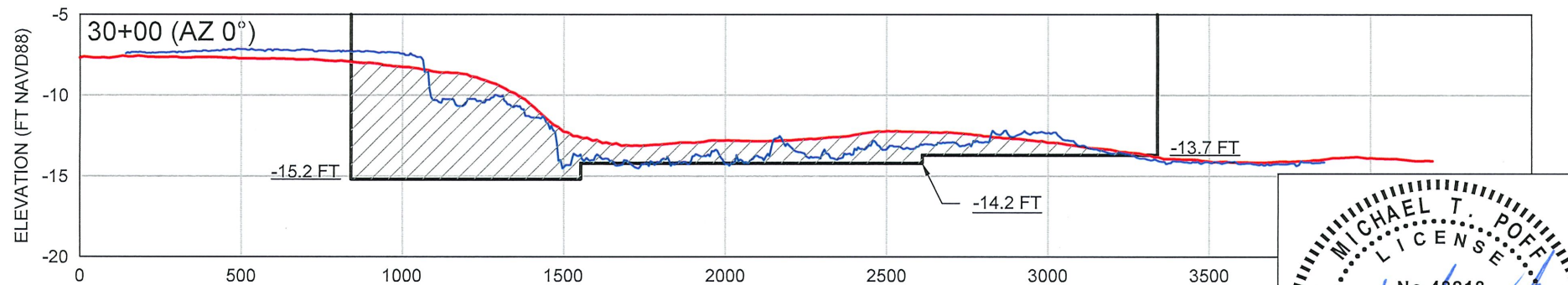
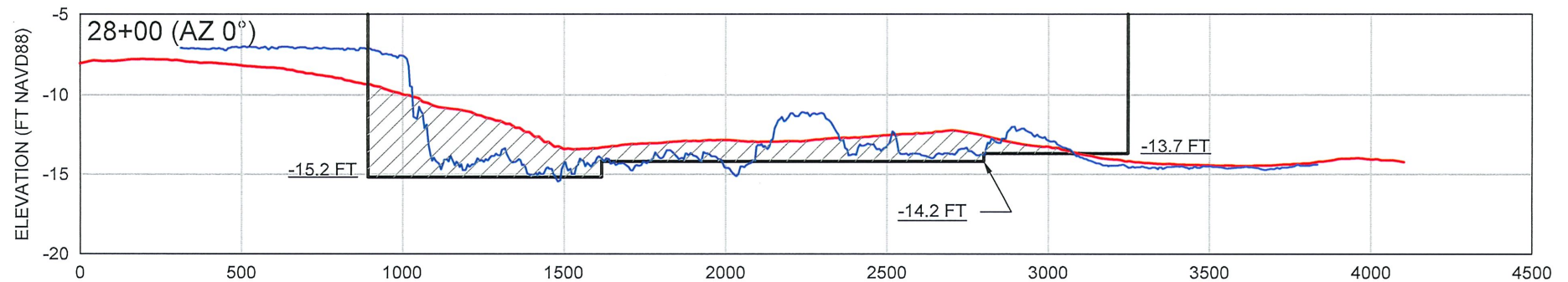
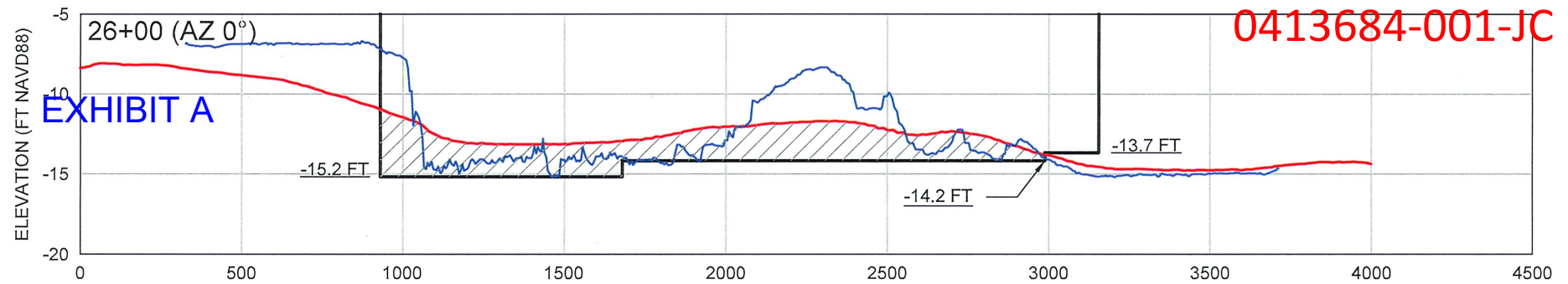
PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: TOWN OF FORT MYERS BEACH

TITLE: BORROW AREA SECTIONS

DATE:	11/03/2022	SCALE:	AS NOTED				
DRAWN:	KMG	F.B.					
CHECKED:	MTP	PG.					
SEC.	TWP.	RNG.					
ACAD NO.	21504-Permit-2021.dwg						
REF. NO.	21.504						
NO.	DATE	BY	REVISION DESCRIPTION				
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA				
2	7/14/2022	MTP	ADDRESSED DEP RAI #2				
1	4/5/2022	KMG	ADDRESSED DEP RAI #1				

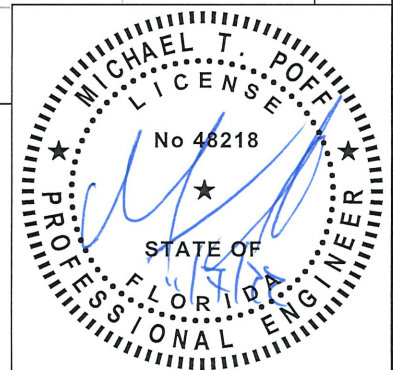
EXHIBIT A



LEGEND

- JANUARY 6, 2012 POST-CON SURVEY (CPE)
- NOVEMBER 3, 2021 SURVEY (OSI)
- BORROW AREA DREDGE TEMPLATE

SCALE VERT: 1" = 10'
HORIZ: 1" = 500'



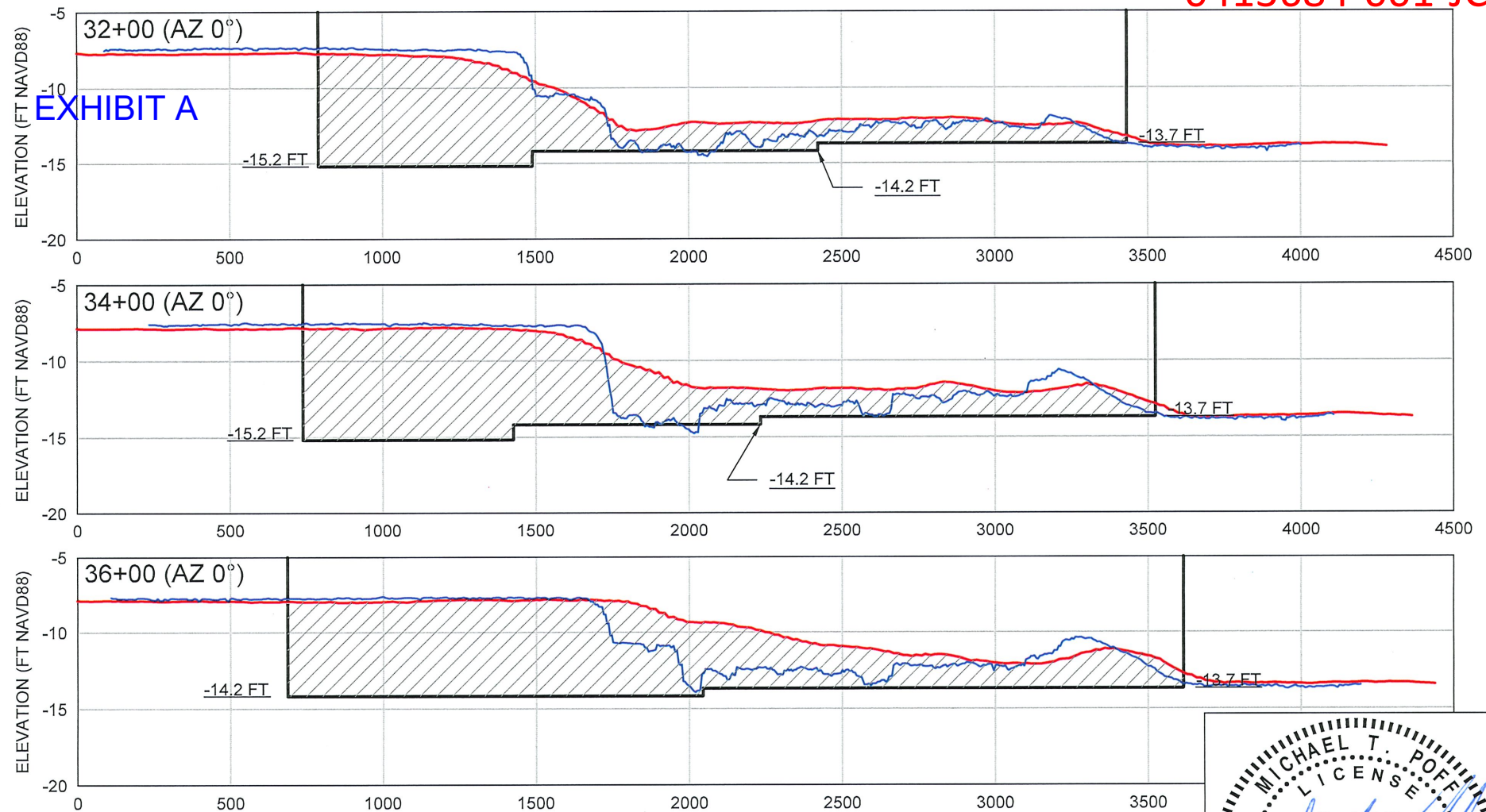
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CLIENT: TOWN OF FORT MYERS BEACH

TITLE: BORROW AREA SECTIONS

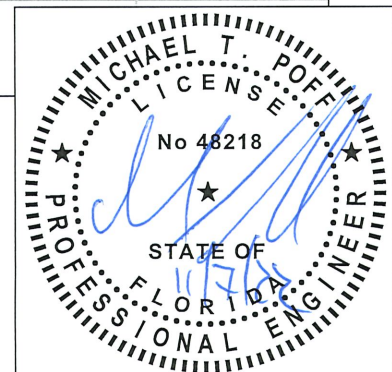
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SEC.	TWP.	RNG.	
ACAD NO.	21504-Permit-2021.dwg		
REF. NO.	21.504		
NO.	DATE	BY	REVISION DESCRIPTION
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
2	7/14/2022	MTP	ADDRESSED DEP RAI #2
1	4/5/2022	KMG	ADDRESSED DEP RAI #1



LEGEND

- JANUARY 6, 2012 POST-CON SURVEY (CPE)
— NOVEMBER 3, 2021 SURVEY (OSI)
— BORROW AREA DREDGE TEMPLATE

SCALE VERT: 1" = 10'
 HORIZ: 1" = 500'



SHEET 27 	COASTAL ENGINEERING CONSULTANTS INC.	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES
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CLIENT:	
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TOWN OF FORT MYERS BEACH

TITLE:	
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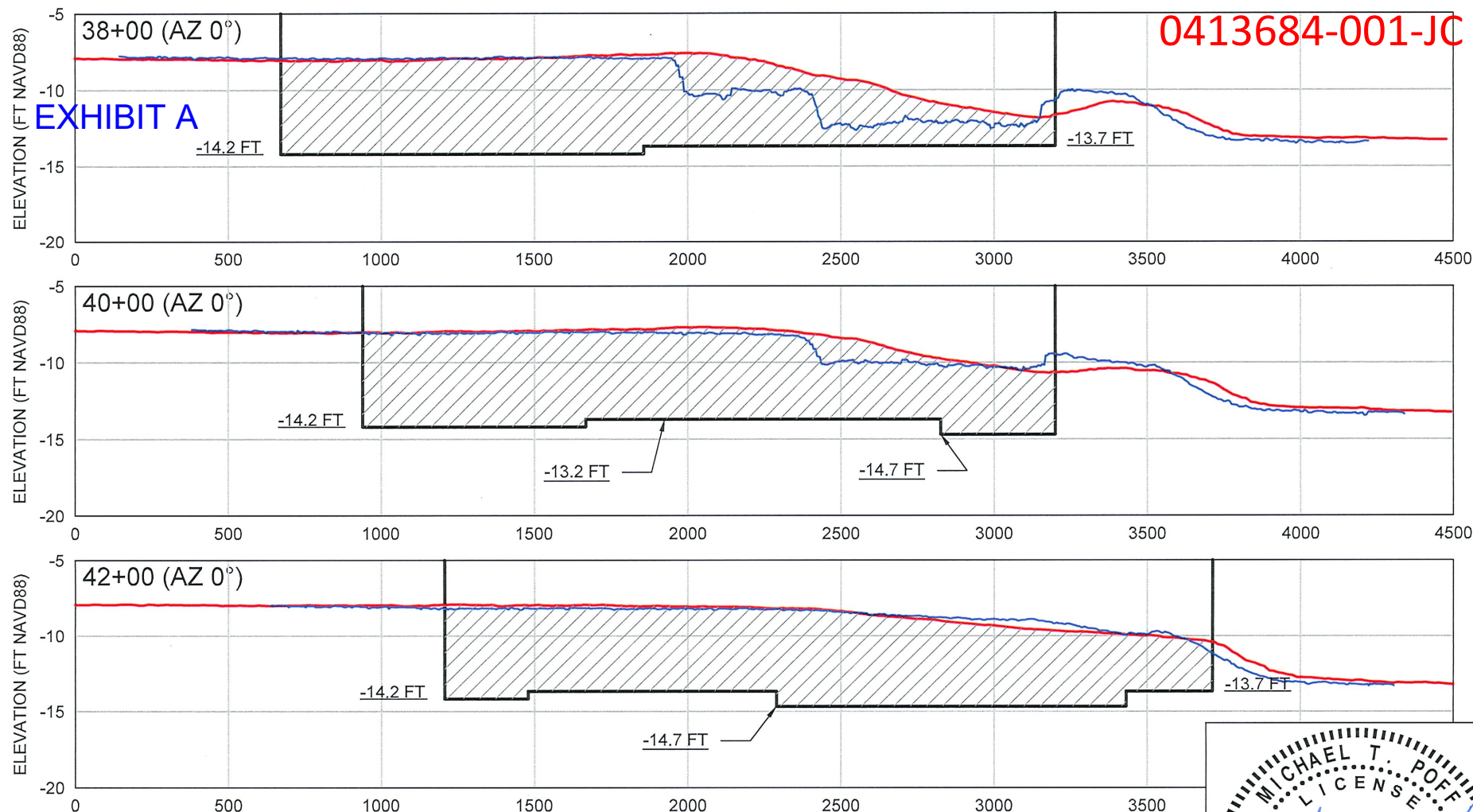
BORROW AREA SECTIONS

DATE:	11/03/2022	SCALE:	AS NOTED				
DRAWN:	KMG	F.B.					
CHECKED:	MTP	P.G.					
SEC.	TWP.	RNG.		3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
ACAD NO.	21504-Permit-2021.dwg			2	7/14/2022	MTP	ADDRESSED DEP RAI #2
REF. NO.	21.504			1	4/5/2022	KMG	ADDRESSED DEP RAI #1
				NO.	DATE	BY	REVISION DESCRIPTION

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0413684-001-JC

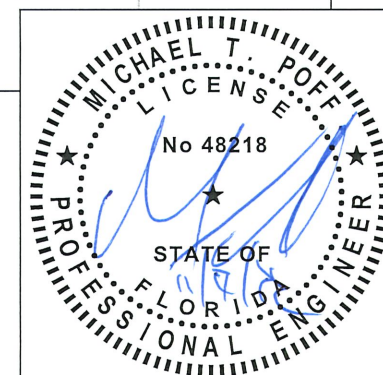
EXHIBIT A



LEGEND

- JANUARY 6, 2012 POST-CON SURVEY (CPE)
- NOVEMBER 3, 2021 SURVEY (OSI)
- BORROW AREA DREDGE TEMPLATE

SCALE VERT: 1" = 10'
HORIZ: 1" = 500'

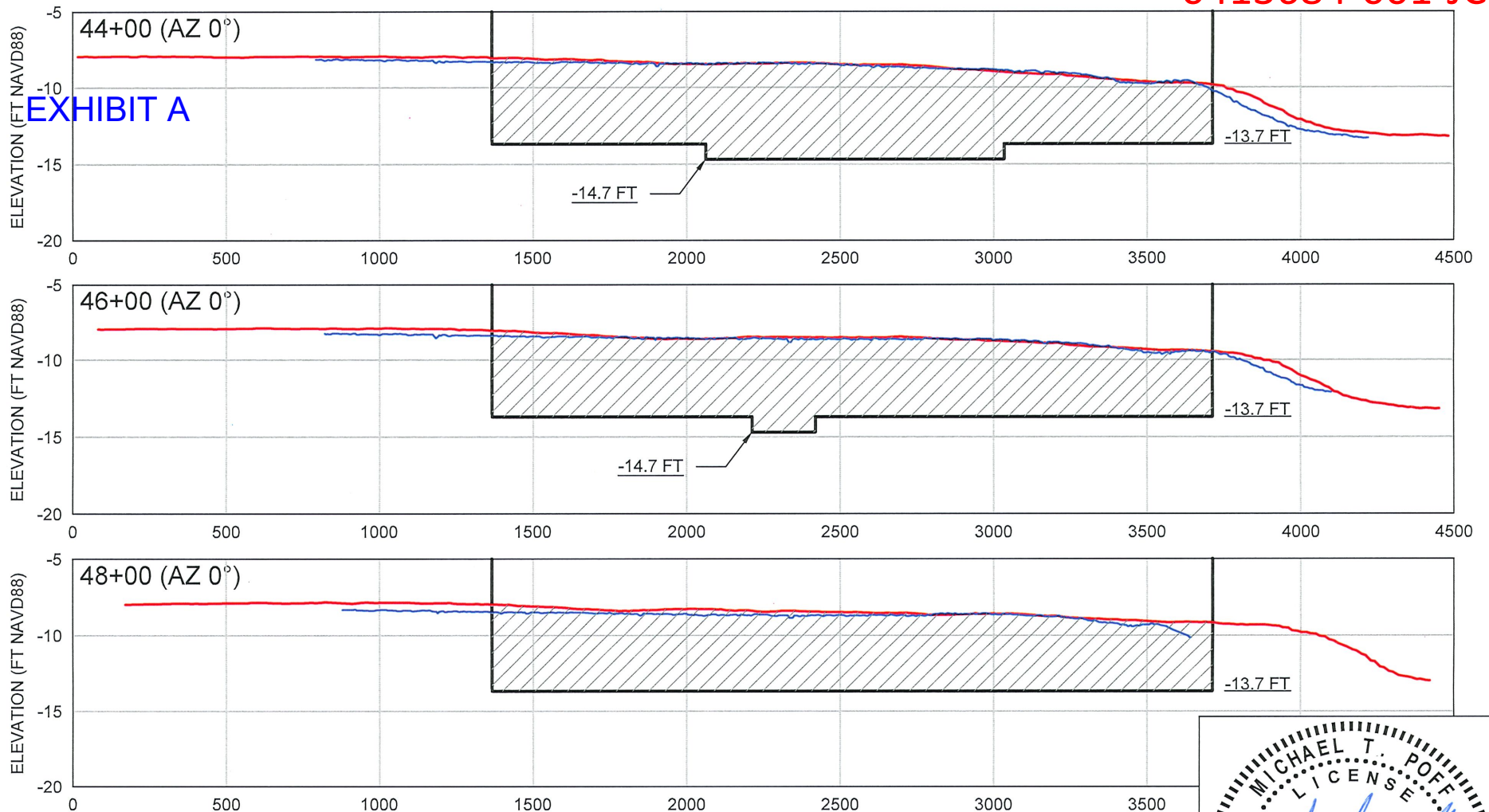


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CLIENT: TOWN OF FORT MYERS BEACH
TITLE: BORROW AREA SECTIONS

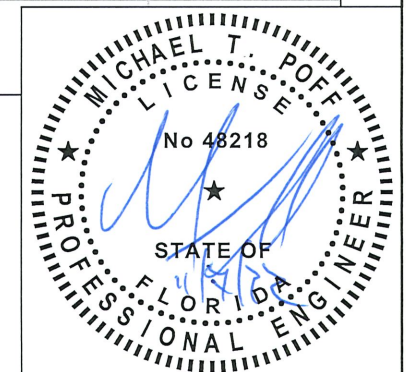
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SEC. TWP. RNG.		3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
ACAD NO. 21504-Permit-2021.dwg		2	7/14/2022	MTP	ADDRESSED DEP RAI #2
REF. NO. 21.504		1	4/5/2022	KMG	ADDRESSED DEP RAI #1
					REVISION DESCRIPTION



LEGEND

- JANUARY 6, 2012 POST-CON SURVEY (CPE)
- NOVEMBER 3, 2021 SURVEY (OSI)
- BORROW AREA DREDGE TEMPLATE

SCALE VERT: 1" = 10'
HORIZ: 1" = 500'



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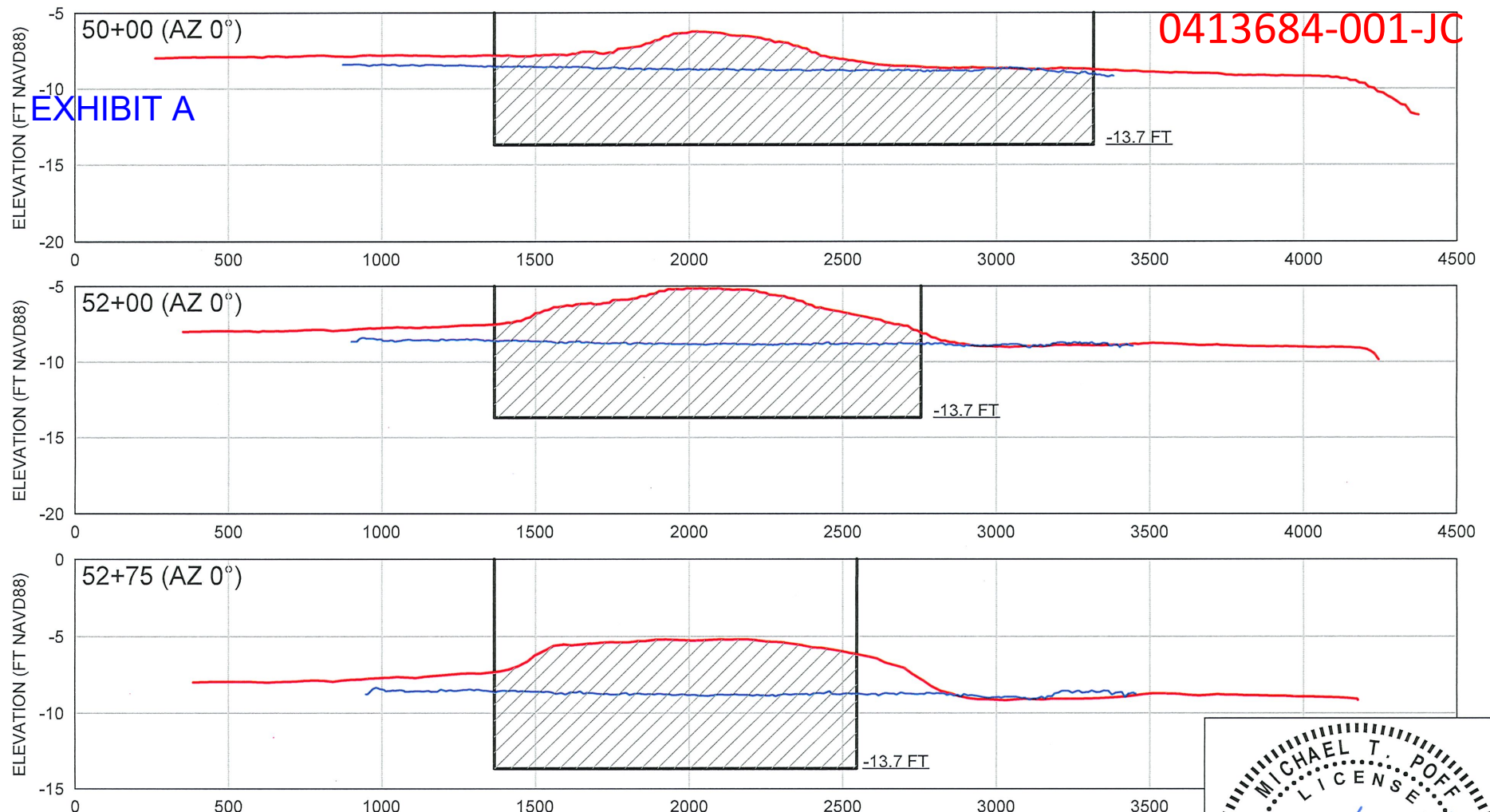
CLIENT: **TOWN OF FORT MYERS BEACH**
TITLE: **BORROW AREA SECTIONS**

DATE:	11/03/2022	SCALE:	AS NOTED				
DRAWN:	KMG	F.B.					
CHECKED:	MTP	PG.					
SEC.	TWP.	RNG.					
ACAD NO.	21504-Permit-2021.dwg						
REF. NO.	21.504						
	NO.	DATE	BY	REVISION DESCRIPTION			
	3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA			
	2	7/14/2022	MTP	ADDRESSED DEP RAI #2			
	1	4/5/2022	KMG	ADDRESSED DEP RAI #1			

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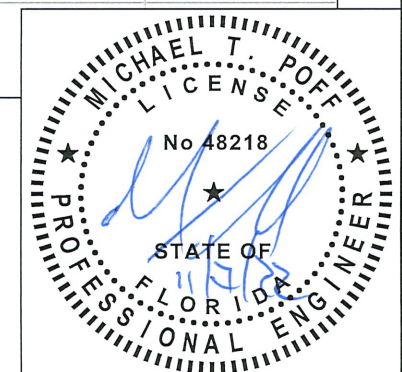
EXHIBIT A



LEGEND

- JANUARY 6, 2012 POST-CON SURVEY (CPE)
- NOVEMBER 3, 2021 SURVEY (OSI)
- BORROW AREA DREDGE TEMPLATE

SCALE VERT: 1" = 10'
HORIZ: 1" = 500'



FILE NO.: 21504-30

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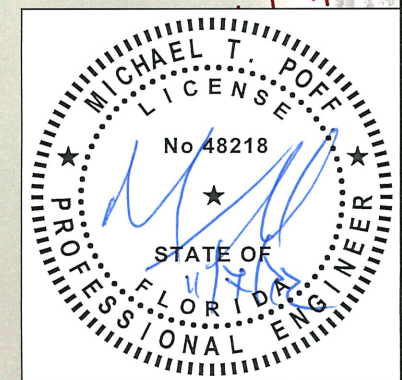
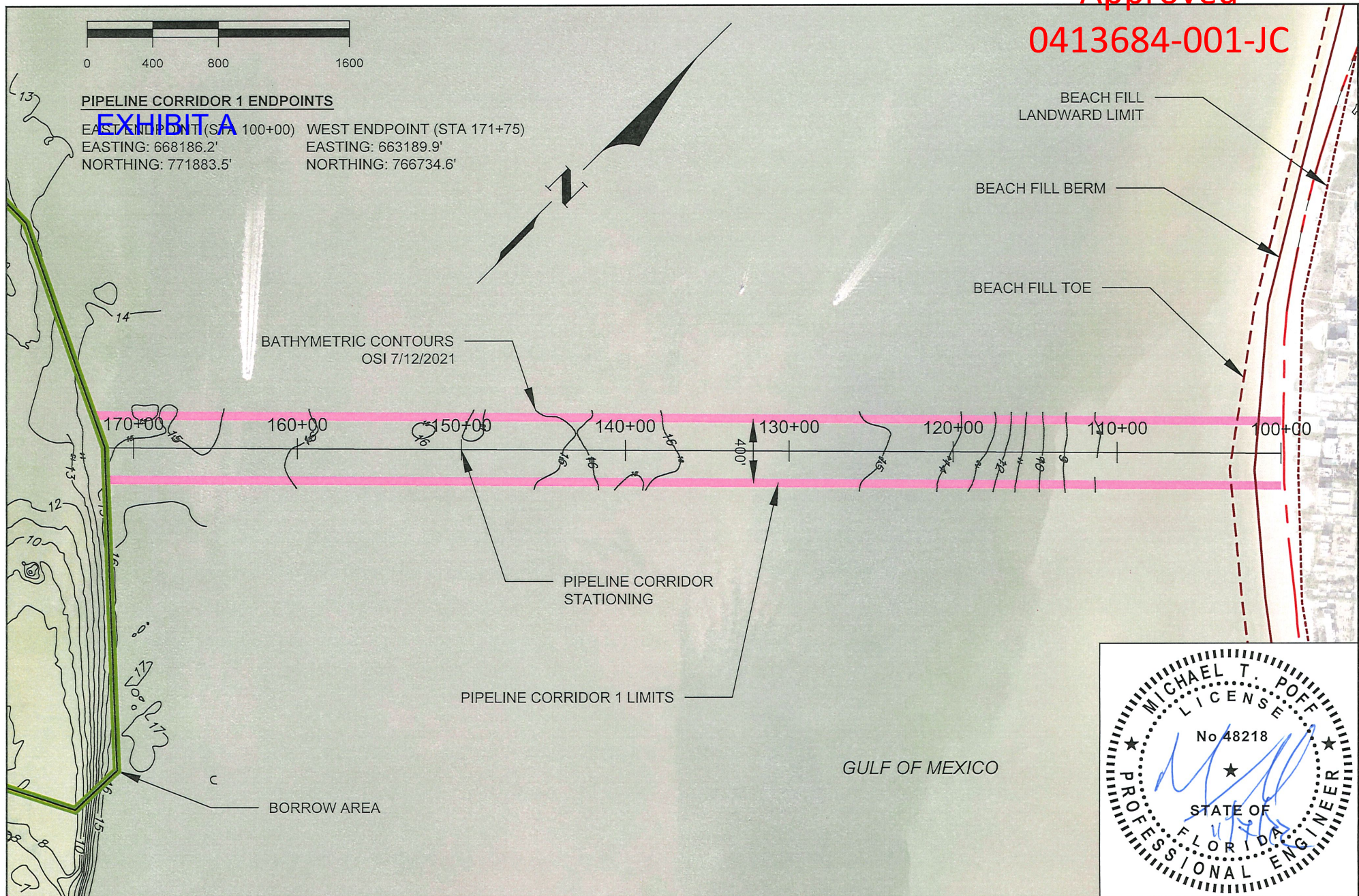
TITLE: BORROW AREA SECTIONS

DATE:	11/03/2022	SCALE:	AS NOTED
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CHECKED:	MTP	PG.	
SEC.	TWP.	RNG.	
ACAD NO.	21504-Permit-2021.dwg		
REF. NO.	21.504		

NO.	DATE	BY	REVISION DESCRIPTION
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
2	7/14/2022	MTP	ADDRESSED DEP RAI #2
1	4/5/2022	KMG	ADDRESSED DEP RAI #1

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SHEET 31

FILE NO.: 21804-31

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SURVEYING: LB 2464

PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifi.com

CLIENT: TOWN OF FORT MYERS BEACH

TITLE: PIPELINE CORRIDOR 1 DETAILS
PLAN VIEW

DATE: 11/03/2022SCALE: AS NOTED

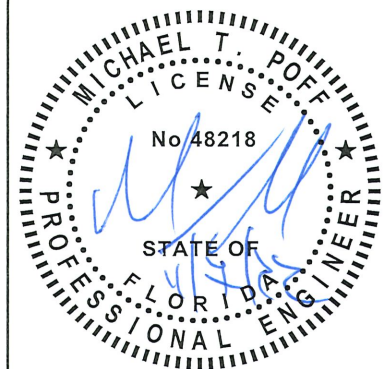
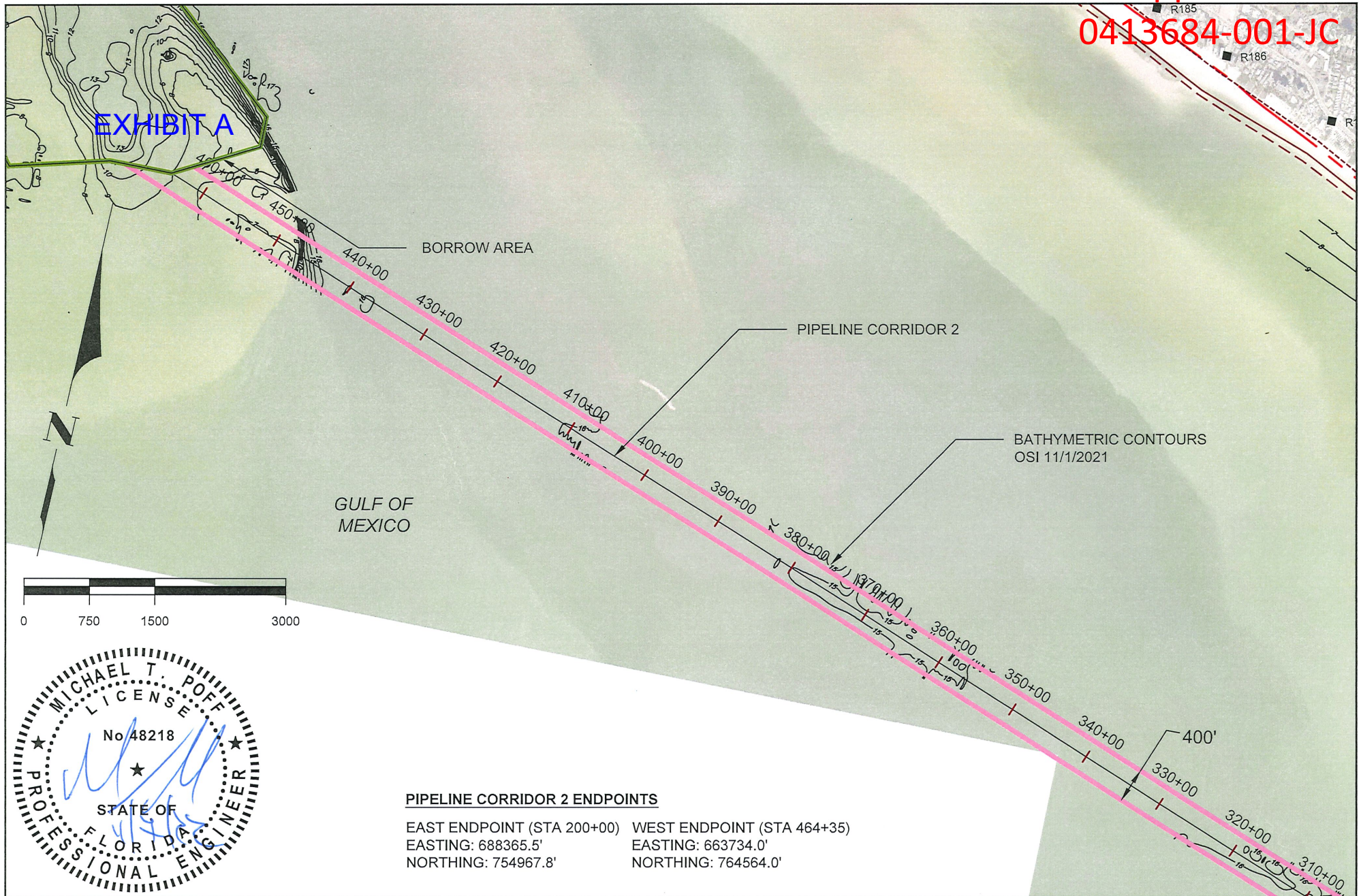
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CHECKED: MTPPG.

SEC. TWP. RNG.

ACAD NO. 21504-Permit-2021.dwg

REF. NO. 21.504



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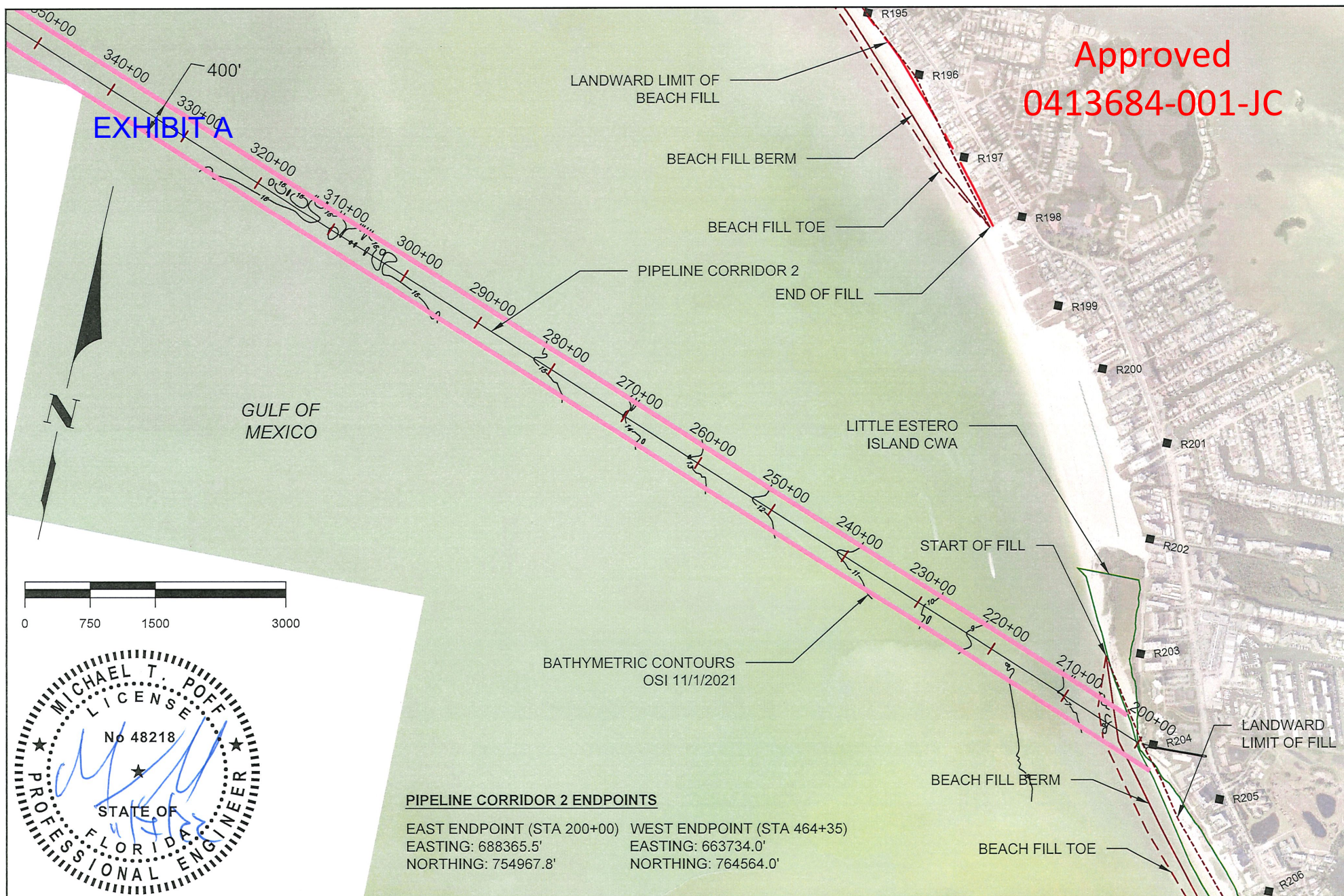
COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464
PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: **TOWN OF FORT MYERS BEACH**
TITLE: **PIPELINE CORRIDOR 2 DETAILS
PLAN VIEW 1**

DATE:	11/03/2022	SCALE:	AS NOTED				
DRAWN:	KMG	F.B.					
CHECKED:	MTP	PG.					
SEC.	TWP.	RNG.					
ACAD NO.	21504-Permit-2021.dwg						
REF. NO.	21.504						
NO.	DATE	BY	REVISION DESCRIPTION				
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA				
2	7/14/2022	MTP	ADDRESSED DEP RAI #2				
1	4/5/2022	KMG	ADDRESSED DEP RAI #1				

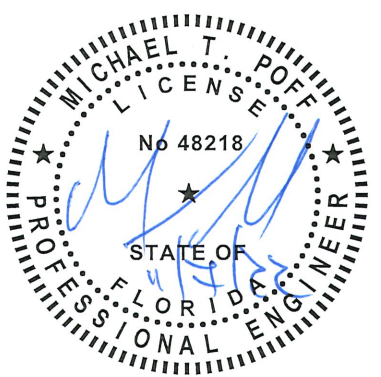
Approved
0413684-001-JC

EXHIBIT A

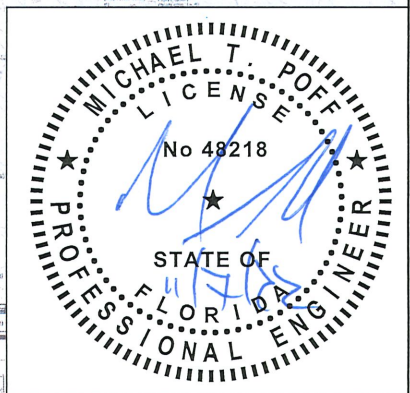
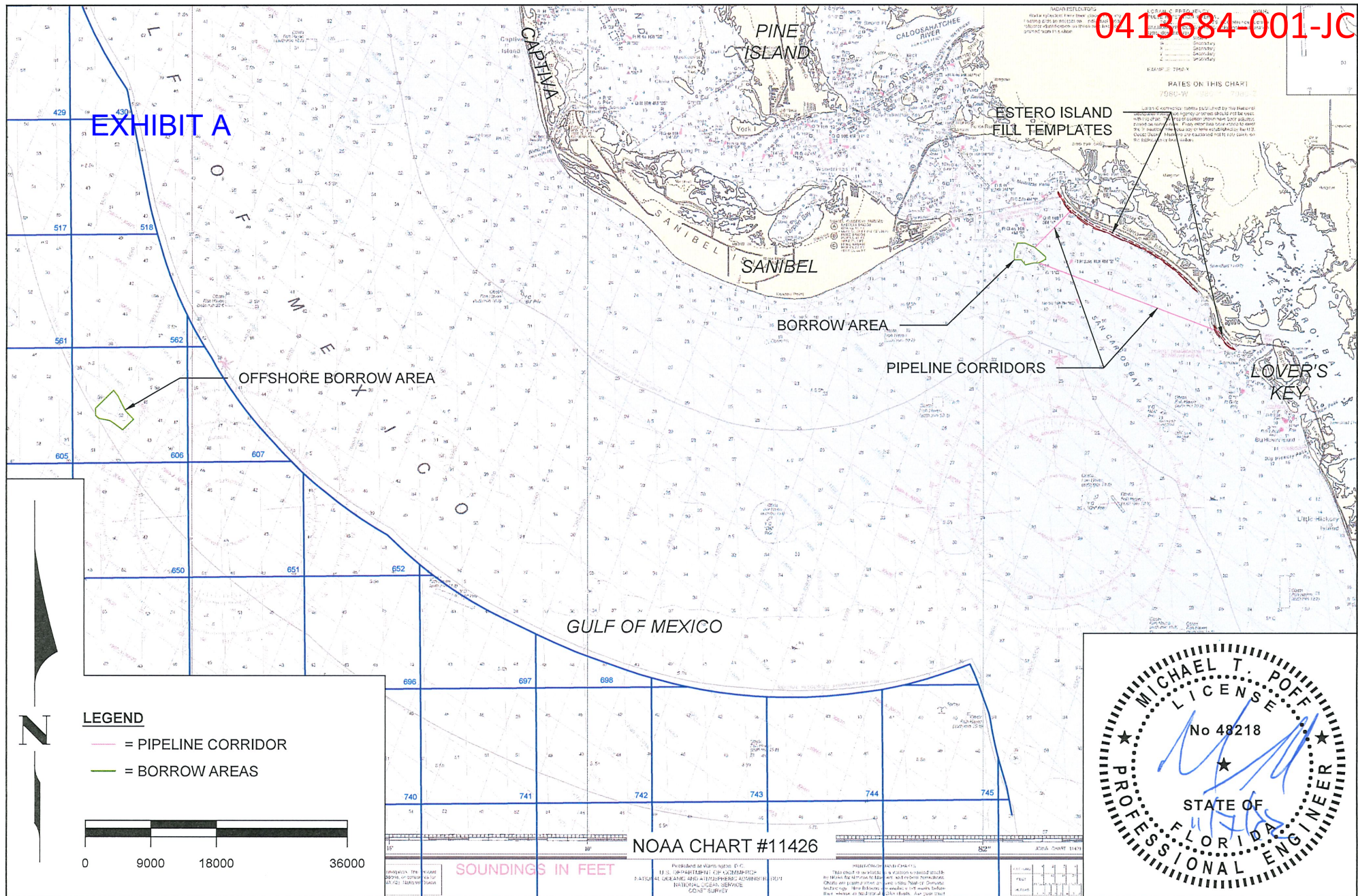


PIPELINE CORRIDOR 2 ENDPOINTS

EAST ENDPOINT (STA 200+00) WEST ENDPOINT (STA 464+35)
 EASTING: 688365.5' EASTING: 663734.0'
 NORTHING: 754967.8' NORTHING: 764564.0'



SHEET 33 FILE NO.: 21504-33	COASTAL ENGINEERING CONSULTANTS INC. Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464 PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@cecifl.com	CLIENT: TOWN OF FORT MYERS BEACH TITLE: PIPELINE CORRIDOR 2 DETAILS PLAN VIEW 2	DATE: 11/03/2022	SCALE: AS NOTED				
				DRAWN: KMG	F.B.				
				CHECKED: MTP	P.G.				
				SEC. TWP. RNG.		3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
				ACAD NO. 21504-Permit-2021.dwg		2	7/14/2022	MTP	ADDRESSED DEP RAI #2
				REF. NO. 21.504		1	4/5/2022	KMG	ADDRESSED DEP RAI #1
						NO.	DATE	BY	REVISION DESCRIPTION



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FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: **TOWN OF FORT MYERS BEACH**
TITLE: **OFFSHORE BORROW AREA LOCATION MAP**

DATE:	11/03/2022	SCALE:	AS NOTED
DRAWN:	KMG	F.B.	
CHECKED:	MTP	PG.	
SEC.	TWP.	RNG.	
ACAD NO.	21504-Permit-2021.dwg		
REF. NO.	21.504	NO.	DATE BY REVISION DESCRIPTION
		3	11/03/2022 KMG ADDED OFFSHORE BORROW AREA
		2	7/14/2022 MTP ADDRESSED DEP RAI #2
		1	4/5/2022 KMG ADDRESSED DEP RAI #1

EXHIBIT A

GULF OF MEXICO

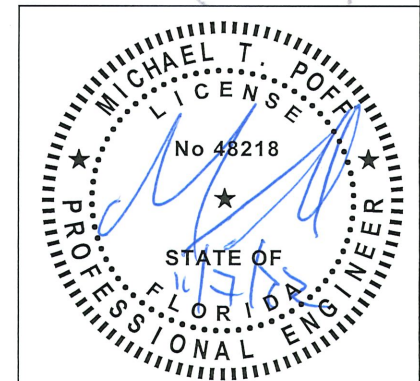
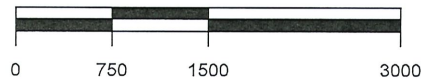
OFFSHORE BORROW AREA

BORROW AREA CUTS

SURVEY BASELINE
N44° 09' 05.95"W
8,000'

LEGEND

- = OFFSHORE BORROW AREA
- = BATHY CONTOURS (OSI, 2021)

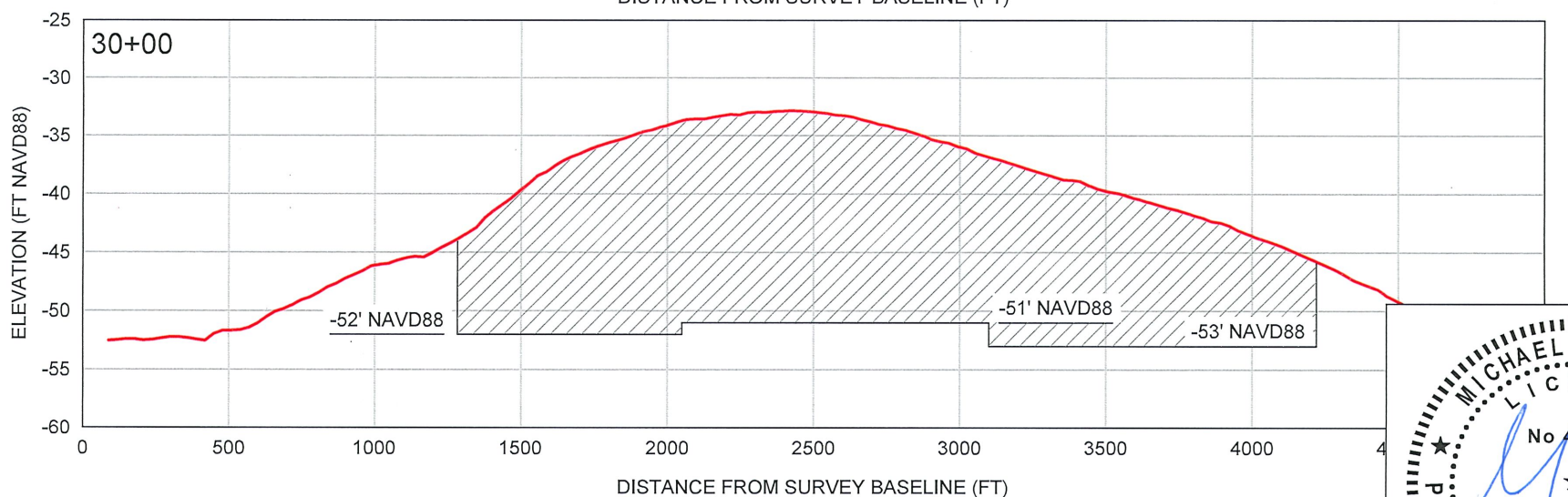
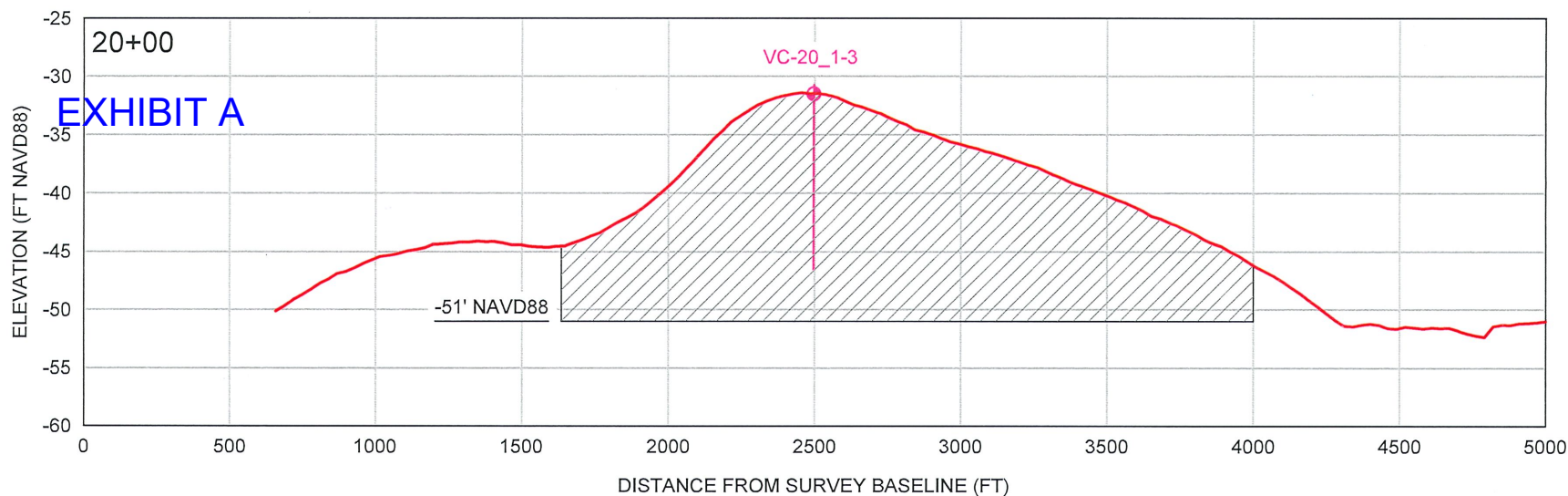


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CLIENT:	TOWN OF FORT MYERS BEACH	DATE:	11/03/2022	SCALE:	AS NOTED
TITLE:	OFFSHORE BORROW AREA PLAN VIEW	DRAWN:	KMG	F.B.	
		CHECKED:	MTP	PG.	
		SEC.	TWP.	RNG.	
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		NO.	DATE	BY	REVISION DESCRIPTION
		3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
		2	7/14/2022	MTP	ADDRESSED DEP RAI #2
		1	4/5/2022	KMG	ADDRESSED DEP RAI #1

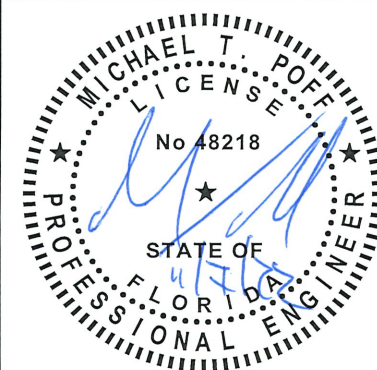


LEGEND

=PROPOSED DREDGE AREA
 =EXISTING GRADE (OSI, 2021)

SCALE

H: 1" = 600'
V: 1" = 15'



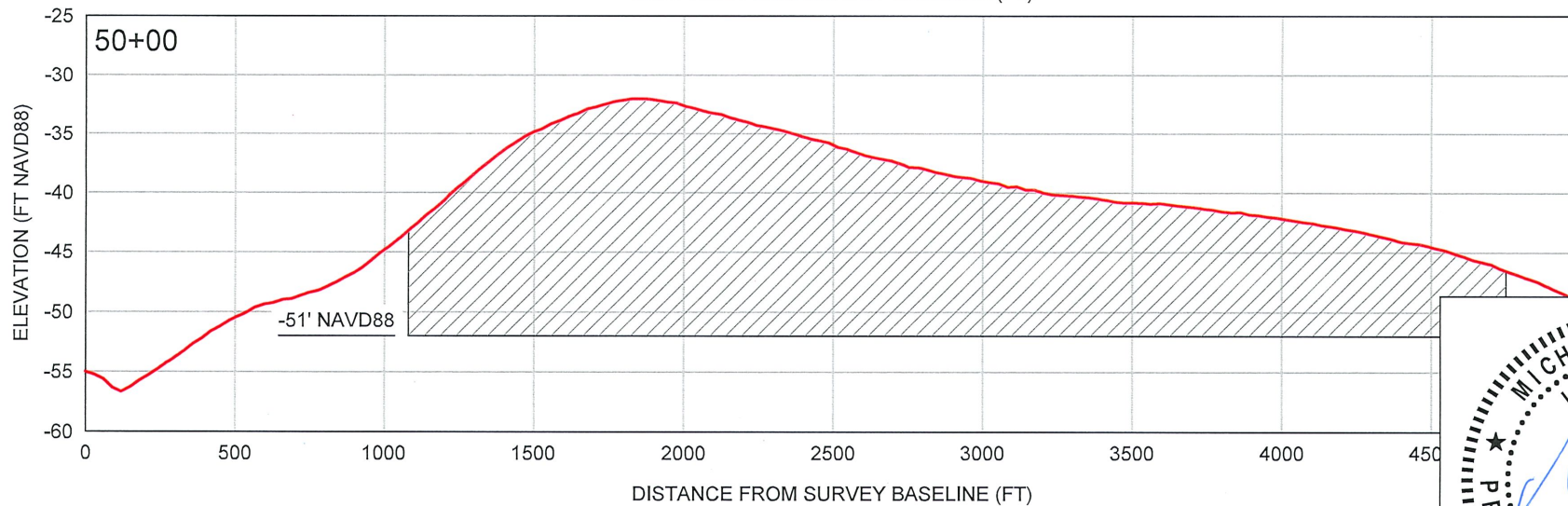
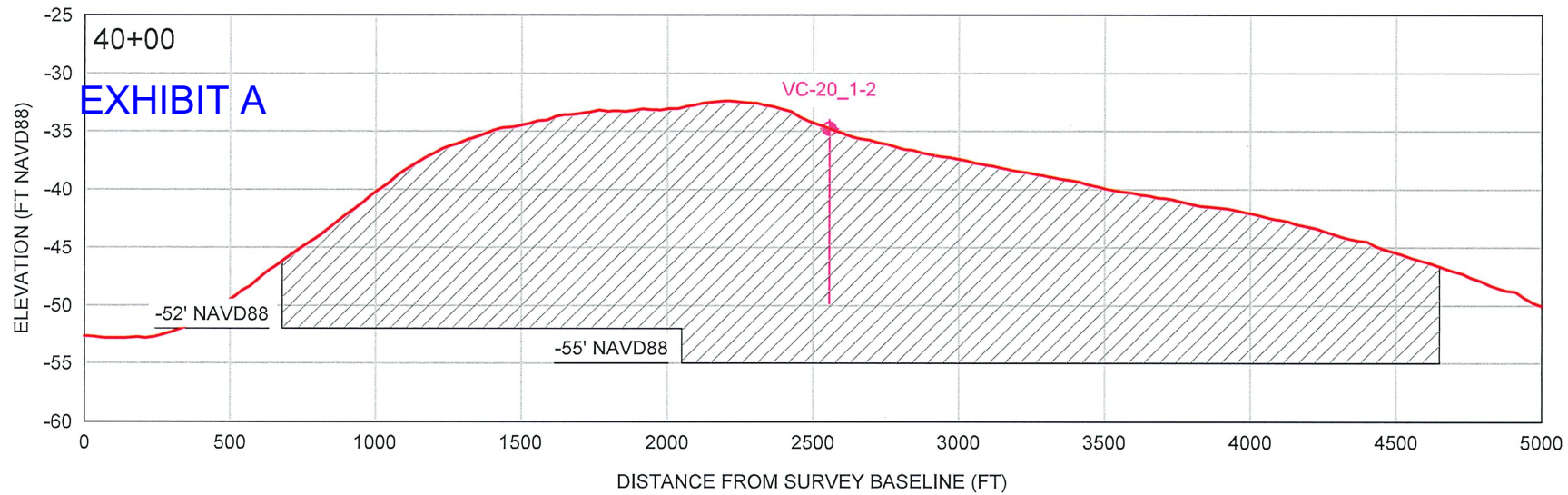
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E-Mail: info@cecifl.com

CLIENT: TOWN OF FORT MYERS BEACH
TITLE: OFFSHORE BORROW AREA SECTIONS

DATE:	11/03/2022	SCALE:	AS NOTED
DRAWN:	KMG	F.B.	
CHECKED:	MTP	PG.	
SEC.	TWP.	RNG.	
ACAD NO.	21504-Permit-2021.dwg		
REF. NO.	21.504	NO.	DATE BY REVISION DESCRIPTION
		3	11/03/2022 KMG ADDED OFFSHORE BORROW AREA
		2	7/14/2022 MTP ADDRESSED DEP RAI #2
		1	4/5/2022 KMG ADDRESSED DEP RAI #1

EXHIBIT A

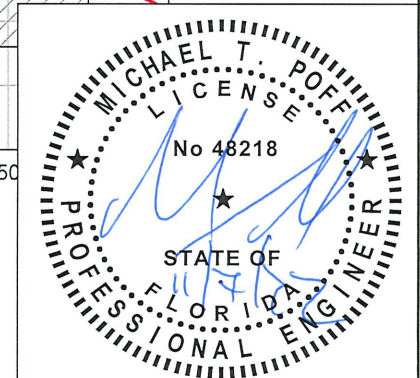


LEGEND

= PROPOSED DREDGE AREA
 = EXISTING GRADE (OSI, 2021)

SCALE

H: 1" = 600'
V: 1" = 15'



SHEET 37
FILE NO. 21504-37

COASTAL ENGINEERING CONSULTANTS INC.
Serving Florida Since 1977
28421 BONITA CROSINGS BLVD
BONITA SPRINGS, FLORIDA 34135

COASTAL & MARINE ENGINEERING
ENVIRONMENTAL & GEOLOGICAL SERVICES
SURVEY AND MAPPING
ENGINEERING: CA 2464
SURVEYING: LB 2464
PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

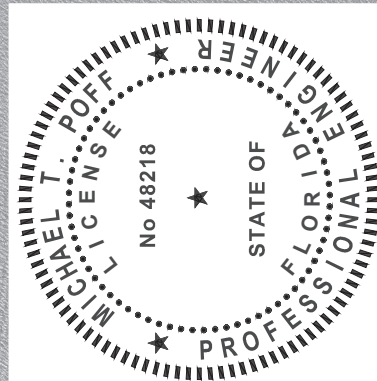
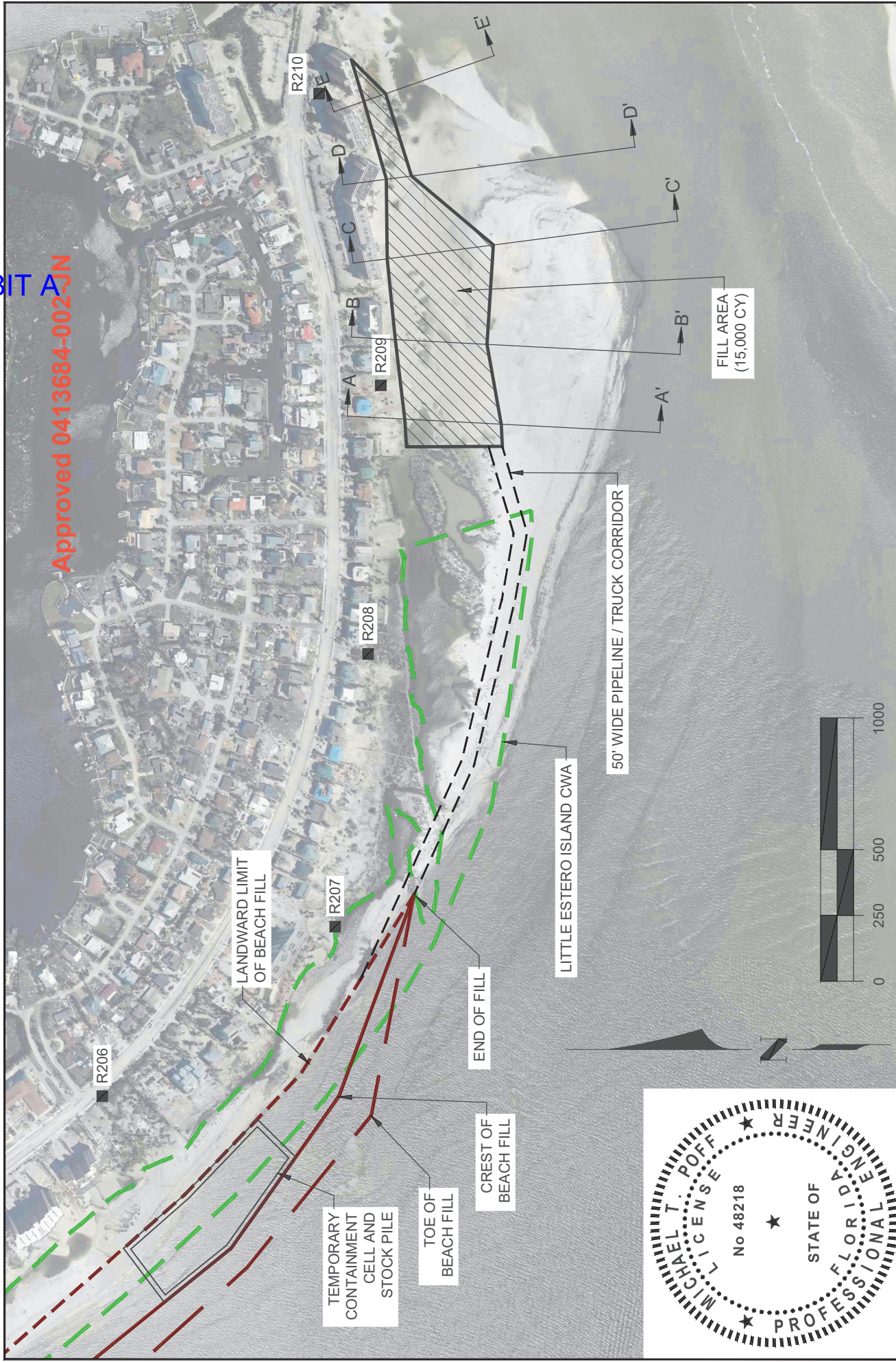
CLIENT: TOWN OF FORT MYERS BEACH
TITLE: OFFSHORE BORROW AREA SECTIONS

DATE: 11/03/2022 SCALE: AS NOTED
DRAWN: KMG F.B.
CHECKED: MTP PG.
SEC. TWP. RNG.
ACAD NO. 21504-Permit-2021.dwg
REF. NO. 21.504

NO.	DATE	BY	REVISION DESCRIPTION
3	11/03/2022	KMG	ADDED OFFSHORE BORROW AREA
2	7/14/2022	MTP	ADDRESSED DEP RAI #2
1	4/5/2022	KMG	ADDRESSED DEP RAI #1

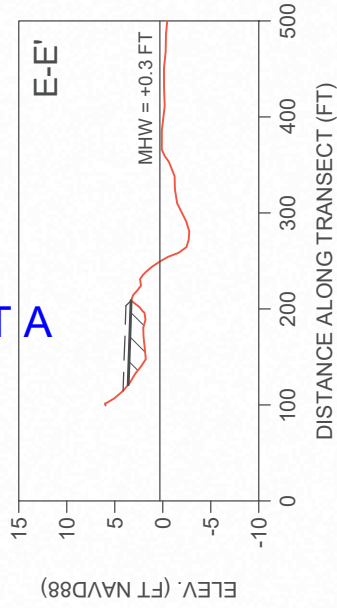
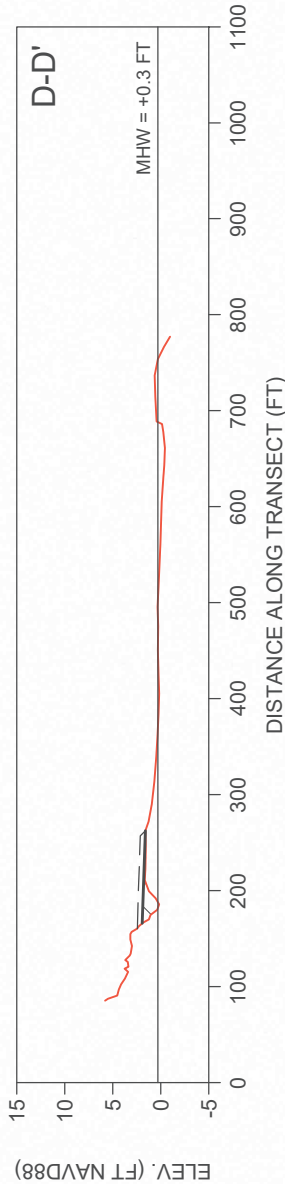
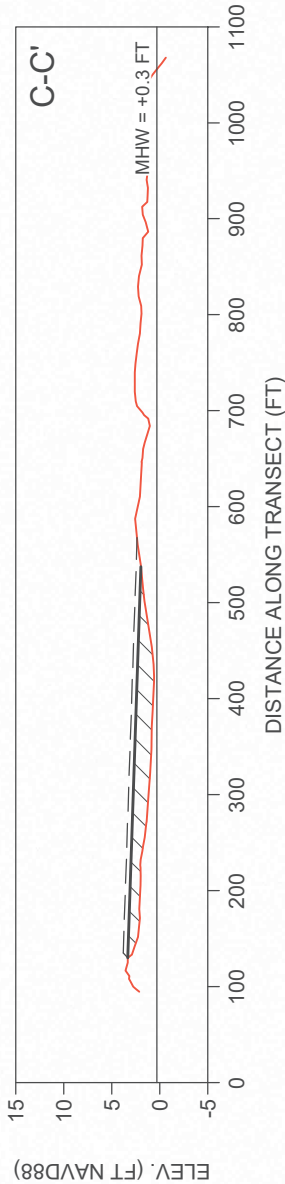
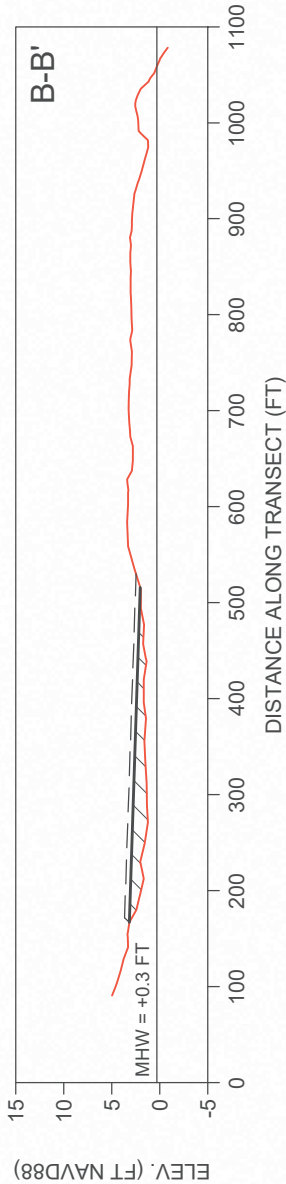
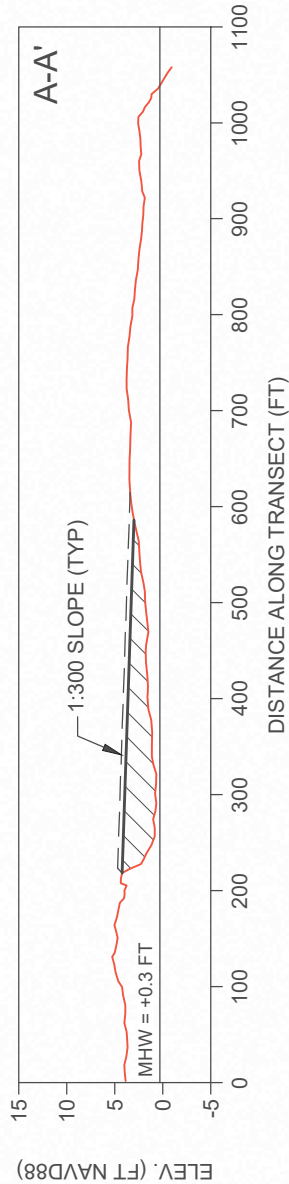
EXHIBIT A

Approved 0413684-002 JN



SHEET 2		FILE NO.: 22504-P-2		COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464		CLIENT: TOWN OF FORT MYERS BEACH		DATE: 3/13/2023		SCALE: AS NOTED	
COASTAL ENGINEERING CONSULTANTS INC.		DRAWN: SDB		CHECKED: MTP		TWP.		RNG.		ACAD NO. 22504-P.dwg	
28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135		PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@cecfi.com		SEC. 2		3/13/2023		MTP		ADDED VOLUME, TRANSECTS, PROFILES	
Serving Coastal Communities Since 1977		REF. NO. 22,504		BY		DATE		NO.		REVISION DESCRIPTION	

EXHIBIT A



LEGEND

— 3/9/2023 SURVEY (CEC)

DESIGN FILL AREA

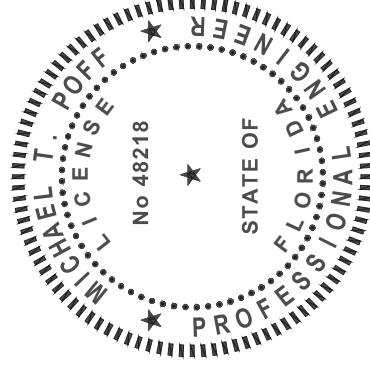
--- +0.5' TOLERANCE

SCALE

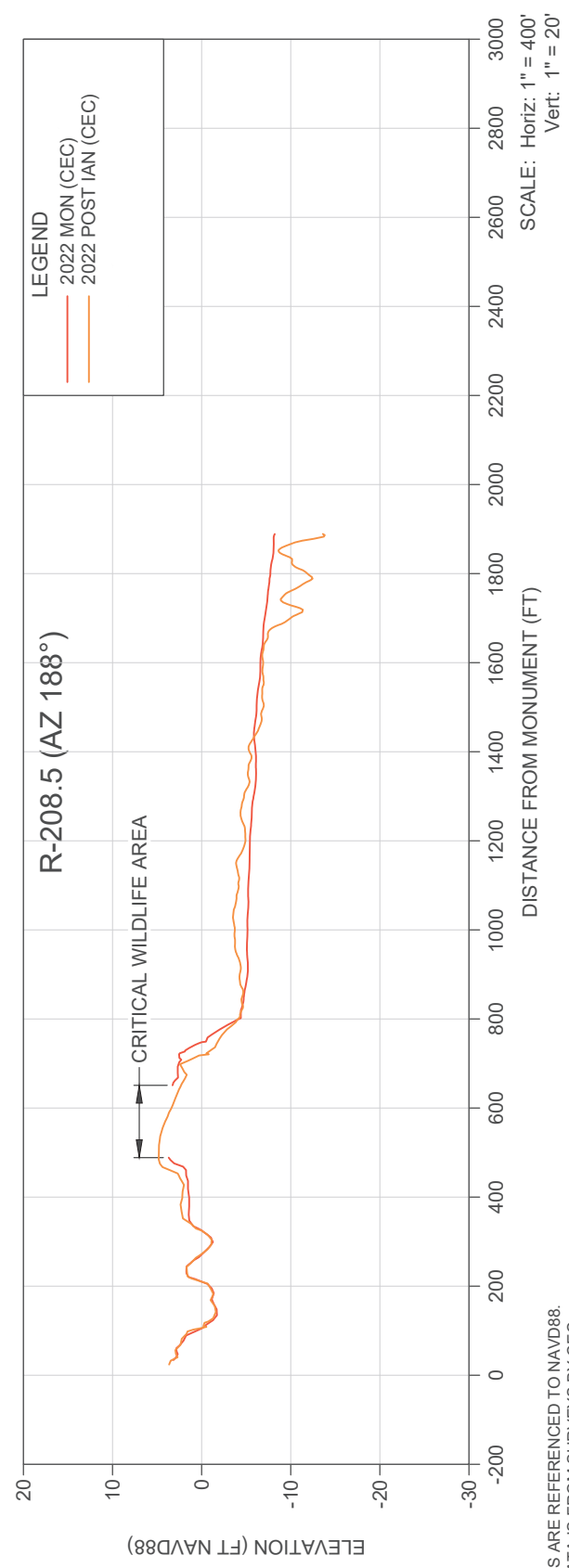
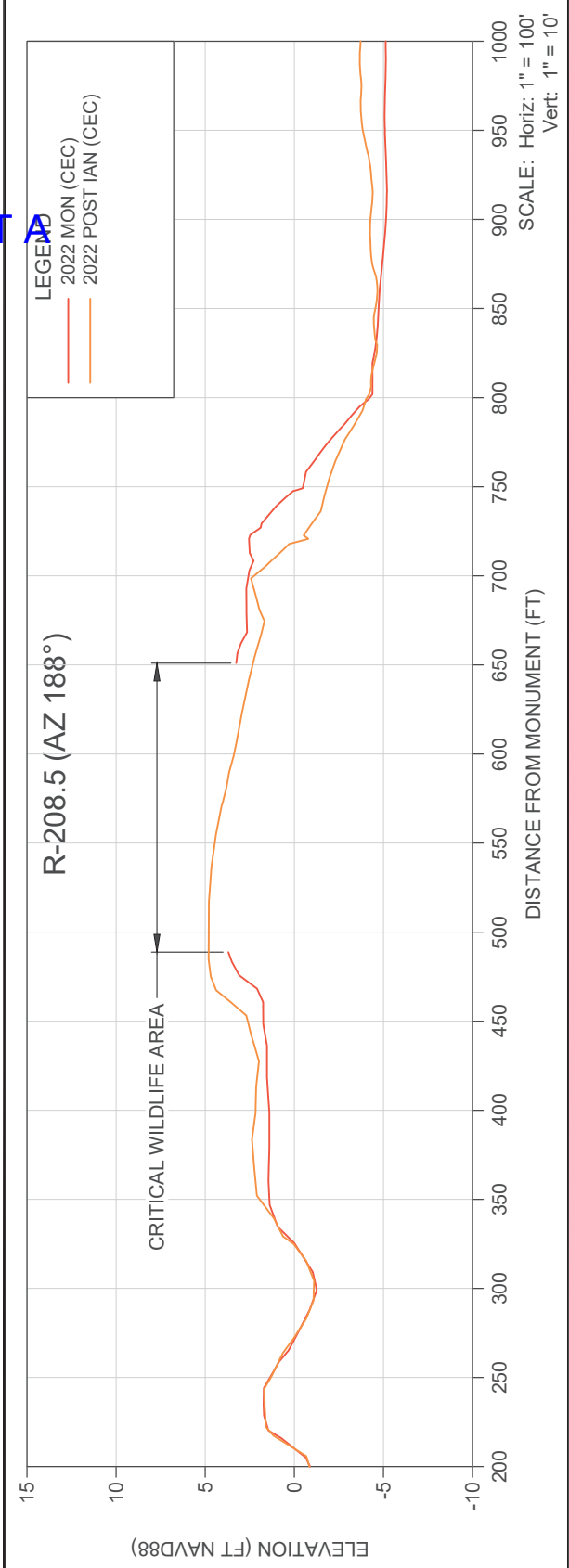
Horiz: 1" = 200'

Vert: 1" = 20'

Approved 0413684-002-JN



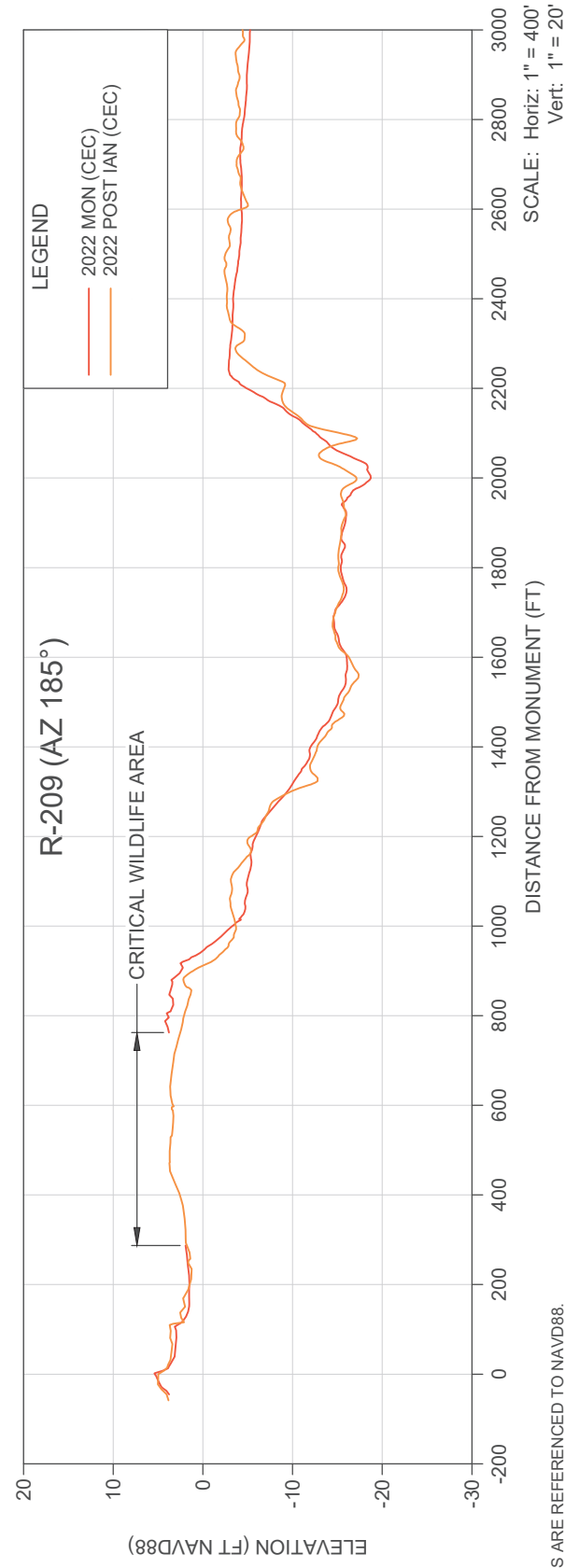
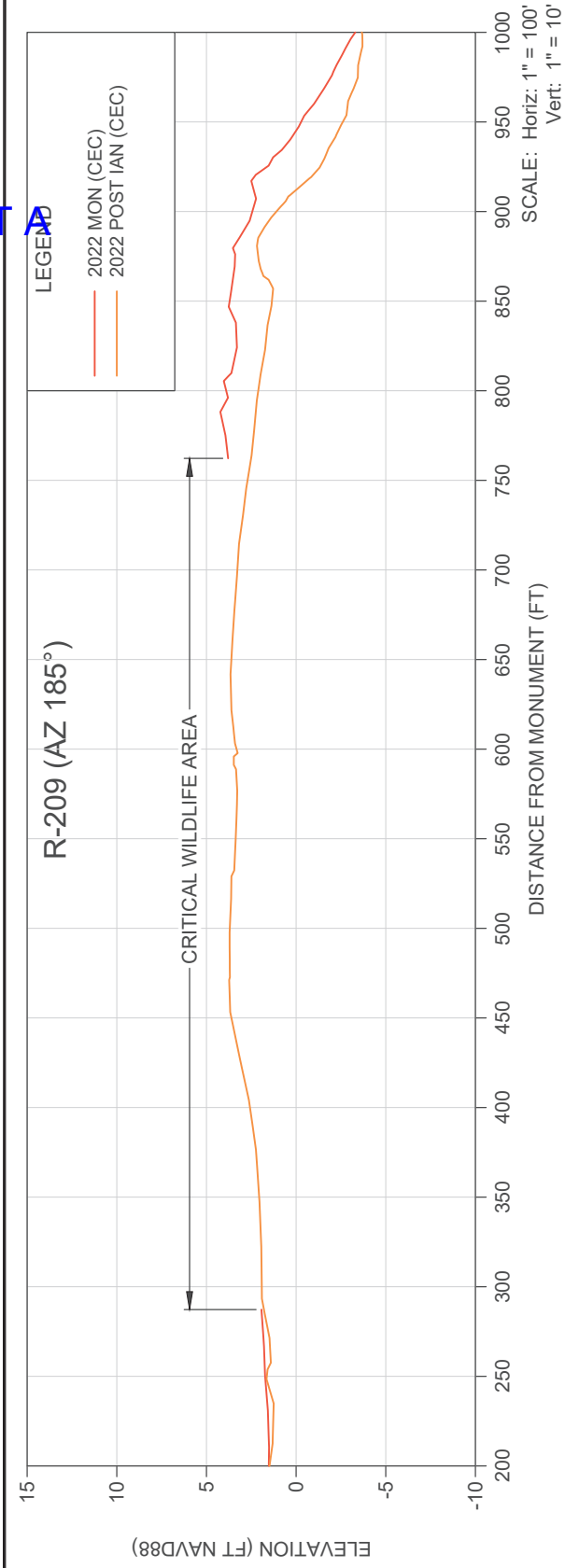
 COASTAL ENGINEERING CONSULTANTS INC. Serving Coastal Communities Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY AND MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464		CLIENT: TOWN OF FORT MYERS BEACH		DATE: 3/13/2023		SCALE: AS NOTED		
	PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@cecfl.com		TITLE:		DRAWN: SDB F.B.		SDB F.B.		
					CHECKED: MTP PG.		MTP PG.		
					SEC. TWP. RNG.		ACAD NO. 22504-P.dwg		
				REF. NO.		NO. 22,504		DATE BY	
								ADDED VOLUME, TRANSECTS, PROFILES	
								ADDED STOCK PILE	
								REVISION DESCRIPTION	



NOTES:

- ELEVATIONS ARE REFERENCED TO NAVD88.
- PROFILE DATA IS FROM SURVEYS BY CEC.

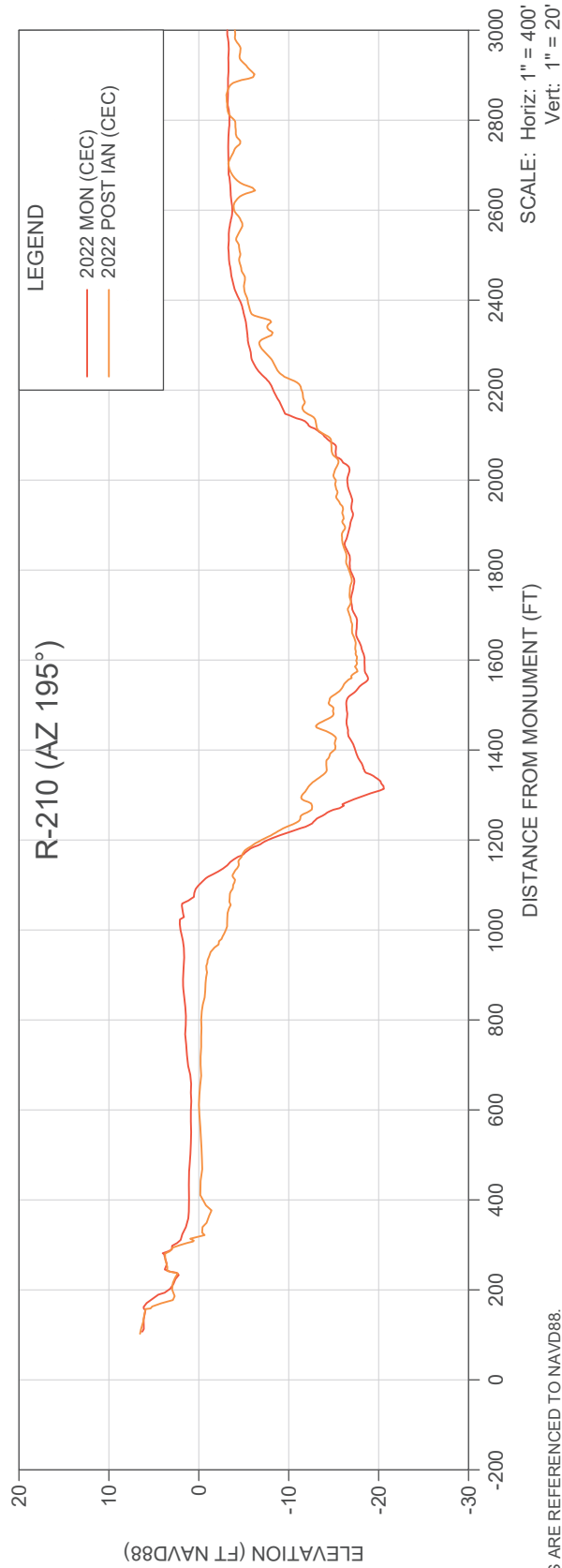
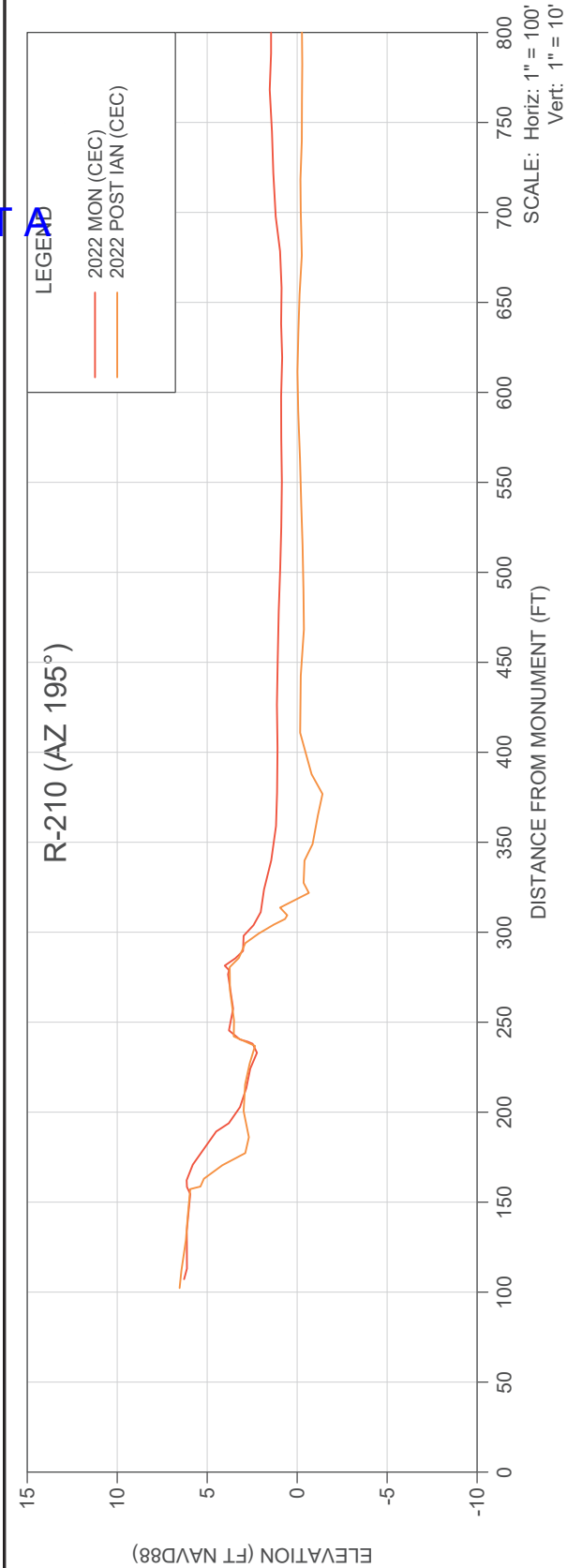
 COASTAL ENGINEERING CONSULTANTS INC. Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY & MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464 PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@cecfi.com			CLIENT: LEE COUNTY		DATE: 10/12/2022 SCALE: AS SHOWN		
	TITLE: R-208.5 (AZ 188°) POST IAN SURVEY			DRAWN: VVA F.B.		CHECKED: MTP PG.		
				SEC. TWP. RNG.				
				ACAD NO. 22279 Estero Island Profiles.dwg				
				REF. NO.		22,279		
SHEET 44 FILE NO.: 22279-R-208.5					NO. 22,279		DATE BY	REVISION DESCRIPTION



NOTES:

- ELEVATIONS ARE REFERENCED TO NAVD88.
- PROFILE DATA IS FROM SURVEYS BY CEC.

 COASTAL ENGINEERING CONSULTANTS INC. Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	CLIENT:	LEE COUNTY			
	TITLE:	R-209 (AZ 185°) POST IAN SURVEY			
	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEY & MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464 PHONE: (239)643-2324 FAX: (239)643-1143 www.coastalengineering.com E-Mail: info@cecfi.com	DATE:	10/12/2022	SCALE:	AS SHOWN
	DRAWN:	VVA	F.B.		
	CHECKED:	MTP	PG.		
	SEC.	TWP.	RNG.		
	ACAD NO.	22279 Estero Island Profiles.dwg			
	REF. NO.	22,279			
		NO.	DATE	BY	REVISION DESCRIPTION



NOTES:

1. ELEVATIONS ARE REFERENCED TO NAVD88.
2. PROFILE DATA IS FROM SURVEYS BY CEC.

COASTAL ENGINEERING CONSULTANTS INC. Serving Florida Since 1977 28421 BONITA CROSSINGS BLVD BONITA SPRINGS, FLORIDA 34135	CLIENT: LEE COUNTY		DATE: 10/12/2022		SCALE: AS SHOWN	
	TITLE: R-210 (AZ 195°) POST IAN SURVEY		DRAWN: VVA	F.B.		
		CHECKED: MTP	PG.			
		SEC.	TWP.	RNG.		
		ACAD NO. 22279 Estero Island Profiles.dwg				
		REF. NO.	NO. 22,279	DATE	BY	REVISION DESCRIPTION



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2024/2025
Beach Projects Application

PART I: GENERAL INFORMATION

Local Sponsor	Town of Fort Myers Beach		
Federal ID Number (FEID)	65-0632342		
Primary Contact Name	Chadd Chustz	Title	Environmental Project Manager
Mailing Address Line 1	2525 Estero Boulevard		
Mailing Address Line 2			
City	Fort Myers Beach	Zip Code	33931
		Telephone Number	(239) 765-0202 x13
Email Address	Chadd@fmbgov.com		

Additional Contact Information

PART II: CERTIFICATION

I hereby certify that all information provided with this application is true and complete to the best of my knowledge.

Signature of Local Sponsor	Chadd Chustz	Digitally signed by Chadd Chustz Date: 2023.07.28 16:11:49 -04'00'
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Electronic or scanned signatures accepted.

Printed Name	Chadd Chustz	Date	July 28,2023
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Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2024/2025
Beach Projects Application

PART III: EVALUATION CRITERIA

1. Project Name: (as listed in the Strategic Beach Management Plan)

Estero Island Beach Nourishment

2. Project Description: Include county, location with reference to DEP range monuments, brief project history, and description of proposed activities.

The project is to periodically nourish approximately 5.45 miles of critically eroding gulf shoreline and offset impacts from Hurricane Ian along Estero Island in Lee County. The project includes sand placement in three different segments: North Fill Segment (Terminal Groin- R-187), which is contiguous with the Central Fill Segment (R-187 – R-198), and the initial restoration and subsequent nourishment of the South Fill Segment (R-203 – R- 207); utilizing offshore sand sources. Additionally, a one-time sand placement event on previously unrestored shoreline on the southern end of Estero Island (R-208.8 to R-210) utilizing offshore sand sources is authorized in conjunction with the initial nourishment of the North, Central, and South fill segments. Upland sand sources may also be used for hot-spot maintenance and post-storm recovery and to maintain and repair the dune and beach berm as needed. This permit also authorizes beach management activities consistent with the approved Dune Management Plan.



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2024/2025
Beach Projects Application

3. Use of Requested Program Funds: Provide a brief description of tasks to be completed in each requested phase (Feasibility, Design, Construction, Monitoring, or USACE Multiphase). Indicate which tasks are cost reimbursement from previous fiscal years.

Physical and Biological Monitoring for First Annual Monitoring Period.

Request Reimbursement for Increased Costs for Beach Nourishment. Engineer's Updated Opinion of Probable Construction Cost is \$439,000 more than the FY22-23 Funding Application Request.

Request funds to restore beach and dune areas (e.g. scour holes, beach access points, berms) within the permitted fill limits to address Hurricane Ian erosion.

4. Map: Provide as an attachment. The map(s) of the project area must be formatted at a minimum of 1" = 200' scale and include a compass rose and legend.

Map elements must include:

1. **Project boundary:** DEP reference monuments and shoreline designated as critically eroded
2. **Eligibility:** Indicate lengths of eligible shoreline based on criteria outlined in Chapter 62B-36.007, F.A.C.
 - a. Beach access locations: indicate primary or secondary access, and include the shoreline length, number and location of auto parking spaces, mass transit stops, bike parking spaces, and public restroom facilities within 1/4 mile walking distance of each access
 - b. Public lodging establishments: include the length fronting the project shoreline, and include the length of street-side frontage for lodging within 1/4 mile walking distance of a secondary beach access location
3. **Recreational benefits:** Comprehensive list of current land use designations of properties fronting the project shoreline
4. **Value of upland property:** Include one-quarter mile buffer and provide a comprehensive list of the values of properties (data from year 2022) that are enclosed or intersected by the buffer. The 2022 property value tax roll data and ArcGIS shapefiles can be obtained from the Department of Revenue website: https://floridarevenue.com/property/Pages/DataPortal_RequestAssessmentRollGISData.aspx. See Guidance Document for more information.

5. Project length: Total restored project length (in feet) of the critically eroded area (as listed in the Strategic Beach Management Plan).

28,790 feet



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2024/2025
Beach Projects Application

- 6. Eligibility:** Required for all beach projects pursuant to Chapter 62B-36.007, F.A.C. Provide as a separate attachment, if needed.
- Location/Access Name: Use the official name of the park or road that is associated with the public access.
 - DEP Reference Monument: Use the DEP monument that is closest to the main public access location.
 - Type of Access: Indicate Primary or Secondary beach access in accordance with the definitions in Chapter 62B-36, F.A.C.
 - Width of Access/Frontage: The length of the legal boundary (in feet) of the public access or lodging along the beach project shoreline. For public lodging establishments that do not front the beach, indicate the street-side length of the legal property boundary (in feet) that is used as the main access to the establishment.
 - Number of Eligible Units: A unit is defined as one automobile parking space, one rental unit in a public lodging establishment, one mass transit stop, or four bicycle parking spots.
 - Additional Width from Eligible Units: Total distance (feet) added to the Width of Access/Frontage. If there are multiple types of eligibility units used for this calculation, show the calculation separately for each.
 - Total Eligible Shoreline: Sum of the Width of Access/Frontage and Additional Width from Eligible Units columns. Eligible shorelines cannot overlap.
 - Website Link for DBPR License: Provide the link to the Department of Business and Professional Regulation (DBPR) website for proof of licensure for any public lodging establishments used for eligibility or the Recreational Benefits ranking criteria.

Location/ Access Name	DEP Reference Monument	Type of Access	Width of Access/ Frontage (ft)	Number of Eligible Units	Additional Width from Eligible Units (ft)	Total Eligible Shoreline (ft)	Website Link for DBPR License
Maps (Att 4)							
State Cost Share=41.7%	C174.5-R198						
State Cost Share=100%	R203-R207						



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2024/2025
Beach Projects Application

7. Schedule and Budget: Provide as a separate attachment, if needed. Clearly indicate project phase: Feasibility (F), Design (D), Construction (C), Monitoring (M), or USACE Multiphase (USACE). Include the year of post-construction monitoring in the description.

- **Cost Reimbursement:** Specify eligible costs incurred during the three years prior to the current application's fiscal year that are not in a current DEP agreement and have not been reimbursed (this includes fiscal years 21/22, 22/23, and 23/24). Eligible costs will be added to the current funding request.
- **Current and Future Costs:** Specify eligible costs for the current application's fiscal year that are not in a current DEP agreement and have not been reimbursed as well as the estimated costs for the next 4 years. Note: If Construction costs are requested in the current fiscal year, then the Year 1 Post-Construction Monitoring costs will be added to the current funding request

Fiscal Year	Project Phase	Description	Federal Cost	State Cost	Local Cost	Total Cost
21/22						
21/22						
21/22						
22/23						
22/23						
22/23						
23/24						
23/24						
23/24						
24/25	Construction	Reimbursement for Beach Nourishment		\$188,770	\$250,230	\$439,000
24/25	Monitoring	First Annual Bio & Physical Mon		\$72,670	\$96,330	\$169,000
24/25	Construction	Hurricane Ian Impacts		\$1,396,950	\$1,953,050	\$3,350,000
25/26	Design	Hot Spot Maintenance		\$10,750	\$14,250	\$25,000
25/26	Construction	Hot Spot Maintenance		\$1,731,610	\$2,295,390	\$4,027,000
25/26	Monitoring	Second Annual Bio & Physical Mon		\$76,110	\$100,890	\$177,000



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2024/2025
Beach Projects Application

Fiscal Year	Project Phase	Description	Federal Cost	State Cost	Local Cost	Total Cost
26/27						
26/27	Monitoring	Third Annual Bio & Physical Mon		\$75,680	\$100,320	\$176,000
26/27						
27/28	Design	Hot Spot Maintenance		\$11,610	\$15,390	\$27,000
27/28	Construction	Hot Spot Maintenance		\$1,838,680	\$2,437,320	\$4,276,000
27/28	Monitoring	Fourth Annual Bio & Physical Mon		\$39,130	\$51,870	\$91,000
28/29						
28/29	Monitoring	Fifth Annual Bio & Physical Mon		\$40,850	\$54,150	\$95,000
28/29						

8. Tourism-related impacts: Criteria is calculated by the Department using 2022 data. For reference, tax data can be obtained from the Department of Revenue website: <https://floridarevenue.com/DataPortal/Pages/TaxResearch.aspx> See Guidance Document for more information.

- ☒ Current funding request includes construction and year one post-construction monitoring
☐ Project is managed by two or more counties

Additional comments

Construction Funding was originally approved based on FY23-24 application. The FY24-25 application includes reimbursement construction dollars based on updated project costs. This application requests funding for Hurricane Ian

9. Federal involvement: The documentation to verify authorization, federal cost share percentage, and status of funding award must be provided with the application materials for the award of points.

Is the project Federally authorized by the USACE?

No

Authorization Year:

Expiration Year:

Does this project have a signed USACE Chief's report or Civil Works Congressional authorization for the requested phase?

No

USACE federal cost share percentage for this project (excluding FCCE):



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2024/2025
Beach Projects Application

Select all that apply for the requested project phase(s) and include documentation with application materials.

- ☐ Executed USACE project agreement
- ☐ Included in USACE work plan
- ☐ Approved FEMA Project Worksheet
- ☐ Included in Congressional Appropriations Act

☒ Other documentation:

Town is pursuing FEMA Category G Funding. Approvals are anticipated by end of August, 2023.

10. Storm damage reduction benefits: Criteria is calculated by the Department.

What is the volume (cy) of advanced nourishment lost since the last sand placement event of a beach restoration or nourishment project as measured above the Mean High Water contour? Data should be consistent with the annual post-construction monitoring reports.

CEC will be providing the 2023 monitoring survey to the Department.

For restoration projects, what is the historical erosion rate?

11. Cost effectiveness: Criteria is calculated by the Department. A project design analysis and supporting documentation must be provided with the application materials for the award of points. See Guidance Document for more information.

What is the proposed sand placement volume (cy)?

905,000 exclusive of FEMA Cat G request; 961,845 inclusive of FEMA Cat G request

What is the nourishment interval (years)?

10

Select all that apply for the current project funding request:

- ☒ Enhanced longevity: Propose structural or design components that could extend the beach nourishment interval
- ☒ Dune addition: Incorporate new or enhanced dune structures or new or existing dune restoration and revegetation projects
- ☐ Innovative technology: Propose innovative technologies designed to reduce project costs
- ☒ Regionalization: Two or more local sponsors manage projects together or projects propose regional sediment management strategies to conserve sand resources or reduce project costs

Additional comments
for storm damage
reduction benefits and
cost effectiveness

The Town of Fort Myers Beach has expanded the original 2011 Shore Protection Project to include the designated critically eroded shoreline along the ECL and/or Critical Wildlife Area (state owned land on Estero Island). At grade dune plantings will be installed upon completion of construction consistent with the Fort Myers Beach Dune Management Plan.

Beach Fill template was designed for the Central Segment to account for the USACE Maintenance Dredging of Matanzas Pass and placement of 130,000 CY of sand in nearshore disposal between R182 to R186.



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2024/2025
Beach Projects Application

12. Previous state commitment

Has the Department previously reviewed, approved, and cost-shared on a feasibility or design phase for this project?

Has the current proposed project phase(s) received a partial state appropriation within 3 years of phase completion?

Additional comments

13. Accessible beach area: Criteria is calculated by the Department. Provide additional information for consideration.

Describe the landward and seaward edge of the accessible beach width

75ft wide design beach width plus advanced nourishment width (varies from 10ft to 110ft), plus equilibrium profile adjustment width of 60ft

Provide the project boundaries (R-monuments)

North Fill Segment (Terminal Groin- R-187), which is contiguous with the Central Fill Segment (R-187 – R-198), and the initial restoration and subsequent nourishment of the South Fill Segment (R-203 – R- 207). Total length = 5.45 miles.

Provide citations of reference sources

Project Permits. CEC Design Report.

Total accessible beach area = 28,790 ft * 75 ft = 2,159,250 sq ft.

14. Recreational benefits: Provide the percentage of linear footage within the project boundaries which is zoned recreational or open space; for commercial use; or to allow for public lodging establishment, or the equivalent. Provide additional documentation and DBPR website link in a separate attachment, if needed.

100%, Beachfront Properties including parks, hotels, condos, and residential lots are Zoned Environmentally Critical which is a recreation and open space zoning classification; or are within the Little Estero Island Critical Wildlife Area. Refer to Attachment 4-3.

15. Mitigation of inlet effects: Criteria is calculated by the Department.

Additional comments

N/A

16. Successive unfunded requests

Is the current proposed project phase(s) a successive, unfunded request? If so, how many years of successive request(s) is the current application?

Does the successive request add the construction phase?



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2024/2025
Beach Projects Application

17. Environmental habitat enhancement: Criteria is calculated by the Department. See Guidance Document for more information.

Is the project within a designated critical habitat area for threatened or endangered species that is subject to extensive shoreline armoring?

Yes

Is the project within a non-designated area where extensive shoreline armoring threatens the habitat of threatened or endangered species?

If yes to either of the above, does the project exceed best management practices to incorporate turtle-friendly designs and management strategies to protect resources or benefit critical habitat preservation?

Yes

Provide an explanation and supporting documentation for the strategies which exceed best management practices

Due to significant beach erosion properties at R-204 have installed seawall to protect upland property within the Critical Wildlife Area. Project proposes to restore and sustain beach habitat along designated critically eroded South Fill Segment. Further, design template was modified to lower the beach berm elevation to match habitat type and existing conditions within the Critical Wildlife Area. For example, berm elevation was lowered from +3.2 ft NAVD88 to +1.3 ft NAVD88 along the sub-segment between R205 to R207.

18. Readiness to construct

Does the project have an active state permit?

Yes

Does the project have an active federal permit?

No

Permit number

0413684-001-JC

Permit number

Authorization date

Jan 18, 2023

Authorization date

Expiration date

Jan 18, 2038

Expiration date

Have all necessary easements been acquired for the upcoming or proposed construction phase?

No

Has the necessary local funding been secured for the proposed project? If so, provide a copy of the draft Resolution. The signed Resolution is due by September 21, 2023.

Yes

Is an Erosion Control Line established along the project length?

Yes

Additional comments for readiness to construct

Town has secured majority of easements necessary for fall construction. Outstanding easements will be obtained by August 31, 2023.



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2024/2025
Beach Projects Application

Provide additional information and comments below or attach supporting documents.

1. **Requested Motion:**

Meeting Date: August 21, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING CHANGE ORDER #2 TO CONTRACT ITB-23-08-CD BETWEEN THE TOWN AND GRUBBS EMERGENCY SERVICES FOR INCREASING CONTRACT TIME 109 DAYS AND INCREASING CONTRACT PRICE \$169,813.

Why the action is necessary:

Remobilization is necessary to complete the FEMA Berm Project after shorebird nesting season.

What the action accomplishes:

Completes FEMA Emergency Berm Project in time for peak hurricane season.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

At this time, the remaining berm segments on the southern end cannot be constructed due to the presence of shorebird nesting and fledglings. The Town is seeking additional time and reallocation of the approved budget to reimburse the Contractor for the additional work to implement shorebird protection measures and to demobilize now and remobilize after September 15 (end of shorebird nesting season) to complete the work.

Attachments:

1. Resolution 23-92 Grubbs Change Order 2
2. 22502 Approach to Change Order 20230711

Financial Impact:

The additional costs for performing the work while implementing shorebird protection measures, respecting all of the buffers, and to demobilize and remobilize after September 15 including labor, materials, overhead, and profit equates to \$367,790. These costs can be covered by the reallocation of approved funds (unspent funds under sand, dune vegetation and biological monitoring).

6. **Alternative Action**

Do not authorize change order #2.

7. **Management Recommendations:**

Approve the Change Order.

8. **Recommended Approval:**

Chadd Chustz, Environmental Services
Steve Poposki, Community Development Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/12/2023
Approved - 8/14/2023
Approved - 8/17/2023
Approved - 8/17/2023
Final Approval - 8/17/2023

RESOLUTION NUMBER 23-92

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING CHANGE ORDER #2 TO CONTRACT ITB-23-08-CD BETWEEN THE TOWN AND GRUBBS EMERGENCY SERVICES FOR INCREASING CONTRACT TIME 109 DAYS AND INCREASING CONTRACT PRICE \$169,813.

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, Post bid, the contractor was required to implement shorebird protection measures and adhere to special permit conditions for habitat and species protection above and beyond what would have been normally expected at the time of bidding. Further, due to heightened level of nesting outside of historic areas, the contractor must demobilize and remobilize to complete work after shorebird nesting season concludes.

WHEREAS, the Town Council has determined it is in the best interest of the Town to approve the requested (Agreement/Change Order/etc.).

NOW THEREFORE, BE IT RESOLVED 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 hereby approves the Change Order #2 to Contract ITB-23-08-CD between the Town and Grubbs Emergency Services, for increasing the contract time 109 days and increasing the contract price \$169,813. A copy of Change Order #2 is attached hereto as Attachment "A".

The foregoing Resolution 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:

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

ADOPTED this 21st day of August 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

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:**

Vose Law Firm, LLP, Town Attorney

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

PARTE
FMB:011 - CONSTRUCTION CONTRACT
CHANGE ORDER

No.: 2

(A Change Order requires approval by the Finance Director and Town Manager for expenditures under \$25,000, approval by the Town Council for expenditures over \$25,000).

CONTRACT/PROJECT **NAME:** Estero Island Emergency Berm

CONTRACTOR: Grubbs Emergency Services LLC

PROJECT NO.: 22"-1.5"0"2

CONTRACT NO.: ITB-23-08-CD

BID NO.: ITB-23-08-CD

CHANGE REQUESTED BY: Grubbs Emergency Services LLC

DATE OF REQUEST: 06/29/2023

Upon the completion and execution of this Change Order by both parties to the Contract the Contractor is authorized to and shall proceed to make the following changes in the Contract Documents:
(If you need space other than what has been provided, please attach additional sheets.)

Description: Post bid, contractor experienced additional work in order to implement shorebird protection measures and adhere to special permit conditions for habitat and species protection. Due to heightened level of nesting outside of historic areas, contractor has to demobilize and remobilize to complete work after nesting season concludes.

Purpose of Change Order: Adding time and budget to address shorebird protection

Attachments: (List documents supporting change)

GES RFCO FMB.p df

CHANGE IN CONTRACT PRICE:

Original Contract Price

\$7,559,860

Previous Change Order No. N/A to No. N/A

\$0

Contract Price prior to this Change Order

\$7,559,860

Net Increase (Decrease) of this Change Order

\$169,813

Contract Price will all approved Change Orders

\$7,729,673

CHANGE IN CONTRACT TIME:

Original Contract time

91

Calendar Days

Net Change from previous Change Orders

!!

Calendar Days

Contract time prior to this Change Order

99

Calendar Days

Net Increase (Decrease) of this Change Order

109

Calendar Days

Contract time with all approved Change Orders

208

Calendar Days

It is understood and agreed that the acceptance of this modification by the CONTRACTOR constitutes an accord and satisfaction, and represents payment in full (both time and money) for all costs arising out of, or incidental to, the above mentioned work.

: COM E

Consul

Date

B:

Department Director

Date

: CEPTED

Con

Date Accepted:

7.3 / -2.3

: WNAPPROVAL:

Finance Director (Under \$25,000)

Date Approved:

By:

Town Manager (Under \$25,000)

Date Approved:

By:

Mayor, Town Council

(Over \$25,000)

Date Approved:

Contracts Management

(CORPORATE SEAL)

APPROVED:

Town Attorney

Date

ESTERO ISLAND EMERGENCY BERM
ITB-23-08-CD
Justification for Change Order No. 2
CEC File No. 22.502
July 11, 2023

INTRODUCTION

Justification for approving the additional time and budget is based on the contractor having to implement shorebird protection measures and adhere to special permit conditions for habitat and species protection above and beyond what would have been normally expected at the time of bidding. Further, due to heightened level of nesting outside of historic areas, the contractor has to demobilize and remobilize to complete work after nesting season concludes.

BIDDING, NTP, AND SCHEDULE

The Contractor bid the project with the expectation the southern berm segment could be completed prior to beginning of shorebird nesting season along the historical nesting sites in the Critical Wildlife Area.

FEMA approved the Project on April 3, 2023. The Town issued the Notice to Proceed on April 5. The Town and Contractor held construction meeting on April 5. The 10-day pre-construction shorebird monitoring took place between April 3 and April 12. The first shorebird nest within the historic nesting areas was reported on April 3. The Contractor initiated mobilization to southern end on April 13.

Multiple plan edits with new nest and buffer locations were produced in the course of the work. These nests and buffers interrupted work as the Contractor had to stop and restart on the southern berm segments multiple times. These stoppages varied from a few hours to days as equipment and sand stockpiles had to be shuffled.

The Contractor had to open up additional access points to respect buffers only to have them closed by new nests and buffers.

NESTING OUTSIDE HISTORIC AREAS

The Contractor's primary construction access and staging area was the Wyndham Hotel property. This property was not a historic nesting site due to the very active hotel operations, guests, and constant activity. Due to Hurricane Ian, the hotel has been closed. Without the normal hotel activities, shorebirds including snowy plovers nested, eggs hatched, and chicks fledged. Multiple families have been using this segment of beach for months. The buffer around the shorebird nests and activity intersected the Contractor's primary access and sand stockpile. The Contractor had to double and sometimes triple handle the sand to deliver it to the berm while protecting the shorebirds at this property.

SUMMARY

At this time, the remaining berm segments on the southern end cannot be constructed due to the presence of shorebird nesting and fledglings. The Town is seeking additional time and reallocation of approved budget to reimburse the Contractor for the additional work to implement shorebird protection measures and to demobilize now and remobilize after September 15 (end of shorebird nesting season) to complete the work.

The additional costs for performing the work while implementing shorebird protection measures, respecting all of the buffers, and to demobilize and remobilize after September 15 including labor, materials, overhead, and profit equates to \$367,790. These costs can be covered by the reallocation of approved funds (unspent funds under sand, dune vegetation and biological monitoring).

The Town respectfully requests FEMA / FDEM approve the change order request by the Contractor for these additional costs and time. The tables below present the summary of the reallocations.

Table 1. FEMA Approved Project Cost (April 3, 2023)

ESTERO ISLAND EMERGENCY BERM FEMA APPROVED PROJECT COST APRIL 3, 2023						
Item	Description	Unit	Quantity	Unit Price	Extended Price	Subtotals
A-1	Storm Damage Assessment	LS	1	\$24,440	\$24,440	\$24,440
C-1	Mobilization/Demobilization	LS	1	\$150,000	\$150,000	
C-2	Construction Access/Staging	LS	1	\$50,000	\$50,000	
C-3	Maintenance of Traffic	LS	1	\$50,000	\$50,000	
C-4	Sand (Production)	CY	86,969	\$23.80	\$2,069,862	
C-5	Sand (Delivery/Placement)	CY	86,969	\$57.40	\$4,992,021	
C-6	Surveys	LS	1	\$50,000	\$50,000	\$7,361,883
C-7	Dune Vegetation	SY	29,100	\$12	\$349,200	\$349,200
D-1	Engineering and Inspections	LS	1	\$162,220	\$162,220	\$162,220
M-1	Biological Monitoring	LS	1	\$73,200	\$73,200	\$73,200
					Total	\$7,970,943

Table 2. Contractor Original Bid (February 3, 2023)

ESTERO ISLAND EMERGENCY BERM GRUBBS ORIGINAL BID FEBRUARY 3, 2023						
Item	Description	Unit	Quantity	Unit Price	Extended Price	Subtotals
C-1	Mobilization/Demobilization	LS	1	\$150,000	\$150,000	
C-2	Construction Access/Staging	LS	1	\$50,000	\$50,000	
C-3	Maintenance of Traffic	LS	1	\$50,000	\$50,000	
C-4	Sand (Production)	CY	89,407	\$23.80	\$2,127,890	
C-5	Sand (Delivery/Placement)	CY	89,407	\$57.40	\$5,131,970	
C-6	Surveys	LS	1	\$50,000	\$50,000	
						\$7,559,860

Table 3. Contractor Adjusted Bid for FEMA Approved Volume (April 5, 2023)

ESTERO ISLAND EMERGENCY BERM GRUBBS ADJUSTED BID (FEMA APPROVED VOLUME) APRIL 5, 2023						
Item	Description	Unit	Quantity	Unit Price	Extended Price	Subtotals
C-1	Mobilization/Demobilization	LS	1	\$150,000	\$150,000	
C-2	Construction Access/Staging	LS	1	\$50,000	\$50,000	
C-3	Maintenance of Traffic	LS	1	\$50,000	\$50,000	
C-4	Sand (Production)	CY	86,969	\$23.80	\$2,069,862	
C-5	Sand (Delivery/Placement)	CY	86,969	\$57.40	\$4,992,021	
C-6	Surveys	LS	1	\$50,000	\$50,000	
						\$7,361,883

Table 3. Contractor Revised Bid with Change Order # 2 (July 11, 2023)

ESTERO ISLAND EMERGENCY BERM GRUBBS REVISED BID WITH CHANGE ORDER # 2 JULY 11, 2023						
Item	Description	Unit	Quantity	Unit Price	Extended Price	Subtotals
C-1	Mobilization/Demobilization	LS	1	\$150,000	\$150,000	
C-2	Construction Access/Staging	LS	1	\$50,000	\$50,000	
C-3	Maintenance of Traffic	LS	1	\$50,000	\$50,000	
C-4	Sand (Production)	CY	86,969	\$23.80	\$2,069,862	
C-5	Sand (Delivery/Placement)	CY	86,969	\$57.40	\$4,992,021	
C-6	Surveys	LS	1	\$50,000	\$50,000	
C-7	Shorebird Protection	LS	1	\$367,790	\$367,790	
						\$7,729,673

1. **Requested Motion:**

Meeting Date: August 21, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A CHANGE TO SUPPLEMENTAL TASK ORDER #2 OF CONTRACT RFQ-21-09-EN BETWEEN THE TOWN AND COASTAL ENGINEERING CONSULTANTS FOR INCREASING THE AGREEMENT LENGTH TO 161 DAYS AND REALLOCATING \$25,690 FROM TASK 3 FOR BERM PLANTING SERVICES TO TASK 2 FOR CONSTRUCTION PHASE SERVICES AND ADDING AN ADDITIONAL \$20,000 TO TASK 2 FOR CONSTRUCTION PHASE SERVICES.

Why the action is necessary:

Action is necessary to complete FEMA Emergency Berm Project in time for peak storm season.

What the action accomplishes:

Allows engineer to continue construction services and biological monitoring of Berm Project.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Justification for approving the additional time and budget is based on the contractor having to implement shorebird protection measures and adhere to special permit conditions for habitat and species protection above and beyond what would have been normally expected at the time of bidding. Further, due to heightened level of nesting outside of historic areas, the contractor has to demobilize and remobilize to complete work after nesting season concludes.

Attachments:

1. Resolution 23-95 CEC STA 2
2. 22502 Approach to Change Order 20230711

Financial Impact:

Action transfers the berm planting fees (Task 3) into Task 2, and adds \$20,000 to Task 2. These fees were all approved under the FEMA request.

The contractor's contract time will increase 117 days.

6. **Alternative Action**

Do not approve amendment to STA#2.

7. **Management Recommendations:**

Approve changes to STA#2.

8. **Recommended Approval:**

Chadd Chustz, Environmental Services
Steve Poposki, Community Development Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/12/2023
Approved - 8/14/2023
Approved - 8/17/2023
Approved - 8/17/2023
Final Approval - 8/17/2023

RESOLUTION NUMBER 23-94

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A CHANGE TO SUPPLEMENTAL TASK ORDER #2 OF CONTRACT RFQ-21-09-EN BETWEEN THE TOWN AND COASTAL ENGINEERING CONSULTANTS FOR INCREASING THE AGREEMENT LENGTH TO 161 DAYS AND REALLOCATING \$25,690 FROM TASK 3 FOR BERM PLANTING SERVICES TO TASK 2 FOR CONSTRUCTION PHASE SERVICES AND ADDING AN ADDITIONAL \$20,000 TO TASK 2 FOR CONSTRUCTION PHASE SERVICES.

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, Coastal Engineering Consultants was required to increase the duration of Construction Phase Services due to the contractor having to implement shorebird protection measures and adhere to special permit conditions for habitat and species protection above and beyond what would have been normally expected at the time of bidding. Further, due to heightened level of nesting outside of historic areas, the contractor has to demobilize and remobilize to complete work after nesting season concludes.

WHEREAS, the Town Council has determined it is in the best interest of the Town to approve the requested (Agreement/Change Order/etc.).

NOW THEREFORE, BE IT RESOLVED 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 hereby approves the change to Supplemental Task Order #2 of Contract RFQ21-09-EN between the Town and Coastal Engineering Consultants for increasing the agreement duration to 161 days and reallocating \$25,690 from Task 3 for Berm Planting Services to Task 2 for Construction Phase Services and adding an additional \$20,000 to Task 2 for Construction Phase Services. A copy of the amended Supplemental Task Agreement is attached hereto as Attachment "A".

The foregoing Resolution 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:

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

ADOPTED this 21st day of August 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

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:**

Vose Law Firm, LLP, Town Attorney

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

**TOWN OF FORT MYERS BEACH SERVICE AGREEMENT
SUPPLEMENTAL TASK AUTHORIZATION**

X Supplemental Task Authorization

NO.: 2

CONTRACT/PROJECT NAME: Estero Island Emergency Berm Construction Phase Services

CONSULTANT: Coastal Engineering Consultants, Inc.

PROJECT NO.: _____

SOLICIT NO.: Estero Island Beach Renourishment

CONTRACT NO.: RFQ-21-09-EN

REQUESTED BY: Chadd Chustz, Environmental Project Manager DATE OF REQUEST: 1/4/2023

Upon the completion and execution of this Supplemental Task Authorization by both parties, the Consultant/Provider is authorized to and shall proceed with the following:

EXHIBIT "A" SCOPE OF PROFESSIONAL SERVICE: DATED: January 9, 2023

EXHIBIT "B" COMPENSATION & METHOD OF PAYMENT: DATED: January 9, 2023

EXHIBIT "C" TIME AND SCHEDULE OF PERFORMANCE: DATED: January 9, 2023

EXHIBIT "D" CONSULTANT'S/PROVIDER'S ASSOCIATED
SUB-CONSULTANT(S)/SUB-CONTRACTORS: DATED: January 9, 2023

It is understood and agreed that the acceptance of this modification by the CONSULTANT/PROVIDER constitutes an accord and satisfaction.

RECOMMENDED:

By: _____
Department Director Date

By: _____
Contracts Manager Date

ACCEPTED:

By: Michael C. Hoff January 9, 2023
Consultant/Provider Date

TOWN APPROVAL:

By: _____
Town Manager Date

SCOPE OF PROFESSIONAL SERVICES

Estero Island Emergency Berm Construction Phase Services

1: Bid Phase Services

Assist Town coordinate bid process, one time. Assist Town prepare responses to bidder questions. Assist Town evaluate bids. Render recommendation for award to the lowest responsive bidder.

2: Construction Phase Services

Assist the Town administer the construction contract. Arrange, prepare for, and attend one (1) pre-construction meeting with the Town, contractor, and appropriate stakeholders designated by the Town Project Manager to discuss the Project construction; develop a Project schedule; review permits, plans, and specifications; identify concerns and issues; and establish lines of communication, and contact people.

Review contractor submittals for compliance with contract documents. Attend construction meetings with Town and contractor.

Conduct site visits during active construction in support of certifying project completion. Based on information obtained during such inspections and on such observations, endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and keep the Town informed of the progress of the work. Prepare and submit summary reports of observations. Budget does not include nights or weekend overtime.

Review pay applications and recommend payments. Conduct as-built survey at same stations as pre-construction survey and prepare as-built survey deliverable.

Construction stakeout and progress/pay surveys are not included in this scope of work.

The budget is based on a 16190-day construction window. Services beyond 16190 days shall be provided as additional services.

3: ~~Berm Planting Services~~

~~Specific to planting the berm, prepare construction plans to show the general scope, character and extent of the work to be furnished and performed by the contractor. The plans shall include horizontal and vertical control, survey baseline, planting plan, typical sections, staging area, and construction access.~~

~~Assist Town prepare and assemble Bid Documents with detailed construction specifications including description of work, special terms and conditions, quantity estimates, bid schedules, and technical specifications describing the general scope, character, and extent of work to be furnished and performed by the contractor.~~

~~Develop a Final Opinion of Probable Construction Cost. Construction costs shall be broken down by mobilization and demobilization, plantings, and placement.~~

~~Assist Town coordinate bid process, one time. Assist Town prepare responses to bidder questions. Assist Town evaluate bids. Render recommendation for award to the lowest responsive bidder.~~

~~Assist the Town administer the construction contract. Arrange, prepare for, and attend one (1) pre-~~

~~construction meeting with the Town, contractor, and appropriate stakeholders designated by the Town Project Manager to discuss the Project construction; develop a Project schedule; review permits, plans, and specifications; identify concerns and issues; and establish lines of communication, and contact people. Review contractor submittals for compliance with contract documents. Conduct limited number of site visits during active construction in support of certifying project completion. Based on information obtained during such inspections and on such observations, endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and keep the Town informed of the progress of the work. Prepare and submit field reports of observations.~~

~~Review pay applications and recommend payments.~~

~~The budget is based on a 60-day construction window. Services beyond 60 days shall be provided as additional services.~~

4: Stakeholder and Administrative Services

Attend and present at two meetings such as Town Council and Town Committees. Provide technical support services for the Town specific to stakeholder coordination. The Town will be responsible for publishing notices and advertising for each meeting. Prepare for and participate in the meetings. Prepare a written summary of the meetings. Coordinate the project team's internal efforts and maintain informal contact with the Town staff. Prepare written monthly progress reports. Provide technical support to the Town with respect to construction easements.

Total Cost (of Job): *\$1318,160*

EXHIBIT B

Date: January 9, 2023

COMPENSATION AND METHOD OF PAYMENT ESTERO ISLAND BEACH RENOURISHMENT PHASE I

Section 1. BASIC SERVICES/TASK(S)

The TOWN shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
Task 1	Bid Phase Services	\$3,300	LS	W.I.P.P.
Task 2	Construction Phase Services	\$84,920 130,610	LS	W.I.P.P.
Task 3	Berm Planting Services	\$25,690	LS	W.I.P.P.
Task 4	Stakeholder and Administrative Services	\$4,250	NTE	W.I.P.P.
TOTAL		\$134 8,160		

(Unless list is continued on next page)

Section 2. ADDITIONAL SERVICES

The TOWN shall compensate the CONSULTANT for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONSULTANT for ADDITIONAL SERVICES requested and authorized in writing by the TOWN shall be as set forth in Article 4 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated 1/9/2023, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto dated 1/9/2023, entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

Date: January 9, 2023

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE *** FOR
ESTERO ISLAND BEACH RENOURISHMENT PHASE I

Consultant or Sub-Consultant Name: Coastal Engineering Consultants, Inc.
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Standard Rate Schedule Included in Master Contract			

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.

**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative & overhead costs, and profit.

***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Consultant listed in Exhibit "D".

ATTACHMENT NO. 2 TO EXHIBIT B

Date: January 9, 2023

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS

ESTERO ISLAND BEACH RENOURISHMENT PHASE I

CONSULTANT OR SUB-CONSULTANT NAME: Coastal Engineering Consultants, Inc.

(A separate Attachment No. 2 should be included for each Sub-Consultant)

ITEM	BASIS OF CHARGE
Telephone (Long Distance)	Actual Cost
Postage and Shipping	Actual Cost
Commercial Air Travel	Actual Cost (Coach)
Vehicle Travel Allowance (N.T.E. 50 miles one-way) (or)	\$0.405/mile
Vehicle Rental/Gas	Actual Cost
Lodging (Per Person)	Actual Cost or NTE \$100.00
Meals:	
Breakfast	\$12.01
Lunch	\$11.82
Dinner	\$24.72
In accordance with the Runzheimer rate service for Travel utilizing the "average", dated 5/4/06	
Reproduction (Photocopy) 8 1/2" x 11"	\$0.15/Page
8 1/2" x 14"	\$0.20/Page
11" x 14"	\$0.35/Page
Reproduction (Blue/White Prints)	\$0.20/Sq. Ft.
Printing/Binding	Actual Cost
Mylar Sheets	Actual Cost
Photographic Supplies & Services	Actual Cost
Tolls	Actual Cost
*List other specific project related reimbursables (i.e. film/developing):	
Permit Fees	Actual Cost
NOTE: Receipts or in-house logs are required for all non-personnel reimbursable expenses unless exempt (such as meals).	
Administrative Services Fee – Applicable only when specifically authorized by the Town, for administering the procurement of special additional services, equipment, reimbursables etc. not covered under the costs and/or changes established in the Agreement.	

*NOTE: N.T.E. indicates Not-To-Exceed

EXHIBIT C

Date: January 9, 2023

TIME AND SCHEDULE OF PERFORMANCE
ESTERO ISLAND BEACH RENOURISHMENT PHASE I

This EXHIBIT "C" establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT "A"	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number of Calendar Days for Completion from Date of Notice to Proceed
Task 1	Bid Phase Services	45	45
Task 2	Construction Phase Services	105 <u>176</u>	150 <u>221</u>
Task 3	Berm Planting Services	60	210
Task 4	Stakeholder and Administrative Services	90 <u>120</u>	34 <u>100</u>

EXHIBIT D

Date: January 9, 2023

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S)

ESTERO ISLAND BEACH RENOURISHMENT PHASE I

CONSULTANT has identified the following Sub-Consultant(s) and/or Subcontractor(s) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project:

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm				Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
					Yes	No

ESTERO ISLAND EMERGENCY BERM
ITB-23-08-CD
Justification for Change Order No. 2
CEC File No. 22.502
July 11, 2023

INTRODUCTION

Justification for approving the additional time and budget is based on the contractor having to implement shorebird protection measures and adhere to special permit conditions for habitat and species protection above and beyond what would have been normally expected at the time of bidding. Further, due to heightened level of nesting outside of historic areas, the contractor has to demobilize and remobilize to complete work after nesting season concludes.

BIDDING, NTP, AND SCHEDULE

The Contractor bid the project with the expectation the southern berm segment could be completed prior to beginning of shorebird nesting season along the historical nesting sites in the Critical Wildlife Area.

FEMA approved the Project on April 3, 2023. The Town issued the Notice to Proceed on April 5. The Town and Contractor held construction meeting on April 5. The 10-day pre-construction shorebird monitoring took place between April 3 and April 12. The first shorebird nest within the historic nesting areas was reported on April 3. The Contractor initiated mobilization to southern end on April 13.

Multiple plan edits with new nest and buffer locations were produced in the course of the work. These nests and buffers interrupted work as the Contractor had to stop and restart on the southern berm segments multiple times. These stoppages varied from a few hours to days as equipment and sand stockpiles had to be shuffled.

The Contractor had to open up additional access points to respect buffers only to have them closed by new nests and buffers.

NESTING OUTSIDE HISTORIC AREAS

The Contractor's primary construction access and staging area was the Wyndham Hotel property. This property was not a historic nesting site due to the very active hotel operations, guests, and constant activity. Due to Hurricane Ian, the hotel has been closed. Without the normal hotel activities, shorebirds including snowy plovers nested, eggs hatched, and chicks fledged. Multiple families have been using this segment of beach for months. The buffer around the shorebird nests and activity intersected the Contractor's primary access and sand stockpile. The Contractor had to double and sometimes triple handle the sand to deliver it to the berm while protecting the shorebirds at this property.

SUMMARY

At this time, the remaining berm segments on the southern end cannot be constructed due to the presence of shorebird nesting and fledglings. The Town is seeking additional time and reallocation of approved budget to reimburse the Contractor for the additional work to implement shorebird protection measures and to demobilize now and remobilize after September 15 (end of shorebird nesting season) to complete the work.

The additional costs for performing the work while implementing shorebird protection measures, respecting all of the buffers, and to demobilize and remobilize after September 15 including labor, materials, overhead, and profit equates to \$367,790. These costs can be covered by the reallocation of approved funds (unspent funds under sand, dune vegetation and biological monitoring).

The Town respectfully requests FEMA / FDEM approve the change order request by the Contractor for these additional costs and time. The tables below present the summary of the reallocations.

Table 1. FEMA Approved Project Cost (April 3, 2023)

ESTERO ISLAND EMERGENCY BERM FEMA APPROVED PROJECT COST APRIL 3, 2023						
Item	Description	Unit	Quantity	Unit Price	Extended Price	Subtotals
A-1	Storm Damage Assessment	LS	1	\$24,440	\$24,440	\$24,440
C-1	Mobilization/Demobilization	LS	1	\$150,000	\$150,000	
C-2	Construction Access/Staging	LS	1	\$50,000	\$50,000	
C-3	Maintenance of Traffic	LS	1	\$50,000	\$50,000	
C-4	Sand (Production)	CY	86,969	\$23.80	\$2,069,862	
C-5	Sand (Delivery/Placement)	CY	86,969	\$57.40	\$4,992,021	
C-6	Surveys	LS	1	\$50,000	\$50,000	\$7,361,883
C-7	Dune Vegetation	SY	29,100	\$12	\$349,200	\$349,200
D-1	Engineering and Inspections	LS	1	\$162,220	\$162,220	\$162,220
M-1	Biological Monitoring	LS	1	\$73,200	\$73,200	\$73,200
					Total	\$7,970,943

Table 2. Contractor Original Bid (February 3, 2023)

ESTERO ISLAND EMERGENCY BERM GRUBBS ORIGINAL BID FEBRUARY 3, 2023						
Item	Description	Unit	Quantity	Unit Price	Extended Price	Subtotals
C-1	Mobilization/Demobilization	LS	1	\$150,000	\$150,000	
C-2	Construction Access/Staging	LS	1	\$50,000	\$50,000	
C-3	Maintenance of Traffic	LS	1	\$50,000	\$50,000	
C-4	Sand (Production)	CY	89,407	\$23.80	\$2,127,890	
C-5	Sand (Delivery/Placement)	CY	89,407	\$57.40	\$5,131,970	
C-6	Surveys	LS	1	\$50,000	\$50,000	
						\$7,559,860

Table 3. Contractor Adjusted Bid for FEMA Approved Volume (April 5, 2023)

ESTERO ISLAND EMERGENCY BERM GRUBBS ADJUSTED BID (FEMA APPROVED VOLUME) APRIL 5, 2023						
Item	Description	Unit	Quantity	Unit Price	Extended Price	Subtotals
C-1	Mobilization/Demobilization	LS	1	\$150,000	\$150,000	
C-2	Construction Access/Staging	LS	1	\$50,000	\$50,000	
C-3	Maintenance of Traffic	LS	1	\$50,000	\$50,000	
C-4	Sand (Production)	CY	86,969	\$23.80	\$2,069,862	
C-5	Sand (Delivery/Placement)	CY	86,969	\$57.40	\$4,992,021	
C-6	Surveys	LS	1	\$50,000	\$50,000	
						\$7,361,883

Table 3. Contractor Revised Bid with Change Order # 2 (July 11, 2023)

ESTERO ISLAND EMERGENCY BERM GRUBBS REVISED BID WITH CHANGE ORDER # 2 JULY 11, 2023						
Item	Description	Unit	Quantity	Unit Price	Extended Price	Subtotals
C-1	Mobilization/Demobilization	LS	1	\$150,000	\$150,000	
C-2	Construction Access/Staging	LS	1	\$50,000	\$50,000	
C-3	Maintenance of Traffic	LS	1	\$50,000	\$50,000	
C-4	Sand (Production)	CY	86,969	\$23.80	\$2,069,862	
C-5	Sand (Delivery/Placement)	CY	86,969	\$57.40	\$4,992,021	
C-6	Surveys	LS	1	\$50,000	\$50,000	
C-7	Shorebird Protection	LS	1	\$367,790	\$367,790	
						\$7,729,673

1. **Requested Motion:**

Meeting Date: August 21, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, MAKING FINDINGS; ALLOWING ELECTED OFFICIALS TO PARTICIPATE IN THE FORT MYERS BEACH HEALTH INSURANCE PROGRAM FOR TOWN EMPLOYEES; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

What the action accomplishes:

Ratifies the decision of Town Council at their August 10, 2023 Management & Planning Session

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Talissa Oliveira, HR Manager

5. **Background:**

The Human Resources Manager sent out a poll to a network of FL Public Sector HR Directors and one of the questions asked was if elected officials were covered under their group health plan. Every respondent answered yes. The Human Resources Manager also reached out to the insurance experts, Gehring Group, who confirmed that elected officials being offered health insurance is common among their groups. Gehring Group also confirmed that elected officials could be added to our health insurance plan should we migrate to FMIT under the fully insured model. A class code for elected officials would be added and they would gain eligibility through that class code, separate from Town employees. The Human Resources Manager met with the Town Manager and both agreed to provide eligibility for elected officials to be added to the group's health insurance plan should the council agree to do so.

Attachments:

1. 23-97, Health coverage for elected officials

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Danielle Felton,
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/17/2023
Approved - 8/17/2023
Approved - 8/17/2023
Final Approval - 8/17/2023

RESOLUTION NUMBER 23-97

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, MAKING FINDINGS; ALLOWING ELECTED OFFICIALS TO PARTICIPATE IN THE FORT MYERS BEACH HEALTH INSURANCE PROGRAM FOR TOWN EMPLOYEES; 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 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, Sec. 112.08 Fla. Stat. provides in pertinent part:

112.08 Group insurance for public officers, employees, and certain volunteers; physical examinations.—

(1) As used in this section, the term “local governmental unit” means any county, municipality, community college district, school board, or special district or any county officer listed in s. 1(d), Art. VIII of the State Constitution.

(2)(a) **Notwithstanding any general law or special act to the contrary, every local governmental unit is authorized to provide and pay out of its available funds for all or part of the premium for life, health, accident, hospitalization, legal expense, or annuity insurance, or all or any kinds of such insurance, for the officers and employees of the local governmental unit** and for health, accident, hospitalization, and legal expense insurance for the dependents of such officers and employees upon a group insurance plan and, to that end, to enter into contracts with insurance companies or professional administrators to provide such insurance or with a corporation not for profit whose membership consists entirely of local governmental units authorized to enter into risk management consortiums.... [Emphasis supplied.]

and

WHEREAS, Attorney General’s Opinion 2004-17 provides that:

“Municipalities are included within the definition of “local governmental unit” for purposes of section 112.08, Florida Statutes. The language “for the officers and employees of the unit” is all-inclusive and is not limited to any particular officers or employees of the local governmental units by any statutory provision of which I am aware. Where the Legislature uses a comprehensive term (“officers . . . of the unit”) without qualification, it must be considered that it intended to include

everything embodied within the term unless the context of the statute clearly suggests otherwise. **Clearly, members of the city commission, as the city's governing body, constitute officers of the city.**" [Emphasis supplied.]

WHEREAS, the Town Council has determined it is in the best interest of the Town to make health insurance available to the Town's elected officials on the same basis as such insurance is available to regular Town employees.

NOW THEREFORE, BE IT RESOLVED 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 hereby authorizes its elected officials to receive, at the elected official's request, health insurance on the same basis as is available to the Town's regular employees.

The foregoing Resolution 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:

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

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

FORT MYERS BEACH TOWN COUNCIL

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:**

Vose Law Firm, LLP, Town Attorney

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

1. **Requested Motion:**

Meeting Date: August 21, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING ADOPTING THE NEW HEALTH INSURANCE PLAN WITH FMIT AND PROVIDING HEALTH INSURANCE TO THE ELECTED OFFICIALS.

Why the action is necessary:

What the action accomplishes:

Ratifies the decision of Town Council at their August 10, 2023 Management & Planning Session

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Talissa Oliveira, HR Manager

5. **Background:**

At the council meeting dated 8/7/2023, Talissa Oliveira, HR Manager, presented findings of a review of the current health plan offered at the Town of Fort Myers Beach. The current health plan is set to expire on September 30, 2023. Under due diligence, Talissa consulted with insurance experts and went out to market to evaluate our current plan, pricing and other options available. The HR Manager assessed the renewal options and responses with the insurance experts and our top 2 finalists were Benecon (current provider) and FMIT (new provider). For renewal, our current provider, Benecon, came back with a 13.8% increase and FMIT came back with a -2.9% increase (a cost savings of roughly \$26,000). Both providers came back maintaining the plan design as is. Benecon offers a self-insured plan and with FMIT Town of Fort Myers Beach would be migrating to a fully insured plan. Due to the current high claim costs and volatility in a small consortium pool with Benecon, the HR Manager recommends we stabilize and transition to the fully insured model with FMIT and take the cost savings option on the premium rates rather than absorbing the high 13.8% increase with Benecon.

Attachments:

1. 23-98, Benecon to FMIT Insurance

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Talissa Oliveira, HR Manager
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/17/2023
Approved - 8/17/2023
Approved - 8/17/2023
Final Approval - 8/17/2023

RESOLUTION NUMBER 23-98

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, MAKING FINDINGS; DIRECTING THE TOWN MANAGER TO CHANGE HEALTH INSURANCE FROM BENECON TO FLORIDA MUNICIPAL INSURANCE TRUST (FMIT); 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 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, the Town Council has determined it is in the best interest of the Town to change health insurance from Benecon to FMIT.

NOW THEREFORE, BE IT RESOLVED 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 hereby directs the Town Manager to change the health insurance from Benecon to FMIT.

The foregoing Resolution 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:

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

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

FORT MYERS BEACH TOWN COUNCIL

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:**

Vose Law Firm, LLP, Town Attorney

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

1. **Requested Motion:**

Meeting Date: August 21, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VARIANCE VAR20230070 TO DECREASE THE FRONT (WEST) SETBACK BY 9 FEET AND DECREASE THE REAR (SOUTH) SETBACK BY 5.5 FEET, TO SWITCH THE SIDE AND REAR SETBACKS AND TO ALLOW FOR THE ENCROACHMENT OF MECHANICAL EQUIPMENT 1.5 FEET INTO THE SIDE (NORTH) SETBACK, FOR THE PROPERTY AT 434 ESTERO BLVD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Variance requests are decided by the Town Council,

What the action accomplishes:

The variance requests allow the construction of the single family residence proposed in the application packet.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

5. **Background:**

Applicants for 434 Estero Boulevard, are requesting four variances from the Town's Land Development Code (LDC) table 34-3 to reduce the front setback by 9 feet for a front setback of 16 feet and reduce the rear setback by 5.5 feet for a rear setback of 14.5 feet in the RM zoning district. One variance per Section 34-268(a)(5) to switch the rear setback from the side opposite of the front (east side), to the side facing the gulf (south side). One variance from Section 34-638(d)(1)g to allow a 1.5 foot encroachment of mechanical equipment into a side setback. This property is one of the cottage lots, that is 60 feet by 50 feet and is accessed via an easement from Estero Boulevard.

Attachments:

1. Resolution 23-86
2. Sec. 34_87.____Variances.
3. Staff Report
4. Exhibit A - Complete Application
5. Exhibit B - TC postcards

Financial Impact:

unknown

6. **Alternative Action**

Approve with conditions

7. **Management Recommendations:**

Recommend denial of variance request VAR20230070.

8. **Recommended Approval:**

Kendra Rosa, Zoning Coordinator/Planner 1

Created/Initiated - 8/11/2023

Steve Poposki, Community Development Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Approved - 8/11/2023
Approved - 8/16/2023
Approved - 8/16/2023
Final Approval - 8/16/2023

RESOLUTION NUMBER 23-86

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VARIANCE VAR20230070 TO DECREASE THE FRONT (WEST) SETBACK BY 9 FEET AND DECREASE THE REAR (SOUTH) SETBACK BY 5.5 FEET, TO SWITCH THE SIDE AND REAR SETBACKS AND TO ALLOW FOR THE ENCROACHMENT OF MECHANICAL EQUIPMENT 1.5 FEET INTO THE SIDE (NORTH) SETBACK, FOR THE PROPERTY AT 434 ESTERO BLVD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, 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, applicant Richard Durling and Kara Stewart, on behalf of owner Sarah J Tarble Trust, is requesting a variance from Table 34-3 to decrease the front setback by 9 feet and the rear setback by 5.5 feet, a variance per 34-268(a)(5) to change the rear setback to the property line facing the beach, and 34-638(d)(1)g to allow a 1.5 foot encroachment of mechanical equipment into the required side setback; and

WHEREAS, the STRAP number for the subject property is 24-46-23-W1-00700.026D; and

WHEREAS, the Property is located in the "Mixed Residential" category of the Future Land Use Map of the Comprehensive Plan and the "Residential Multifamily" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 8, 2023, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC. The LPA voted 4-0 to recommend approval of the variance; and

WHEREAS, on August 21, 2023 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by 34-87 of the LDC; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve/ approve with conditions/ deny the request.

NOW THEREFORE, BE IT RESOLVED 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 Variance do/ do not meet the requirements of the Town Comprehensive Plan and LDC, and approving/ approving with conditions/ denying the Variance is in the best interest of the Town to approve/ approve with conditions/ deny. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council APPROVES/APPROVES WITH CONDITIONS/DENIES the variance from LDC Table 34-3, a variance per Section 34-268(a)(5), and a variance from Section 34-638(d)(1)g.

Section 3. In approving the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-87 of the LDC:

- A. There are/ are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying approval of the variance are/ are not the result of actions of the Applicant taken after the adoption of the regulation in question.
- C. The variance is/ is not the minimum variance that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.
- D. The granting of the variance will/ will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the Property are/ are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

The foregoing Resolution 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:

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

ADOPTED this 21st day of August, 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

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:**

Vose Law Firm, LLP, Town Attorney

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

Sec. 34-87. - Variances.

- (a) *Function.* The town council shall hear and decide all requests for variances from the terms of the regulations or restrictions of this code (except for administrative setback variances as provided in § 34-268 of this chapter) and such other ordinances which assign this responsibility to the town council, except that no use variance or procedural variance as defined in this chapter shall be heard or considered.
- (b) *Considerations.* In reaching its decision, the town council shall consider the following criteria, recommendations and testimony:
 - (1) Whether the facts support the five required findings in subsection (c) below;
 - (2) Staff recommendations and local planning agency recommendations;
 - (3) Testimony from the applicant; and
 - (4) Testimony from the public.
- (c) *Findings.* Before granting any variance, the town council must find that all of the following exist:
 - (1) That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not essential to protect public policy;
 - (2) That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question;
 - (3) That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;
 - (4) That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
 - (5) That the conditions or circumstances on the specific piece of property for which the variance is sought are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.
- (d) *Authority.*
 - (1) The town council has the authority to grant or deny, or modify, any request for a variance from the regulations or restrictions of this code; provided, however, that no use variance as defined in this chapter, or any variance from definitions or procedures set forth in any ordinance, shall be granted.
 - (2) In reaching its decision, the town council has the authority to attach special conditions necessary for the protection of the health, safety, comfort, convenience, and welfare of the general public. Such special conditions shall be reasonably related to the variance requested.
- (e) *Existing buildings.* Setback, height, and similar variances granted to accommodate an existing building will expire when the building is removed. Redevelopment of the site must then comply with the setback and height regulations in effect at the time of redevelopment.



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

TYPE OF CASE: Variance

CASE NUMBER: VAR20230070

CASE NAME: 434 Estero Boulevard, four variances. A variance from Table 34-3 for the front and rear setback, a variance to switch the side and rear setbacks, and a variance to allow encroachment of mechanical equipment in the side setback.

LPA

HEARING DATE: August 8, 2023

STAFF

RECOMMENDATION: DENIAL

**PREPARED/
SUBMITTED BY:** Sarah Propst AICP, PMP / Jason Green AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: Richard Durling and Kara Stewart (Applicant)/ Sarah J Tarble Trust (Owner)

Request: Variance from LDC Table 34-3 to decrease the front setback by 9 feet from 25 feet and decrease the rear setback by 5.5 feet from 20 feet. A variance per 34-268(a)(5) to move the rear setback to the property line facing the gulf. A variance from 34-638(d)(1)g to allow mechanical equipment to encroach into the side setback.

Subject property: See attached site plan

Physical Address: 434 Estero Boulevard

STRAP #: 24-46-23-W1-00700.026D

FLU: Mixed Residential

Zoning: Residential Multifamily (RM)

Adjacent zoning and land uses:

North:	MIXED RESIDENTIAL Residential Multifamily (RM)
South:	MIXED RESIDENTIAL Residential Multifamily (RM)
East:	MIXED RESIDENTIAL Residential Multifamily (RM)
West:	MIXED RESIDENTIAL Residential Multifamily (RM)

II. BACKGROUND AND ANALYSIS

Background:

Richard Durling and Kara Stewart, applicant for the owners of 434 Estero Boulevard, are requesting four variances from the Town's Land Development Code (LDC) table 34-3 to reduce the front setback by 9 feet for a front setback of 16 feet and reduce the rear setback by 5.5 feet for a rear setback of 14.5 feet in the RM zoning district. One variance per Section 34-268(a)(5) to switch the rear setback from the side opposite of the front (east side), to the side facing the gulf (south side). One variance from Section 34-638(d)(1)g to allow a 1.5 foot encroachment of mechanical equipment into a side setback.

This property is one of the cottage lots, that is 60 feet by 50 feet and is accessed via an easement from Estero Boulevard. Per the applicant, the previous home on the property had a footprint of approximately 760 square feet and the proposed house has an approximate 676 square foot footprint. The code was amended to allow reconstruction of single-story cottages that were no larger than the previously existing homes. While the footprint of the proposed home is smaller than the previous home, the proposed home is a two-story home which makes it ineligible for the administrative variance option.

Analysis:

The proposed property does not meet the minimum lot size for the RM zoning district, the minimum lot size for that zoning district is 75 feet by 100 feet. This lot is smaller than even the minimum lot size for the RC zoning district, which has a minimum lot size of 45 feet by 80 feet and 4,000 square feet. Application of the required setbacks to this property would result in a narrow buildable area.

The proposed development requires a variance to decrease the front setback (as measured from the access easement on the west side of the property) by 9 feet to create

a 16-foot front setback. The applicant is requesting a variance to change the rear setback from the side opposite the front, which would be the east side, to the south side of the property that faces the beach. In addition to changing where the rear setback is located, the applicant is also requesting a variance of 5.5 feet from the 20-foot required setback, for a rear setback of 14.5 feet. The applicant is also requesting a variance of 1.5 feet for mechanical equipment to encroach the required 7.5 foot side setback on the north side of the property to allow a 6 foot setback for the equipment. The house will be 10 feet from the north side of the property.

The previous home was constructed at an angle to the property lines and provided smaller setbacks than the proposed house.

The Fire Department has recently indicated that it may need a wider access road than the existing 10-foot easement, the proposed house layout provides enough front setback width that the easement could be widened without impact to the house, if necessary. Staff is recommending a condition that the ground flood must be maintained open and vehicles must be parked outside of the access easement to ensure that the easement is never blocked.

Neighborhood Compatibility:

This property is one of 12 adjacent properties that were developed as cottage lots. All of the homes previously developed on these sites were similar in size and did not meet current code setbacks. All were destroyed by Hurricane Ian, leaving these properties vacant.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. That there **are**/are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request **is**/is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

These cottage lots are smaller than the code minimums and the minimum setbacks would make construction of a new home particularly difficult. The proposed setbacks are similar to the setbacks of the previous home on the property and the proposed footprint is smaller, per the applicant, than the previous house on the property.

- b. That the conditions justifying the variance **are**/are not the result of actions of the applicant taken after the adoption of the regulation in question.*

The conditions justifying the variance are the result of the actions of the Applicant. The variance would not be necessary if the property owners were requesting a single story home with this proposed footprint.

- c. *That the variance granted **is/is not** the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

The applicant is proposing greater setbacks than the previous residence provided.

- d. *That the granting of the variance will/**will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- e. *That the conditions or circumstances on the specific piece of property for which the variance is sought are/**are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

The conditions or circumstances on this specific property for which a variance is sought are not general in nature and do not warrant a code change. A code change has been made to allow administrative variances for cottage lots, however, this proposed residence does not meet the requirements of that administrative option due to the second story proposed.

III. RECOMMENDATION

At the August 8th LPA hearing the LPA recommended approval of the variances but did not feel that the applicant could request a variance that was listed as an administrative variance, to switch the side and rear setbacks. They asked that the applicant and staff revise the requests to allow the proposed configuration with different variance amounts to accomplish the configuration. The vote did indicate that they felt the variances met all of the criteria in Section 34-87.

Staff has reviewed the request for four variances, from LDC Table 34-3 to decrease the front setback by 11 feet from 25 feet and decrease the rear setback by 5.5 feet from 20 feet. A variance per 34-268(a)(5) to move the rear setback to the property line on the south. A variance from 34-638(d)(1)g to allow mechanical equipment to encroach into the side setback, and has found that the variance request does not meet all of the requirements set-forth in sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20230070, to decrease house and mechanical equipment setbacks for and to amend where setbacks are measured from, for the construction of single-family residence at 434 Estero Blvd.

IV. CONDITIONS FOR APPROVAL

Should the LPA choose to approve this request, staff recommends the following conditions of approval:

- 1) Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- 2) The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.
- 3) The first floor shall not be enclosed. It should be made available as a private car park for the residents and their guests. All vehicles must be parked completely on the site and not encroach into the access easement.

II. EXHIBITS

Exhibit A: Complete Application Packet

Exhibit B: Postcards to Adjacent Property Owners



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: 434 Estero Blvd

STRAP Number: 24-46-23-W1-00700.026D

Applicant: Marvin Homes Phone: _____

Contact Name: Richard Durling Phone: 239-410-1750

Email: rdurling@marvin-homes.com Fax: _____

Current Zoning District: RM

Future Land Use Map (FLUM) Category: Mixed Residential

FLUM Density Range: 6du per acre 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*: Richard Durling c/o Marvin Homes Phone: 239-410-1750

**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: 1591 Haley Ln suite 204, Fort Myers 33907

Email: rdurling@marvin-homes.com Fax: _____

Contact Name: Richard Durling Phone: 239-410-1750



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: Richard Durling Phone: 239-410-1750
Address: 1591 Haley Ln suite 204, Fort Myers 33907
Email: rdurling@marvin-homes.com Fax: _____

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

Name: Kara Stewart Phone: 239-770-4198
Address: 1591 Haley Ln suite 204, Fort Myers 33907
Email: stewart.karalyn@gmail.com 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 34 - 638
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ 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: _____ Description: _____

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, Richard Durling 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

Richard Durling

Printed Name

STATE OF FLORIDA COUNTY OF LEE

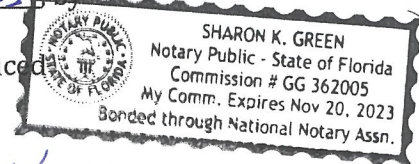
The foregoing instrument was certified and subscribed before me by means of ☒ physical

presence OR ☐ online notarization, this 9th day of MAY, 2023, by

Richard E. Durling

☒ who is personally known to me OR ☐ who has produced

_____ as identification.



Sharon K. Green
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

N/A



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

N/A

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

TARBLE SARA J TR FOR SARA J TARBLE TRUST

100 %

409 NORTH 7TH ST MARSHALL IL 62441

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

N/A

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

N/A



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
N/A	

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, Sara J. Tarble (name), as trustee (title)
of Sara J. Tarble Trust (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

Sara J. Tarble Trust

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

Sara J. Tarble
Signature

Sara J. Tarble

Typed or Printed Name

Trustee

Title

5/8/2023

Date

STATE OF FL COUNTY OF clack

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

presence OR ☐ online notarization, this 8 day of May, 2023, by

Samuel T. Speros ☒ who is personally known to me OR ☐ who has produced

_____ as identification.



Samuel T. Speros
Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 24-46-23-W1-00700.026D

Property Address: 434 Estero Blvd

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) 60' w/access easement feet

Depth (please provide an average width if irregular in shape) 50' feet

Frontage on street: 60' feet. Frontage on waterbody: 0 feet

Total land area: 3000 ☐ acres ☒ square feet

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

From Sky Bridge go right towards north end of Island before Pink Shell;
property is on left

☒ 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

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number:
Project Name: 434 Estero Blvd Single Family Setback Variance
Authorized Applicant: Richard Durling
LeePA STRAP Number: 24-46-23-W1-00700.026D

Current Property Status: Vacant
Current Zoning: RM
Future Land Use Map (FLUM) Category: Mixed Residential
Comp Plan Density: 6du/acre Platted Overlay? ☐ Yes ☒ No

Variance is requested from:

LDC Section Number	Title of Section or Subsection
LDC 34-638 (b)(1)(a) Table 34-3	Where to find minimum setbacks
LDC34-268 (a)(5)	Administrative Setback to allow to reverse side and rear setbacks
LDC 34-638 (d)(1)(g)	Mechanical Equipment encroachment

Complete the narrative statements below for EACH variance requested.

PART I
Narrative Statements

Request for variance from 34-638 Setbacks **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
The property is located in the RM zoning district which requires street setback 25':
side 7.5' and rear 20'
Requesting under LDC 34-638 table 34-3 Street setback a reduction in the
street setback from the required 25' street setback to a 16' front lot line setback
(no street exists, access is only via a shared driveway easement)
Requesting under LDC 34-638 table 34-3 a reduction on the required 20' rear
setback to 14'6.

Reasons for request

Explain why the variance is needed:
The destruction of the dwelling unit via Hurricane Ian has necessitated the
reconstruction of the Single Family residence. The size of the lot is 60' x 50',
without the setback variances a Single Family structure could not be constructed
on this lot. Maintaining a 25' front and 20' rear setback would only
leave a space 5' wide to construct a single family.

Explain the possible effect the variance, if granted, would have on surrounding properties:

There are no negative effects to the neighbors, the structure existed previously and is being replaced within a smaller footprint. See exhibit "A" previous structure survey. The previous structure was an elevated 760 sf single family, the proposed base floor plan consists of an interior habitable first floor of 676 sf.

Our percentage of lot coverage is below the allowable 40% as we are at 32%

As this property is accessed by a shared driveway access easement the front setbacks will not affect anyone.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

SEE EXHIBIT "B"

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.
(1) Exceptional and extraordinary conditions exist. The size, location and access to the property make it unrealistic to develop without setback variances.
This property is accessed only by a shared driveway easement (and has been approved under the previously obtained MUD202300024).
(2) No action has been take by the applicant to create this need
Hurricane Ian removed the single family residence. The lot has had a structure on the property in this configuration since 1964. Looking to maintain the use
(3) The variances requested are the minimum required to construct a single family as demonstrated in the design of the new home with a floor plan less than what previously existed. In addition to the size of the home we are proposing only a 24' height from DFE which is well below the allowed 30'
(4) Allowing a single family home in this location will not be injurious to the neighboring properties, to the contrary it may encourage others to rebuild their homes. Additionally, the property has been in this configuration since 1964 creating a familiarity to the neighboring properties abutting with minimum setbacks. As we are maintaining a similiar footprint, the familiarity should continue. The structure is designed as a minimally useable footprint for a single family.
(5) The conditions of the property do not lend itself to amending the LDC for setbacks, this is a smaller than typical, uniquely sandwiched lot with a driveway access easement.

PART 2 Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - [iworq \(talktomycity.com\)](http://iworq.talktomycity.com)

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance
- Fee in the amount of \$1800.00 (residential)/Additional Variance \$500.00
- Variance (non-residential) \$2800.00/ Additional Variance \$700.00

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

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.

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.

“Variance is requested from...” Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

PART I
Narrative Statements

Request for variance from 34-638 Setbacks **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
The property is located in the RM zoning district which requires street setback 25':
side 7.5' and rear 20'
Requesting under LDC 34-638 table 34-3 Street setback a reduction in the
street setback from the required 25' street setback to a 16' front lot line setback
(no street exists, access is only via a shared driveway easement)
Requesting under LDC 34-638 table 34-3 a reduction on the required 20' rear
setback to 14'6.

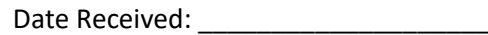
Reasons for request

Explain why the variance is needed:
The destruction of the dwelling unit via Hurricane Ian has necessitated the
reconstruction of the Single Family residence. The size of the lot is 60' x 50',
without the setback variances a Single Family structure could not be constructed
on this lot. Maintaining a 25' front and 20' rear setback would only
leave a space 5' wide to construct a single family.



As this property is accessed by a shared driveway access easement the front setbacks will not affect anyone.

SEE EXHIBIT "B"



(5) The conditions of the property do not lend itself to amending the LDC for setbacks, this is a smaller than typical, uniquely sandwiched lot with a driveway access easement.

PART I
Narrative Statements

Request for variance from 34-638 Setbacks **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
The property is located in the RM zoning district which requires street setback 25':
side 7.5' and rear 20'
Requesting under LDC 34-638 table 34-3 Street setback a reduction in the
street setback from the required 25' street setback to a 16' front lot line setback
(no street exists, access is only via a shared driveway easement)
Requesting under LDC 34-638 table 34-3 a reduction on the required 20' rear
setback to 14'6.

Reasons for request

Explain why the variance is needed:
The destruction of the dwelling unit via Hurricane Ian has necessitated the
reconstruction of the Single Family residence. The size of the lot is 60' x 50',
without the setback variances a Single Family structure could not be constructed
on this lot. Maintaining a 25' front and 20' rear setback would only
leave a space 5' wide to construct a single family.



As this property is accessed by a shared driveway access easement the front setbacks will not affect anyone.

SEE EXHIBIT "B"

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.
(1) Exceptional and extraordinary conditions exist. The size, location and access to the property make it unrealistic to develop without setback variances.
This property is accessed only by a shared driveway easement (and has been approved under the previously obtained MUD202300024).
(2) No action has been take by the applicant to create this need
Hurricane Ian removed the single family residence. The lot has had a structure on the property in this configuration since 1964. Looking to maintain the use
(3) The variances requested are the minimum required to construct a single family as demonstrated in the design of the new home with a floor plan less than what previously existed. In addition to the size of the home we are proposing only a 24' height from DFE which is well below the allowed 30'
(4) Allowing a single family home in this location will not be injurious to the neighboring properties, to the contrary it may encourage others to rebuild their homes. Additionally, the property has been in this configuration since 1964 creating a familiarity to the neighboring properties abutting with minimum setbacks. As we are maintaining a similiar footprint, the familiarity should continue. The structure is designed as a minimally useable footprint for a single family.
(5) The conditions of the property do not lend itself to amending the LDC for setbacks, this is a smaller than typical, uniquely sandwiched lot with a driveway access easement.

EXHIBIT "B"- HARDSHIP WHAT MAKES THE PROPERTY UNIQUE

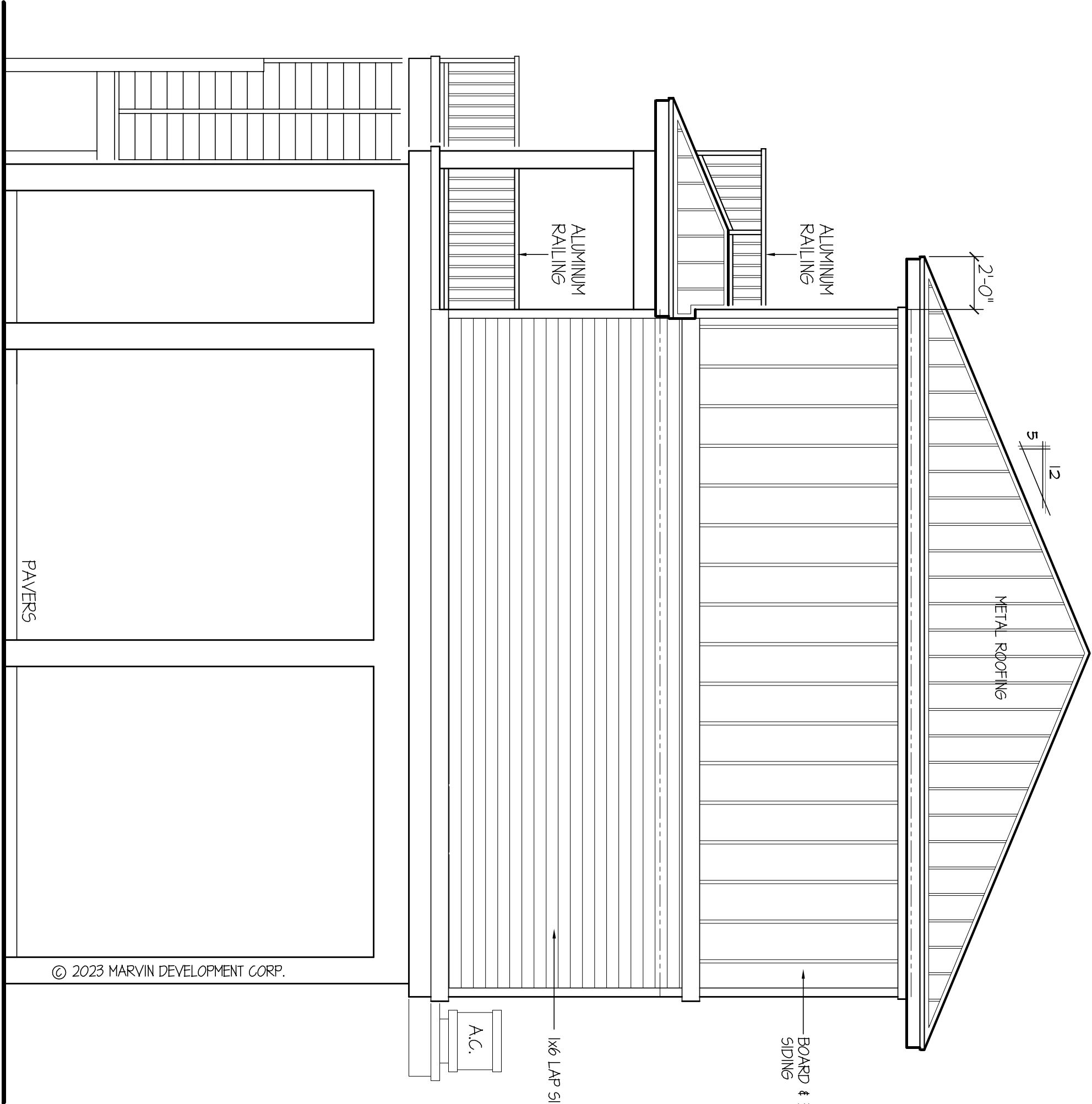
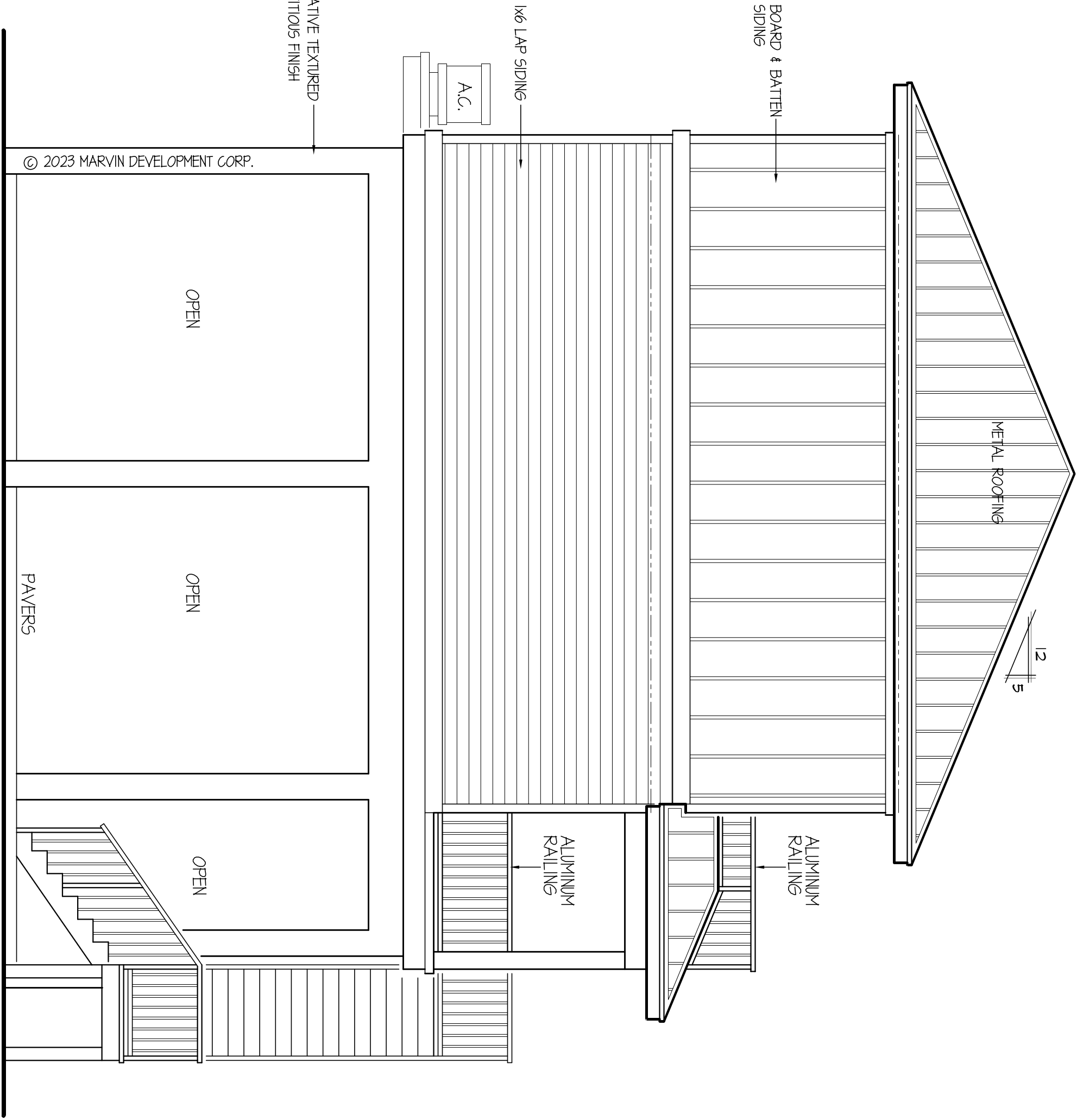
The property is 60' X 50', and using the definitions of lot line, front and lot line rear we are forced to configure our setbacks the way we have and are constrained to using the 50' lot depth. Unfortunately if all setbacks were to be met we would be left with only a 5' wide structure. As a result of this property being a nonconforming lot we have obtained a MUD20230025 and established there is access to the property through a shared driveway easement and a single family residence may be constructed.

34-2 Definitions: "Lot line, front means the lot line which separates the lot from a street right of way or easement". In this instance, the property is only accessed via a shared driveway easement. Under LDC 34-638 (a)(1) (a) "Where access is provided by a shared driveway rather than a street, the director may determine that no street setback applies". Therefore we are proposing a front lot line setback of 12'6" (in lieu of a street setback) which will include the staircase entrance and provides access to the first floor living area.

"Lot line, rear means that lot line which is parallel to or concentric with and the most distant from the front lot line of the lot....."

In this instance that places our structure 8' from the what would be the rear lot line. Therefore we also requesting relief through LDC 34-268 (a) (5) which allows the switching of the side and rear property lines. Resulting in a request to reduce the amended rear setback location from 20' to 14'6".

The fact that this is an irregular lot prevents us from meeting setbacks regardless of how it is configured.



8498 Beacon Blvd.
Fort Myers, FL.
33907-3005
PHONE
(239) 561-8632

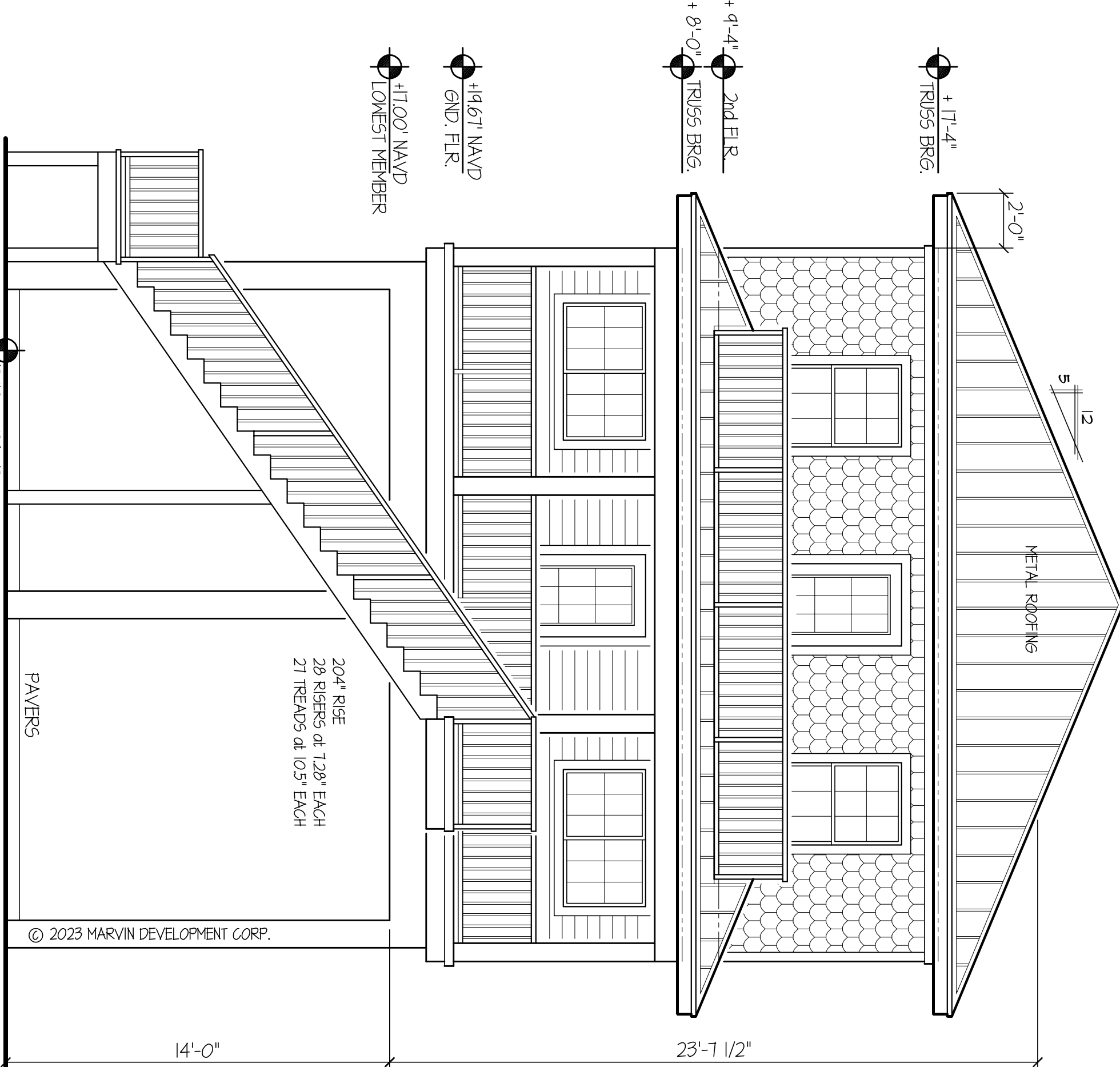
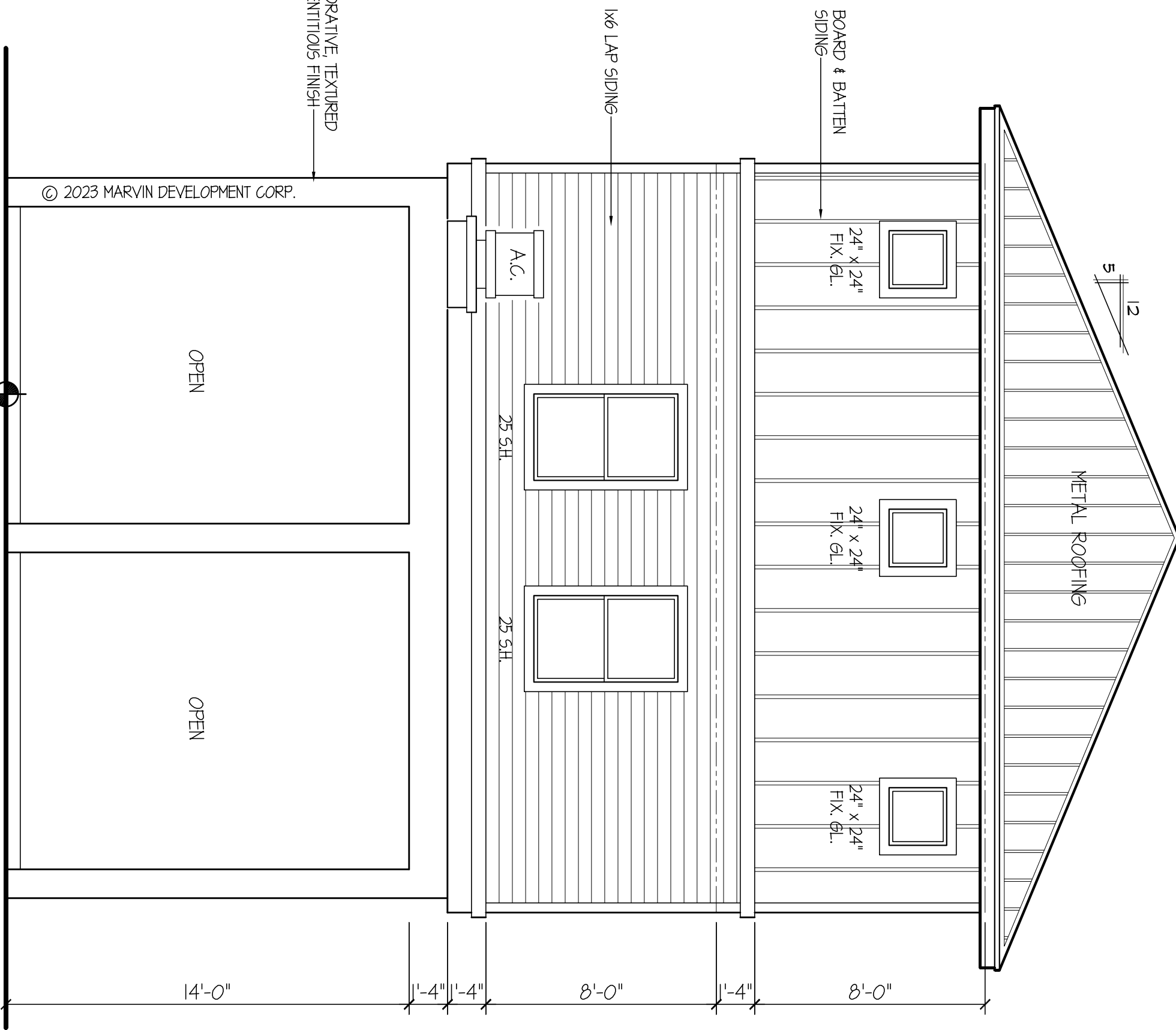
SOUTH
FLORIDA
DRAFTING

FRONT ELEVATION

SCALE : 1/4" = 1'-0"

SIDE ELEVATION

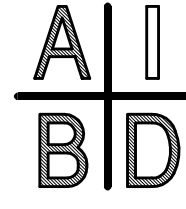
SCALE : 1/4" = 1'-0"



8498 Beacon Blvd.
Fort Myers, FL.
33907-3005
PHONE
(239) 561-8632

SOUTH
FLORIDA
DRAFTING

A RESIDENCE FOR :
SARA TARBLE
MARVIN DEVELOPMENT CORPORATION
1591 HAYLEY LANE, SUITE #204
FORT MYERS, FL. 33907
TEL. No. (239) 433-1112
FAX. No. (239) 433-3885



IF ANY ERRORS OR OMISSIONS EXIST IN THESE DRAWINGS OR SPECIFICATIONS THE CONTRACTOR AND / OR OWNER SHALL, WITHIN 10 DAYS AFTER RECEIPT OF THESE DRAWINGS, AND PRIOR TO CONSTRUCTION NOTIFY SOUTH FLORIDA DRAFTING INC. IN WRITING OF SAID ERRORS OR OMISSIONS OR BE HELD WHOLLY RESPONSIBLE FOR THE RESULTS AND COSTS OF RECTIFYING THE SAME.

SOUTH FLORIDA DRAFTING INC. DOES NOT ASSUME ANY RESPONSIBILITY FOR SUPERVISION OF CONSTRUCTION. CONTRACTOR AND SUB-CONTRACTORS ARE TO STRICTLY ADHERE TO ALL STANDARD BUILDING CODES INCLUDING ALL AMENDMENTS BY LOCAL BUILDING DEPARTMENTS.

SOUTH FLORIDA DRAFTING INC. IS NOT RESPONSIBLE FOR ANY ENGINEERING OR ARCHITECTURAL CERTIFICATIONS THAT MAY BE REQUIRED.

I HEREBY CERTIFY THAT THE BUILDING DESIGN, CONSTRUCTION, AND FINISHES SHOWN ON THESE PLANS AND STRUCTURAL CALCULATIONS, AND AS ACCOMPANIED BY DESIGN AND SPECIFICATIONS, HAVE BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF THEY COMPLY WITH ALL CITY, COUNTY, STATE, AND FEDERAL BUILDING CODES, ORDINANCES, AND THE EDITION 2020 FLORIDA BUILDING CODE. I AM A LICENSED PROFESSIONAL ARCHITECT IN THE STATE OF FLORIDA. THIS CERTIFICATION DOES NOT INCLUDE WORK TRUSS COMPONENTS OF WHICH THE TRUSS DESIGN ENGINEER IS THE ENGINEER OF RECORD.

ALL STRUCTURES BUILT IN A HIGH WIND COUNTRY AND HURRICANE PRONE AREA MUST BE DESIGNED TO WITHSTAND THE FLORIDA BUILDING CODE REQUIREMENTS. QUARTER WIND TYPED 1524 INCLUDING CHAPTER 604

DATE: _____
STRUCTURAL REVIEW ONLY PROVIDED BY: _____
BRIAN LOY CHANDLER, P.E. 077152



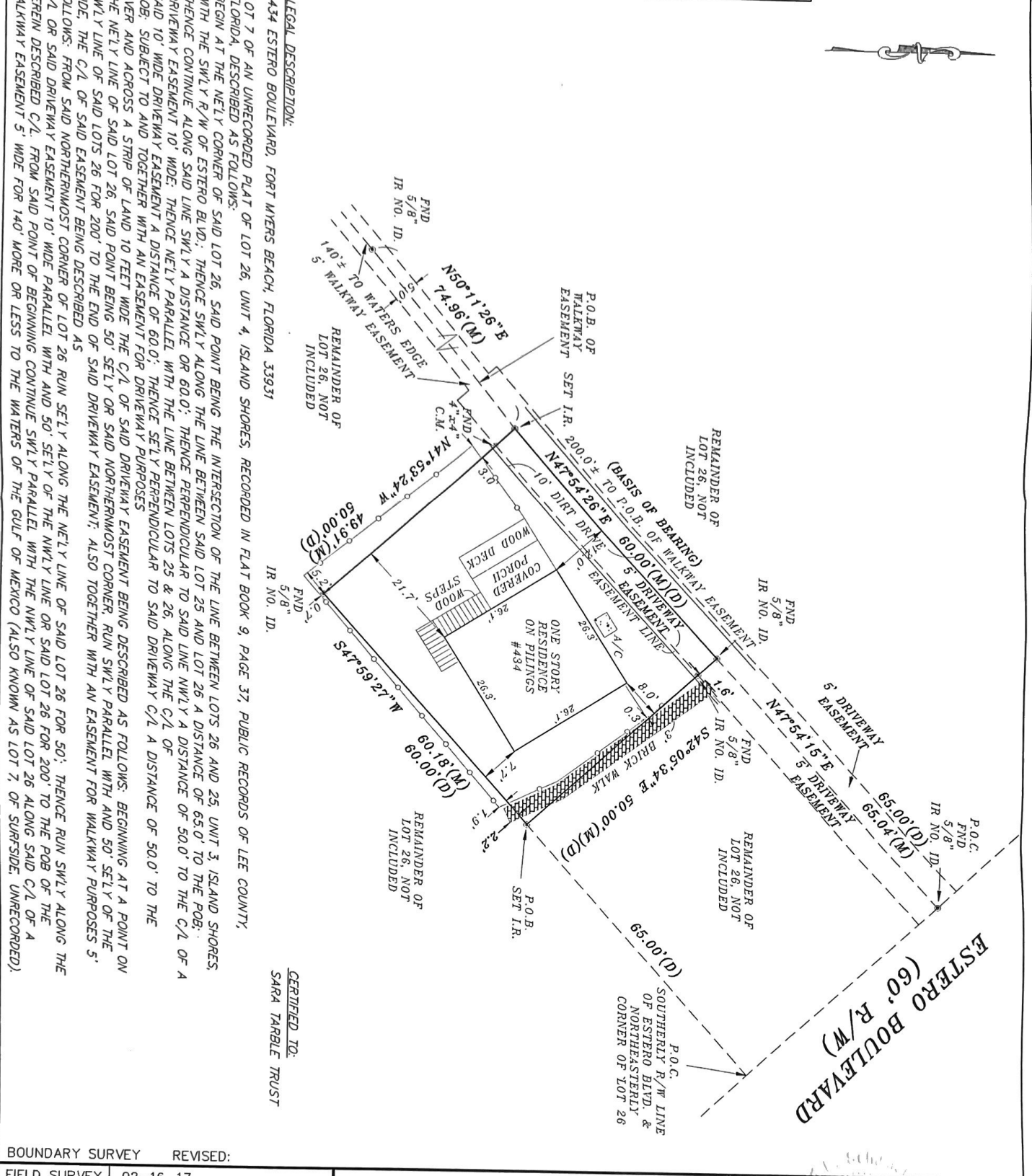
TARBLE

OF 6

- NOTES:**
1. THIS SKETCH DOES NOT REFLECT OR DETERMINE OWNERSHIP.
 2. DESCRIPTION AS FURNISHED BY CLIENT AND NOT TO BE CONSIDERED AS A GUARANTEE OF THE PUBLIC RECORDS WAS CONSULTED BY THIS FIRM.
 3. REMAINS ARE BASED ON PLAT OR DEED.
 4. ELEVATIONS AS SHOWN ARE BASED ON N.A. V.D. 1988.
 5. ENCROACHMENTS ARE BASED ON PLAT OR DEED.
 6. THERE MAY BE OTHER EASEMENTS NOT SHOWN HEREON RECORDED IN THE PUBLIC RECORDS OF THE GOVERNING COUNTY.
 7. NO DETERMINATION OF HAZARDOUS WASTE MATERIALS HAS BEEN MADE BY THIS FIRM.
 8. LOCATION OF UNDERGROUND UTILITIES OR STRUCTURES NOT SHOWN UNLESS OTHERWISE NOTED.
 9. SPOILER LIMITS LIABILITY ONLY UP TO THE COST OF SURVEY.
 10. THIS SURVEY IS PROTECTED BY COPYRIGHT AND ALL RIGHTS ARE RESERVED.
 11. SURVEY BASED ON INFORMATION PROVIDED BY CLIENT AND EXISTING SURVEY RECORDS.
 12. ADDITIONS OR DELETIONS TO ANY PART OF THIS REPORT BY OTHER THAN THE SIGNING PARTY OR PARTIES MUST BE MADE WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
 13. THE DATA USED IN THIS INFORMATION INDICATED HEREON IS BASED ON INFORMATION PROVIDED BY THE FEDERAL GOVERNMENT. THIS INFORMATION MUST BE VERIFIED BY ANOTHER SOURCE.

- LEGEND:**
- (A) - ARC LENGTH
 - (B) - ARC CONDITIONER
 - (C) - BUILDING SETBACK LINE
 - (D) - CALCULATED
 - (E) - CATCH BASIN
 - (F) - CHORD BEARING
 - (G) - CHORD DISTANCE
 - (H) - CONC. MONUMENT
 - (I) - COUNTY UTILITY EASEMENT
 - (J) - DEED
 - (K) - BASIS OF BEARINGS
 - (L) - DRAINAGE EASEMENT
 - (M) - DRAINAGE UTILITY EASEMENT
 - (N) - ELEVATION
 - (O) - EDGE OF PAVEMENT
 - (P) - FINE HYDRANT
 - (Q) - FINE HYDRANT
 - (R) - GUY WIRE
 - (S) - IRON ROD
 - (T) - MEASURED
 - (U) - MEASURED
 - (V) - MAIL & TAG
 - (W) - NORTH AMERICAN HORIZONTAL DATUM (1983)
 - (X) - NOT TO SCALE
 - (Y) - NOT RADIAL
 - (Z) - OFFICIAL RECORD
 - (1) - PLAT
 - (2) - PLAT BOOK
 - (3) - POINT OF CURVATURE
 - (4) - POINT OF COMPOUND CURVATURE
 - (5) - PERMANENT CONTROL POINT
 - (6) - POINT OF INTERSECT
 - (7) - POINT OF BEGINNING
 - (8) - POINT OF COMMENCEMENT
 - (9) - POWER POLE
 - (10) - POINT OF REFERENCE CURVATURE
 - (11) - PERMANENT REFERENCE MONUMENT
 - (12) - POINT OF TANGENCY
 - (13) - PUBLIC UTILITY EASEMENT
 - (14) - RADIAL
 - (15) - RANGE
 - (16) - RIGHT OF WAY
 - (17) - SECTION
 - (18) - SET 1/2" IRON ROD LB1478 LB2239
 - (19) - SET 1/2" IRON ROD
 - (20) - TELEPHONE UTILITY EASEMENT
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COMMUNITY / MAP NUMBER: 120673 / 12071C0554F DATE OF MAP: 08-28-08 FLOOD ZONE: VE ELEVATION: 17'



BOUNDARY SURVEY		REVISED:	
FIELD SURVEY	02-16-17		
CREW CHIEF	C. CORDISCO		
DRAWN BY	SDS		
SCALE	1" = 20'		
LIS JOB NO	21731		
SHEET: 1 OF 1	DATE: 02-20-17		

LIS Land Surveying, LLC
d.b.a. S & H Land Survey Co.

21430 Palm Beach Blvd.
Alva, FL 33920
239-481-2366 239-481-2437 (Fax)
LB1057

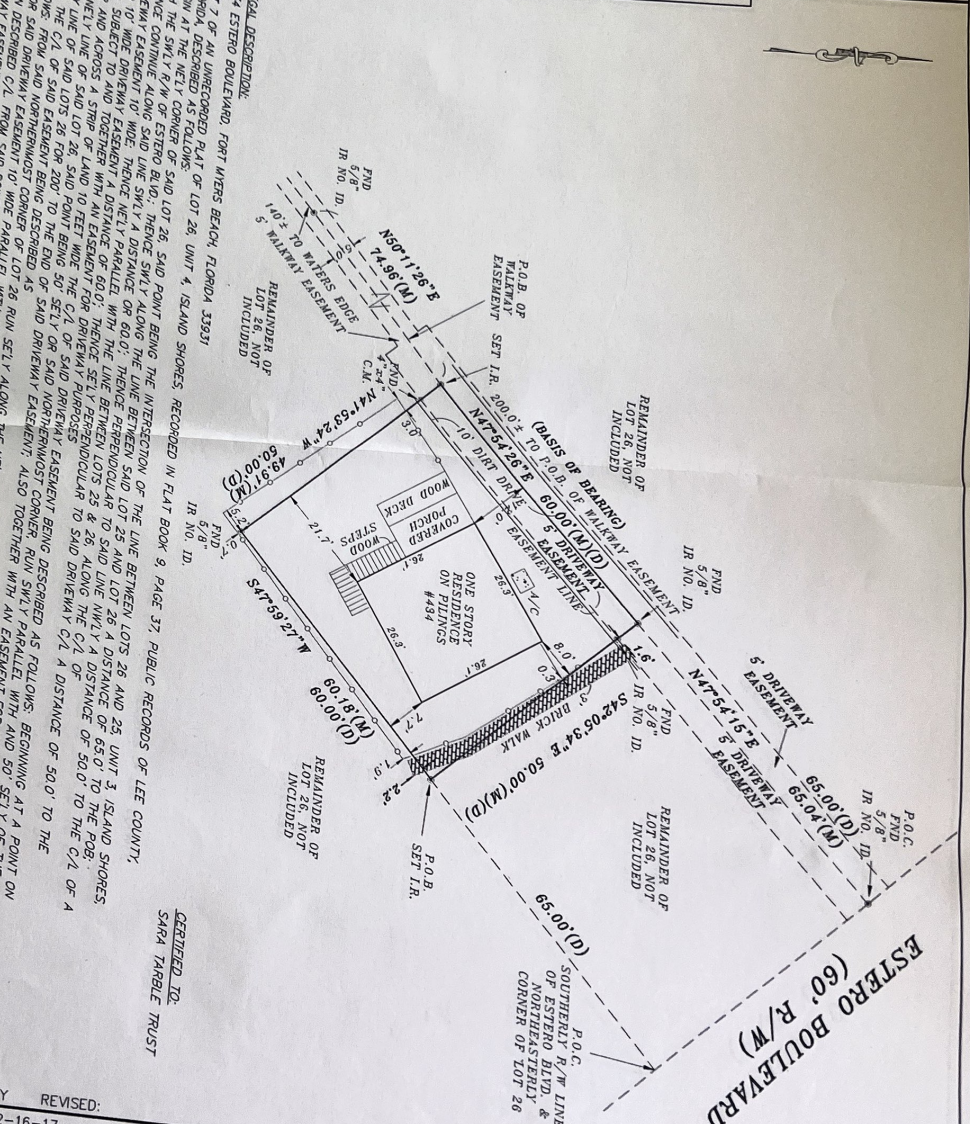
2572 West State Road 426, Suite 2064
Oviedo, FL 32765
321-244-0402 321-244-9419 (Fax)
LB1057

APPROVED

R.L. Schumann

R.L. SCHUMANN, RLS
REGISTERED LAND SURVEYOR NO. 2239
STATE OF FLORIDA
VALID ONLY WITH EMBOSSED SEAL

- NOTES:**
1. THIS SURVEY DOES NOT RELY ON ANY PREVIOUS SURVEY.
 2. THE POLYGRAPHIC RECORDS OF THE SURVEY ARE BASED ON THE FOLLOWING:
 3. REMAINS ARE BASED ON THE FOLLOWING:
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 99. RECORDATION OF RECORDS MADE BY THE FOLLOWING:
 100. RECORDATION OF RECORDS MADE BY THE FOLLOWING:



BOUNDARY SURVEY	REVISED:
FIELD SURVEY	02-16-17
CREW CHIEF	C. CORDISCO
DRAWN BY	SDS
SCALE	1" = 20'
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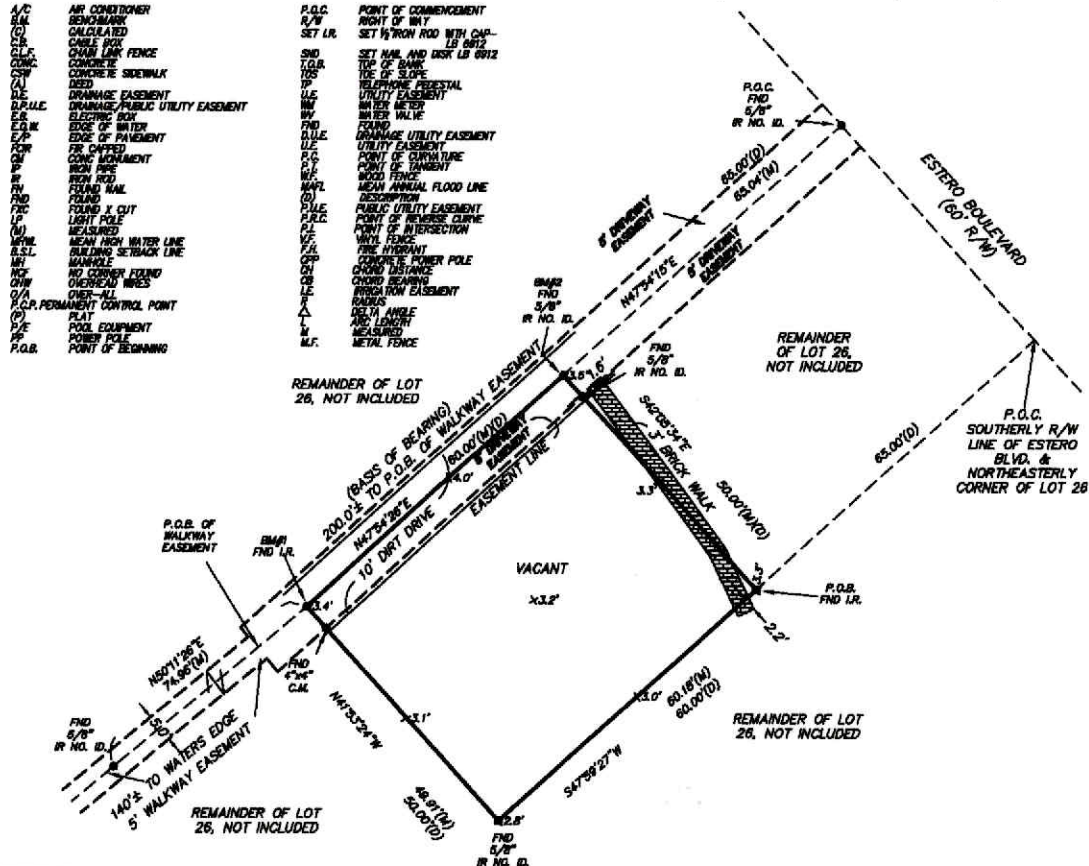
APPROVED

R.L. SCHUMANN, RLS
REGISTERED LAND SURVEYOR NO. 2239
STATE OF FLORIDA
VALID ONLY WITH EMBOSSED SEAL

**BOUNDARY & TOPOGRAPHIC SURVEY OF
434 ESTERO BOULEVARD
FORT MYERS BEACH, FL 33931**

LEGAL DESCRIPTION:

LOT 72 OF AN UNRECORDED PLAT OF LOT 26, UNIT 4, ISLAND SHORES, RECORDED IN PLAT BOOK 9, PAGE 37, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:
BEGIN AT THE NE'LY CORNER OF SAID LOT 26, SAID POINT BEING THE INTERSECTION OF THE LINE BETWEEN LOTS 26 AND 25, UNIT 3, ISLAND SHORES, WITH THE SW'LY R/W OF ESTERO BLVD.; THENCE SW'LY ALONG THE LINE BETWEEN SAID LOT 25 AND LOT 26 A DISTANCE OF 65.0' TO THE P.O.B.; THENCE CONTINUE ALONG SAID LINE SW'LY A DISTANCE OF 60.0'; THENCE PERPENDICULAR TO SAID LINE NW'LY A DISTANCE OF 50.0' TO THE CA OF A DRIVEWAY EASEMENT 10' WIDE; THENCE NE'LY PARALLEL WITH THE LINE BETWEEN LOTS 25 & 26, ALONG THE C/L OF SAID 10' WIDE DRIVEWAY EASEMENT A DISTANCE OF 60.0'; THENCE SE'LY PERPENDICULAR TO SAID DRIVEWAY C/L A DISTANCE OF 50.0' TO THE P.O.B.; SUBJECT TO AND TOGETHER WITH AN EASEMENT FOR DRIVEWAY PURPOSES OVER AND ACROSS A STRIP OF LAND 10 FEET WIDE THE C/L OF SAID DRIVEWAY EASEMENT BEING DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NE'LY LINE OF SAID LOT 26, SAID POINT BEING 50' SE'LY OR SAID NORTHERNMOST CORNER, RUN SW'LY PARALLEL WITH AND 50' SALLY OR THE NW'LY LINE OF SAID LOTS 26 FOR 200' TO THE END OF SAID DRIVEWAY EASEMENT; ALSO TOGETHER WITH AN EASEMENT FOR WALKWAY PURPOSES 5' WIDE, THE C/L OF SAID EASEMENT BEING DESCRIBED AS FOLLOWS: FROM SAID NORTHERNMOST CORNER OF LOT 26 RUN SE'LY ALONG THE NE'LY LINE OF SAID LOT 26 FOR 50'; THENCE RUN SW'LY ALONG THE C/L OR SAID DRIVEWAY EASEMENT 10' WIDE PARALLEL WITH AND 50' SE'LY OF THE NW'LY LINE OF SAID LOT 26 FOR 200' TO THE P.O.B. OF THE HEREIN DESCRIBED C/L. FROM SAID POINT OF BEGINNING CONTINUE SW'LY PARALLEL WITH THE NW'LY LINE OF SAID LOT 26 ALONG SAID C/L OF A WALKWAY EASEMENT 5' WIDE FOR 140' MORE OR LESS TO THE WATERS OF THE GULF OF MEXICO (ALSO KNOWN AS LOT 7, OF SURFSIDE, UNRECORDED).



SURVEYOR'S NOTE:
-SURVEY WAS MADE OF THE R/W AND PARCEL MARKERS SHOWN AND MATCHES THE ADDRESS AND LOCATION PER TAX INFORMATION AND LEGAL PROVIDED US.
-PARCEL BOUNDARY LINES SHOWN PER PLAT OR LEGAL DESCRIPTION WITH THE IMPROVEMENTS FIELD LOCATED BY HAND MEASUREMENTS OR FIELD EQUIPMENT
-FIELD MEASUREMENTS SURVEY CLOSURE BETTER THAN 1:10000 FEET
-SURVEY CAN BE USED FOR ALL NEEDS

FEMA MAP 12071C0554G
FLOOD ZONE VE
DATE: 11-17-22
BASE ELEV. 13'

ELEVATIONS SHOWN ARE BASED ON RTK-GPS, NAVD 88 4.0' x = SPOT ELEVATIONS

DRAFTER - MARCOS (SDS)



(C) 2020 BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE

FLORIDA ADMINISTRATIVE CODE STATES IF LOCATION OF EASEMENTS OR RIGHTS OF WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR - IF FENCES ARE SHOWN, DISTANCES INDICATE APPROXIMATE DISTANCE ON OR OFF PROPERTY - OVERHANGS AND UNDERGROUND FOUNDATIONS OR UTILITIES HAVE NOT BEEN LOCATED AS PART OF THIS SURVEY.

(1) UNLESS STATED OTHERWISE THIS SURVEY IS AN AS-BUILT SURVEY SHOWING VISIBLE IMPROVEMENTS IN RELATION TO SURVEY MARKERS FOUND

**AFFORDABLE
SURVEYS**
239-283-1518

3366 STRINGFELLOW ROAD
SAINT JAMES CITY, FL 33958

AFFORDABLE SURVEYS IS OWNED BY KNOW IT NOW, INC., 2011 HEIDELBERG AVENUE, DUNEDIN, FL 34698

CERTIFIED EXCLUSIVELY TO:

Sara Tarble

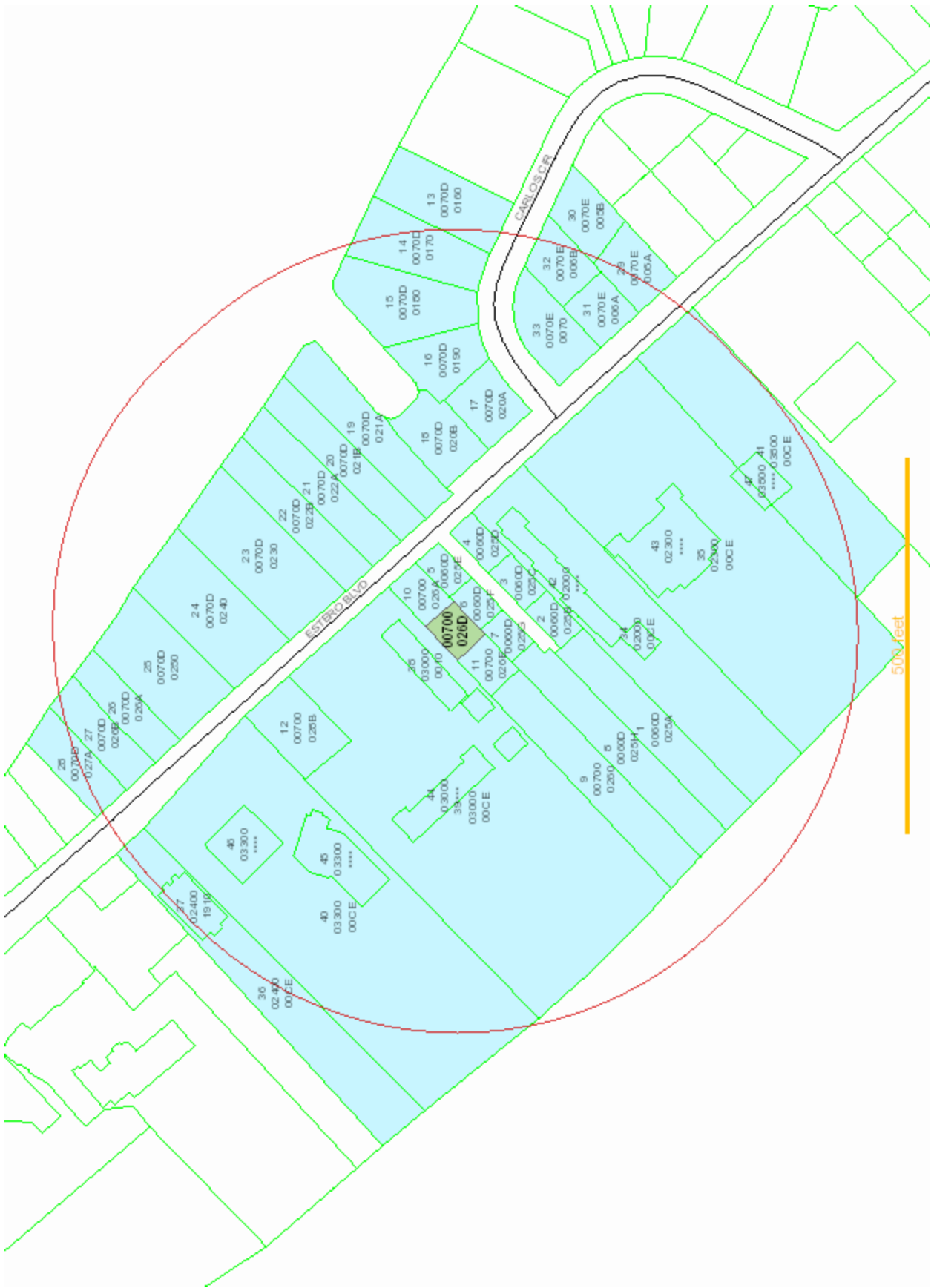
I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT SURVEY PREPARED UNDER MY DIRECTION AND IS NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OR A RAISED EMBOSSED SEAL AND SIGNATURE.



BILL H. HYATT
2023.03.07
16:49:47 -05'00'

DATE OF FIELD SURVEY
02-26-2023
BILL HYATT
Surveyor & Stamp Number 4638
LB 6912

FLORIDASURVEYOR@aol.com
727-415-8305



LAS INVESTMENTS LLC
STE 160 PMB 107
16970 SAN CARLOS BLVD
FORT MYERS FL 33908

JOHN HULL PROPERTIES LLC
PMB 107
16970 SAN CARLOS BLVD STE 3
FORT MYERS FL 33908

635 RIVERFRONT CORP
PMB 107
16970 SAN CARLOS BLVD STE 3
FORT MYERS FL 33908

LORMOR INVESTMENTS LLC
16970 SAN CARLOS BLVD STE 3
FORT MYERS FL 33908

ALBANI DANIEL
450 ESTERO BLVD
FORT MYERS BEACH FL 33931

LAPFAM INVESTMENTS #2-452
16970-3 SAN CARLOS BLVD #107
FORT MYERS FL 33908

454 ESTERO LLC
GREENSPON
16970-3 SAN CARLOS BLVD #107
FORT MYERS FL 33908

GREENSPON DENNIS I TR
16970-3 SAN CARLOS BLVD #107
FORT MYERS FL 33908

INK STANLEY K TR
1625 SILVERWOOD CT
NORTH FORT MYERS FL 33903

LAPFAM INVESTMENTS #1-436 LLC
PMB 107
16970 SAN CARLOS BLVD STE 3
FORT MYERS FL 33908

FORD CELESTE P
432 ESTERO BLVD
FORT MYERS BEACH FL 33931

WINDWARD PASSAGE RESORT CONDO
VACATION RESORTS INTL
25510 COMMERCENTRE DR STE 100
LAKE FOREST CA 92630

CARTER SCOTT M & KONDA F
PO BOX 3648
FORT MYERS FL 33918

PETTIT GARY L & JANE C
511 CARLOS CIR
FORT MYERS BEACH FL 33931

CHURCHMAN DAVID J & DIANA D
507 CARLOS CIR
FORT MYERS BEACH FL 33931

J J CARLOS CIRCLE ENTERPRISE L
9321 178TH ST W
LAKEVILLE MN 55044

TURPIN MARION & JO ANN
90 JFK RD
DUBUQUE IA 52001

HIMELICK MARK S &
12891 KELLY SANDS WAY
FORT MYERS FL 33908

BURANDT ROBERT B TR
1714 CAPE CORAL PKWY
CAPE CORAL FL 33904

TRELLI FREDERICK &
12575 S CLEVELAND AVE
FORT MYERS FL 33907

BLAUM BRIAN C TR
220 EMERSON PL STE 201
DAVENPORT IA 52801

BLAUM BRIAN C TR
220 EMERSON PL #201
DAVENPORT IA 52801

MCCHESNEY KEVIN E TR
417 ESTERO BLVD
FORT MYERS BEACH FL 33931

SILVER KING VENTURES LLC
353 CLIFTON AVE
KINGSTON NY 12401

385 ESTERO BLVD LLC
1421 E LAKE SHORE DR
SPRINGFIELD IL 62712

DAVIS JAMES & KIMBERLY
327 ESTERO BLVD
FORT MYERS BEACH FL 33931

COOPER FMB LLC
PO BOX 501
HOWELL MI 48844

HOLSEM JACK
505 JACKSON ST
GRANDVILLE MI 49418

TAYLOR KEENE JR &
3201 PICKWICK LN
CHEVY CHASE MD 20815

EKPROP LLC
2224 NORTH CAMMACK ST
MUNCIE IN 47304

BRUNO ANTHONY D & TRACY L
3007 E YACHT DR
OAK ISLAND NC 28465

LEEP MICHAEL R SR TR
5201 N GRAPE RD
MISHAWAKA IN 46545

HOLSEM JACK
505 JACKSON ST SW
GRANDVILLE MI 49418

KONA BEACH CLUB CONDO ASSN
P+M PROPERTY MANAGEMENT INC
2830 WINKLER AVE STE 101
FORT MYERS FL 33916

GATEWAY VILLAS CONDO ASSN
15751 SAN CARLOS BLVD STE 8
FORT MYERS FL 33908

PINK SHELL BEACH CLUB CONDO
275 ESTERI BLVD
FORT MYERS BEACH FL 33931

PINK SHELL BEACH CLUB
VACATION RESORTS INTL
25510 COMMERCENTRE DR STE 100
LAKE FOREST CA 92630

WINDWARD PASSAGE RESORT
VACATION RESORTS INTL
25510 COMMERCENTRE DR STE 100
LAKE FOREST CA 92630

WINDWARD PASSAGE RESORT
418 ESTERO BLVD
FORT MYERS BEACH FL 33931

ISLAND SHORES CONDO
394 ESTERO BLVD
FORT MYERS BEACH FL 33931

CASA PLAYA RESORT CONDO ASSOC
15751 SAN CARLOS BLVD #8
FORT MYERS FL 33908

TURNER KENNETH A & SANDRA S
2650 ESTERO BLVD # 102
FORT MYERS BEACH FL 33931

SAMPAIR PETER & TERRI
4453 LAKE AVE S
WHITE BEAR LAKE MN 55110

RIGSBY BRIAN S & HIEDI E
420 N MARLEY RD
NEW LENOX IL 60451

474 ESTERO 110 LLC
5190 KENOWA AVE SW
GRANDVILLE MI 49418

DUTCHER VICTORIA L
474 ESTERO BLVD #112
FORT MYERS BEACH FL 33931

ANZIVINO MICHAEL VINCENT
210 SAN MATEO DR
BONITA SPRINGS FL 34134

HOSTETLER RONALD JAMES &
675 GILEAD SHORES DR
BRONSON MI 49028

FARWICK WILLIAM P &
1815 CRITTENDEN MOUNT ZION RD
DRY RIDGE KY 41035

HUSSEY LAUREN M +
73 RESERVOIR ST
BETHEL CT 06801

OWEIS KHALED & LISA
9 S SHORE DR
SOUTH SALEM NY 10590

HOUSE TERESA R TR
16048 EAST 266TH ST
ATLANTA IN 46031

STU PROPERTIES INC
2408 WAYNE ST
STEVENS POINT WI 54481

HUNTINGTON NATIONAL BANK TR
7 EASTON OVAL EA4C83
COLUMBUS OH 43219

BISHTON ROBERT J
474 ESTERO BLVD #212
FORT MYERS BEACH FL 33931

BOWDEN LEE H & SHARON K
827 GLENDALE AVE
FREMONT OH 43420

COPUS H DOUGLAS &
1701 FOREST PARK
FINDLAY OH 45840

TROUTMAN GEORGE A &
7302 N BERKLEY SQ
NEW ALBANY OH 43054

SHULER WILLARD H & SUSAN E TR
474 ESTERO BLVD #220
FORT MYERS BEACH FL 33931

LOGAN DOUGLAS R + CAROL A
909 GALAHAD DR
AUSTIN TX 78746

BEACH PROPERTY MANAGEMENT LLC
7360 CARIBOU TRL
DAYTON OH 45459

LAYFIELD JACK & PAMELA
26 DALEMERE CRES
ST CATHARINES ON L2N 7K5
CANADA

SLAGH WADE C
5499 LAKE SHORE DR
HOLLAND MI 49424

WEATHERLOW DALE & JANET E
5883 MAGNOLIA STEDMAN RD
MAYVILLE NY 14757

HARPER MATTHEW W
9885 FOLKERS DR
FRANKFORT IL 60423

HAGEL JOHN & DEBORAH
12 SACHEM DR
CROMWELL CT 06416

MARY J DEWITT TRUST +
17490 W SPRING LAKE RD
SPRING LAKE MI 49456

GARDENS INC
4 THINDERBIRD CIR
LITCHFIELD IL 62056

500 ESTERO 298 LLC
6601 DANIEL CT
FORT MYERS FL 33908

SHERBIN WILLIAM
18 STONYBROOK LN
MALVERN PA 19355

PERDUE GORDON A &
5417 BRANDY CIR E
FORT MYERS FL 33919

CARASA ALFREDO R + MARCELA M
3605 ESTEPONA AVE
DORAL FL 33178

SKUBIC HOLLY M TR
1920 VIRGINIA AVE # 101
FORT MYERS FL 33901

LAYFIELD JACK & PAMELA
26 DALEMERE CRES
ST CATHARINES ON L2N 7K5
CANADA

HARPER MATTHEW W & BETH ANN
PO BOX 517
FRANKFORT IL 60423

PLEW CAMERON V & CHRISTA S +
2135 CHAPMAN LAKE DR
WARSAW IN 46582

FUN & SUN LLC
PO BOX 07264
FORT MYERS FL 33919

RESPAR LLC
19020 PIKE 9230
BOWLING GREEN MO 63334

WILLIS SUZANNE J TR
7507 LA ROCHE AVE
SAVANNAH GA 31406

HOSTETLER NOELLE TR
LYNN HOSTETLER
3S069 WILLIAMS RD
WARRENVILLE IL 60555

VLR OF LONG ISLAND INC
648 KATHLEEN PL
WESTBURY NY 11590

DEERY TED E TR
28101 SOUTH YATES
BEECHER IL 60401

HARTNETT ROBERT G
PO BOX 610615
PORT HURON MI 48061

MILNES GARY F & BETH E
15395 NORRISH RD
MORRISON IL 61270

LAYFIELD PAMELA TR
500 ESTERO BLVD #195
FORT MYERS BEACH FL 33931

STOVER JOHN C & PATRICIA R L/E
818 BROWNS LAKE DR
JACKSON MI 49203

BFMIB INC
3601 HEMPSTEAD TURNPIKE STE 210
LEVITTOWN NY 11756

KERBS JAMES R & JILL W
500 ESTERO BLVD # 599
FORT MYERS BEACH FL 33931

SCHARBACH ENTERPRISES LTD PTNR
162 PADDOCK ST
WATERTOWN NY 13601

SCHAFER MARGARET I TR
500 ESTERO BLVD #695
FORT MYERS BEACH FL 33931

SCHAFER MARGARET I L/E
500 ESTERO BLVD #696
FORT MYERS BEACH FL 33931

REINER PAUL S & SHEILA J
5875 KILBANNAN CT
DUBLIN OH 43017

DAMICO TRACEY L
16615 LAKE CIRCLE DR APT 432
FORT MYERS FL 33908

MARCHESE MARJORIE
2 SHADOW LN
CROMWELL CT 06416

EATON NORINE
75 CAMBROOK ROW
WILLIAMSVILLE NY 14221

ALLIS HOLDINGS LLC
PO BOX 111
GENESEO IL 61254

BURTCH GENA C
1235 FLORIDA AVE
FORT MYERS FL 33901

LENNAMAN LAWRENCE J &
18164 DEEP PASSAGE LN
FORT MYERS BEACH FL 33931

VANDERMEY KATHERINE F TR
15600 FIDDLESTICKS BLVD
FORT MYERS FL 33912

VANDERMEY KATHERINE F TR
15600 FIDDLESTICKS BLVD
FORT MYERS FL 33912

GIBSON FRED E & SANDRA J
500 ESTERO BLVD #894
FORT MYERS BEACH FL 33931

MAPLES JACK B & LORI A
PO BOX 628
PIGEON FORGE TN 37868

RENALDO JOHN M & JUDY L
500 ESTERO BLVD #896
FORT MYERS BEACH FL 33931

AGM GATEWAY LLC
13326 SILKTAIL DR
NAPLES FL 34109

DISHAROON MARCIA S &
500 ESTERO BLVD #898
FORT MYERS BEACH FL 33931

ROWE RICHARD +
9990 CYPRESS LAKE DR
FORT MYERS FL 33919

SEARENITY WPR LLC
RAYMOND HUNT
7N982 CLOVERFIELD DR
SAINT CHARLES IL 60175

FRITZ LAURA L TR
814 W MOUNT PLEASANT RD
EVANSVILLE IN 47711

SCHERER DEBRA E TR
18215 LANSFORD PATH
LAKEVILLE MN 55044

BORNEMAN DAVID C & DINA E
394 ESTERO BLVD #102
FORT MYERS BEACH FL 33931

FIGURA MICHAEL A & CAROL A
394 ESTERO BLVD # 103
FORT MYERS BEACH FL 33931

ROBINSON CAROL L TR +
105 CROSSBOW TRAILS
LAWRENCEBURG IN 47025

YORDY MICHAEL E TR
26700 BROADWAY RD
MORTON IL 61550

ROHRBACHER MICHAEL &
394 ESTERO BLVD #202
FORT MYERS BEACH FL 33931

LOVELESS ENTERPRISES INC
210 SPRINGFIELD RD
GILLESPIE IL 62033

DANGELO JANE M TR
394 ESTERO BLVD #204
FORT MYERS BEACH FL 33931

MOODY CHERIE B TR
UNIT 402
6772 BIRCHTON POINT DR
DUBLIN OH 43017

DIFFLEY CHRISTOPHER P &
394 ESTERO BLVD # 302
FORT MYERS BEACH FL 33931

ARENS ROBERT W TR
11431 LONGWATER CHASE CT
FORT MYERS FL 33908

MAREK CHARLES B JR +
4021 BAY DR
MIDDLE RIVER MD 21220

KRINKIE JODETTE M & BRUCE J TR
6881 BLACKDUCK DR
LINO LAKES MN 55014

CATHERINE G SCHOLZ 2007 TRUST
5 FIDDLEHEAD LN
WAYLAND MA 01778

BARNHART DAVID W
PO BOX 14536
MINNEAPOLIS MN 55414

MIDDLESWARTH DAVID B TR
500 MEADOW LN
MIDDLEBURG PA 17842

BENES ANDREW C TR
1127 HIGHLAND POINTE DR
SAINT LOUIS MO 63131

BENES ANDREW C & JENNIFER J
1127 HIGHLAND POINTE DR
SAINT LOUIS MO 63131

GERMAN PATRICIA A TR
394 ESTERO BLVD #503
FORT MYERS BEACH FL 33931

CAPENIGRO ANTHONY T &
22W160 PINEGROVE CT
GLEN ELLYN IL 60137

LLOYD JOHN D & STEPHANIE J TR
15725 OREGON AVE
PRIOR LAKE MN 55372

LLOYD JOHN D & STEPHANIE J TR
15275 OREGON AVE
PRIOR LAKE MN 55372

MIDDLESWARTH DAVID B
500 MEADOW LN
MIDDLEBURG PA 17842

MILLIRON GRANT E TR
2384 STATE ROUTE 39 NW
MANSFIELD OH 44903

SIEVERTSEN DOLORES C TR
15492 LEONARD RD
SPRING LAKE MI 49456

EASTON FAMILY LLC
24523 WEST PELLINORE DR
JOLIET IL 60404

EASTON MELODEE M TR
24523 W PELLINORE DR
JOLIET IL 60404

ENGELSMAN JAMES + RHONDA TR
1184 64TH AVE
ZEELAND MI 49464

HENSLEY DANIEL L & SHERYL L/E
PO BOX 547
MOUND MN 55364

STOOPS JEFFREY E +
3808 CLAYBROOK CT
BARGERSVILLE IN 46106

WELLS GWENDOLYN M +
4021 BAY DR
MIDDLE RIVER MD 21220

ANGELA M ROCHE TRUST +
2243 RE PINE LN SW
ROCHESTER MN 55902

LIOTTA SAVATORE & CONCETTA
6 OAK BROOK CLUB DR APT J101
OAK BROOK IL 60523

STUTZ SHARON A TR
47790 STATE ROUTE 162
WELLINGTON OH 44090

COVERT ROBERT & LOUISE B TR
9403 GIBSON DR
POWELL OH 43065

DEMARY JULE A +
930 VILLAGE BROOK WAY
COLUMBUS OH 43235

CALUSA LLC
22774 CITATION RD
FRANKFORT IL 60423

MCK HOLDINGS (2018) LIMITED
200140 SIDE RD 10 RR 1
SHALLOW LAKE ON N0H 2K0
CANADA

WIESSING CAROL S TR
2403 LOWELL AVE
SPRINGFIELD IL 62704

LANDISI ANNE MARIE T
392 ESTERO BLVD #605
FORT MYERS BEACH FL 33931

MCSPEDON HEATHER TR
750 RUSHMORE AVE
MAMARONECK NY 10543

NUNN JOYCE M TR
392 ESTERO BLVD #607
FORT MYERS BEACH FL 33931

ISABELLA PROPERTIES LLC
17 BELVEDERE
JOHNSTON RI 02919

PILETTTE MARSHA J TR
9379 LOS ALISOS WAY
FORT MYERS FL 33908

HINOJOS JAMES A
1455 AVON AVE SW
ATLANTA GA 30310

BROWN GEORGE E +
711 OAK KNOLL AVE NE
WARREN OH 44483

POIN ELIZABETH
15388 SW 260TH ST
HOMESTEAD FL 33032

DONIA JAMES A & ANN M
4N633 HIDDEN OAKS RD
SAINT CHARLES IL 60175

GOETHEL DANIEL ROBERT &
915 MORELAND HILLS DR
MOUNT JULIET TN 37122

SCHLAX LAWRENCE A & KAREN L
101 SW 53RD ST
CAPE CORAL FL 33914

PADDACK JACK W & LYNN A
4458 W OLD STATE ROAD 28
FRANKFORT IN 46041

BADDING CHRISTOPHER & TERENCE
321 SURREY RIDGE
EATON CO 80615

WEGLARZ RUSSELL J &
13410 WOOD DUCK DR
PLAINFIELD IL 60585

LUKASEZCK BRYAN & SCARLET
24541 E ONTARIO DR
AURORA CO 80016

WAGLER JIM & LINDA
103 O LOANE AVE
STRATFORD ON N5A 6S4
CANADA

TIETZE WAYNE L/E
HARALD HANSKAMP
1000 WIGGINS PASS RD UNIT 327
NAPLES FL 34110

HILTON LORI J
1053 PORT ORANGE WAY
NAPLES FL 34120

SOLANS ENRIC P &
1821 BOULDER DR
MOUNT PROSPECT IL 60056

510 ESTERO BLVD FMB UNIT 402 L
11299 BIENVENIDA WAY # 101
FORT MYERS FL 33908

SZOTT JOYCE A TR
52 NANCY LN
FORT MYERS BEACH FL 33931

SCHLAX LAWRENCE A & KAREN L
101 SW 53RD ST
CAPE CORAL FL 33914

PELOSO KEVIN
90 WOOD ST
COVENTRY RI 02816

A+A INVESTMENTS OF INDIANAPOLI
1528 ASHWOOD CT
GREENWOOD IN 46143

DI-AN 2 LLC
4560 ESTERO BLVD APT 501
FORT MYERS BEACH FL 33931

WEGLARZ RUSSELL J &
13410 WOOD DUCK DR
PLAINFIELD IL 60585

A & A INVESTMENTS OF INDIANAPO
1528 ASHWOOD CT
GREENWOOD IN 46143

LOFFRENO REAL ESTATE INC
2100 ESTERO BLVD
FORT MYERS BEACH FL 33931

MYERS ROBERT & BETTY
650 RANDY LN
FORT MYERS BEACH FL 33931

BURANDT ROBERT B TR
1714 CAPE CORAL PKWY
CAPE CORAL FL 33904

BEACH HOUSE 603 LLC
PO BOX 780
PRIOR LAKE MN 55372

KONIECZKA EDWARD & PATRICIA
1N422 GOODRICH AVE
GLEN ELLYN IL 60137

STONESTREET MICHAEL V &
68955 ISLAND DR
EDWARDSBURG MI 49112

INVESTMENT REALTY HOLDING LTD
411 DONAHEY AVE NE
NEW PHILADELPHIA OH 44663

SOLANS ENRIC P &
1821 E BOULDER DR
MOUNT PROSPECT IL 60056

REGO JANET
20030 NW 5TH ST
PEMBROKE PINES FL 33029

VALERI THOMAS JR &
14 RONIT DR
WEST TRENTON NJ 08628

510 ESTERO BLVD FMB UNIT 705 L
11299 BIENVENIDA WAY #101
FORT MYERS FL 33908



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

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: August 21, 2023
CASE: VAR20230070
ADDRESS: 434 Estero Blvd
APPLICANT: Richard Durling
REQUEST: The applicant is requesting a variance to decrease the required front and rear setbacks, a variance to change the side setback with rear setback and a variance to allow encroachment of mechanical equipment into a side setback.

TOWN CONTACT: SARAH PROPST SARAH.PROPST@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,
Fort Myers Beach, FL 33931

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

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

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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: August 21, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SE20230126 TO TEMPORARILY ALLOW OUTDOOR CONSUMPTION ON PREMISES WITH A RETAIL USE AND CONDITIONS FOR THE PROPERTY LOCATED AT 163 OLD SAN CARLOS BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council is the deciding body for special exception requests. The Town Council may also grant waivers to the Special Exception fee.

What the action accomplishes:

The requested special exception allows the applicant to move the proposed business at 185 Old San Carlos to 163 Old San Carlos, for an outdoor retail business with consumption on premises.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

5. **Background:**

Requesting to temporarily move the allowed use of the Consumption on Premises with retail from 185 Old San Carlos to 163 Old San Carlos due to storm damage of 185 Old San Carlos.

The applicant is also requesting a waiver of the special exception fee.

Attachments:

1. Resolution 23-87 SEZ 163 Old San Carlos
2. Sec. 34.88. Special exceptions.
3. Staff Report
4. Exhibit A - Site Layout
5. Exhibit B - Complete Application
6. Exhibit C - TC postcards

Financial Impact:

unknown

6. **Alternative Action**

Deny request

7. **Management Recommendations:**

Recommend approval of request with conditions. Council may also determine whether to waive the fee for the special exception.

8. **Recommended Approval:**

Kendra Rosa, Zoning Coordinator/Planner 1
Steve Poposki, Community Development Director
Gretchen R.H. Vose, Town Attorney

Created/Initiated - 8/11/2023
Approved - 8/11/2023
Approved - 8/16/2023

Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Approved - 8/16/2023
Final Approval - 8/16/2023

RESOLUTION NUMBER 23-87

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/PROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20230126 TO TEMPORARILY ALLOW OUTDOOR CONSUMPTION ON PREMISES WITH A RETAIL USE AND CONDITIONS FOR THE PROPERTY LOCATED AT 163 OLD SAN CARLOS BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND 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, applicant Suzanne Bahan is requesting a special exception for the use of consumption on premises outdoors within 500 feet of a park, in the Downtown zoning district; and

WHEREAS, the STRAP number for the subject property is 24-46-23-W3-0050A.0140

WHEREAS, the Property is located in the “Pedestrian Commercial” category of the Future Land Use Map of the Comprehensive Plan and the “Downtown” zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 8, 2023, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA voted 4-0 to recommend approval of the special exception with conditions; and

WHEREAS, on August 21, 2023 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve the request.

NOW THEREFORE, BE IT RESOLVED 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 Special Exception does/does not meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception is in the best interest of the Town to approve. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council APPROVES/DENIES the special exception for the use of permanent shared parking in the Downtown zoning district.

Section 3. In approving the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-88 of the LDC:

- A. Changed or changing conditions which make approval of the request appropriate.
- B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan.
- C. The request meets all performance and locational standards for the proposed use.
- D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested use will be in compliance with the applicable general zoning provisions and supplemental regulations set forth in Chapter 34 of the Land Development Code.

Section 4. If the Town Council approves/denies the requested special exception and the following conditions of approval are imposed on the Applicant and the Property:

- A. A. The 2 COP is only valid in conjunction with a retail sales operation within the same business.
- B. All music and entertainment on the property will be in compliance with the Town's noise regulations.
- C. No consumption of alcohol shall be permitted outside the fenced area, as depicted on the site plan attached.
- D. This resolution shall only be in effect until such time as a certificate of occupancy has been granted for the reconstruction of the building at 185 Old San Carlos Blvd. Upon granting a certificate of occupancy for 185 Old San Carlos, Resolution 21-46 shall be reinstated, and this resolution shall expire. This resolution shall come back for review by the Council every 12 months to ensure the applicant is making progress towards the reconstruction of 185 Old San Carlos. The applicant will not be required to submit applications or pay additional fees for the annual review.
- E. Any violation of the conditions of approval shall render the special exception null and void.

The foregoing Resolution was adopted by the Town Council upon a 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	_____
John R. King	_____
Bill Veach	_____
Karen Woodson	_____

ADOPTED this 21st day of August, 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

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:**

Vose Law Firm, LLP, Town Attorney

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

Sec. 34-88. - Special exceptions.

- (a) *Function.* The town council shall hear and decide all applications for special exceptions permitted by the district use regulations.
- (b) *Considerations.* In reaching its decision, the town council shall consider the following, whenever applicable:
 - (1) Whether there exist changed or changing conditions which make approval of the request appropriate.
 - (2) The testimony of any applicant.
 - (3) The recommendation of staff and of the local planning agency.
 - (4) The testimony of the public.
 - (5) Whether the request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.
 - (6) Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
 - (7) Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.
 - (8) Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
 - (9) Whether a requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.
- (c) *Findings.* Before granting any special exceptions, the town council must find that the applicant has demonstrated that the requested special exception complies with the standards in this section and with:
 - (1) The Fort Myers Beach Comprehensive Plan;
 - (2) This chapter; and
 - (3) Any other applicable town ordinances or codes.
- (d) *Authority.*
 - (1) The town council shall grant the special exception unless it finds that granting the special exception is contrary to the public interest and the health, safety, comfort, convenience, and welfare of the citizens of the town, or that the request is in conflict with the criteria in this section.
 - (2) In reaching its decision, the town council has the authority to attach special conditions necessary for the protection of the health, safety, comfort, convenience, or welfare of the general public. Such special conditions shall be reasonably related to the special exception requested.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Special Exception Amendment

CASE NUMBER: SEZ—Amendment, 20230126

CASE NAME: 163 Old San Carlos Blvd, amend Special Exception 20210050 to temporarily move the 2 COP to an adjacent property and to amend conditions of approval.

LPA

HEARING DATE: August 7, 2023 at 9:00 AM

STAFF

RECOMMENDATION: Approve

**PREPARED/
SUBMITTED BY:** Sarah Propst, AICP, PMP

I. APPLICATION SUMMARY

Applicant/Owner: Suzanne Bahan

Request: The applicant is requesting to temporarily amend the existing Special Exception Resolution 21-46 to move the allowed use of the Consumption on Premises from 185 Old San Carlos to 163 Old San Carlos due to storm damage and to amend the Conditions of Approval B and C. modification of these conditions will allow consumption on premises outside of the building and will allow live music.

Applicant is also requesting a waiver of the Special Exception Fee.

Subject property: See attached site plan

Physical Address: 163 Old San Carlos Blvd.

STRAP #: 24-46-23-W3-0050A.0140

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North:	Downtown/ Pedestrian Commercial Severely damaged previous location of SEZ
South:	Downtown/ Pedestrian Commercial Structure (current use unknown)
East:	Downtown/ Pedestrian Commercial Parking Lot
West:	Downtown/ Pedestrian Commercial Vacant Lot

II. BACKGROUND AND ANALYSIS

Background:

In 2021 Resolution 21-46 was approved which allowed for outdoor consumption of alcohol on premises in correlation with a retail store. The conditions of the special exception included:

- A. The 2COP is only valid in conjunction with a retail sales operation within the same business.
- B. No amplified music or entertainment unless within an entirely enclosed building. All activities are subject to the Town's noise regulations.
- C. No consumption of alcohol beyond the footprint of the existing enclosed structure.
- D. Any violation of the conditions of approval shall render the special exception null and void.

The property at 185 Old San Carlos Blvd. was severely damaged by Hurricane Ian and the building is not safe for use. The owner of 185 Old San Carlos also owns the adjacent, now vacant, lot at 163 Old San Carlos. The owner is requesting a temporary amendment to the special exception to allow for the transfer of the 2COP to 163 Old San Carlos Blvd. This amendment would also include modification to conditions B to allow amplified music and live entertainment, outside of a building, and C to allow consumption of alcohol within the confines of a fenced area, rather than within a building.

The applicant is requesting that the fee for the special exception be waived due to the hardship of losing her businesses and home. The special exception fee was paid for the previous special exception which was granted in 2021.

Analysis:

The proposed use would be an outdoor retail store with sales of alcohol and a seating area for patrons. Retail sales is a permitted use in the Downtown zoning district and Consumption on Premises requires a special exception. This location and the previous location (185 Old San Carlos) require a special exception because it is within 500 feet of a park, this proposed site will also have outdoor seating, not associated with a restaurant.

The applicant has provided a site plan showing the proposed location of the retail area, the temporary structure for sales, a seating area for patrons and a fence with an entry gate. The applicant is also proposing the placement of her temporary dwelling unit at the rear of the property.

Staff has provided recommended conditions based on the request. Conditions include expiration of the temporary amendment, requirements to meet the Town's noise regulations and the allowed area for consumption of alcohol.

At the LPA hearing the LPA recommended approval of the request with a modification to the conditions to add a requirement that this case be reviewed every twelve months with no additional fees or applications required. That modification has been made to the conditions listed at the end of this staff report.

Considerations

The decision-making body shall weigh the request based on the listed considerations in Sec. 34-88(b):

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

The structure for which the SEZ was approved, has been damaged and cannot be used. The proposed property previously contained a building but is now a vacant property. Many of the adjacent uses are not currently operating due to storm damage.

(2) *The testimony of any applicant.*

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

(4) *The testimony of the public.*

(5) *Whether the request is consistent with the goals, objectives, policies and intent of the Fort Myers Beach Comprehensive Plan.*

The Pedestrian Commercial FLU District is intended as an intense activity center that contributes to the pedestrian-oriented public realm. The proposed use will create pedestrian visual interest.

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

The applicant has agreed that all live and recorded music will be in compliance with the noise ordinance. A condition has been included to this effect.

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

This proposed use will have no impact on environmentally critical areas or natural resources.

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

No damage, hazard or nuisance is anticipated from this use, to any existing or planned uses.

(9) Whether a requested use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.

The proposed use is in compliance with other applicable zoning provisions

Neighborhood Compatibility:

Many buildings in the vicinity of the proposed use have been damaged or destroyed by the hurricane. Some businesses are open, however many are not.

III. CONDITIONS OF APPROVAL

1. The 2 COP is only valid in conjunction with a retail sales operation within the same business.
2. All music and entertainment on the property will be in compliance with the Town's noise regulations.
3. No consumption of alcohol shall be permitted outside the fenced area, as depicted on the site plan attached.
4. This resolution shall only be in effect until such time as a certificate of occupancy has been granted for the reconstruction of the building at 185 Old San Carlos Blvd. Upon granting a certificate of occupancy for 185 Old San Carlos, Resolution 21-46 shall be reinstated, and this resolution shall expire. This resolution shall come back for review by the Council every 12 months to ensure the applicant is making progress towards the reconstruction of 185 Old San Carlos. The applicant will not be required to submit applications or pay additional fees for the annual review.
5. Any violation of the conditions of approval shall render the special exception null and void.

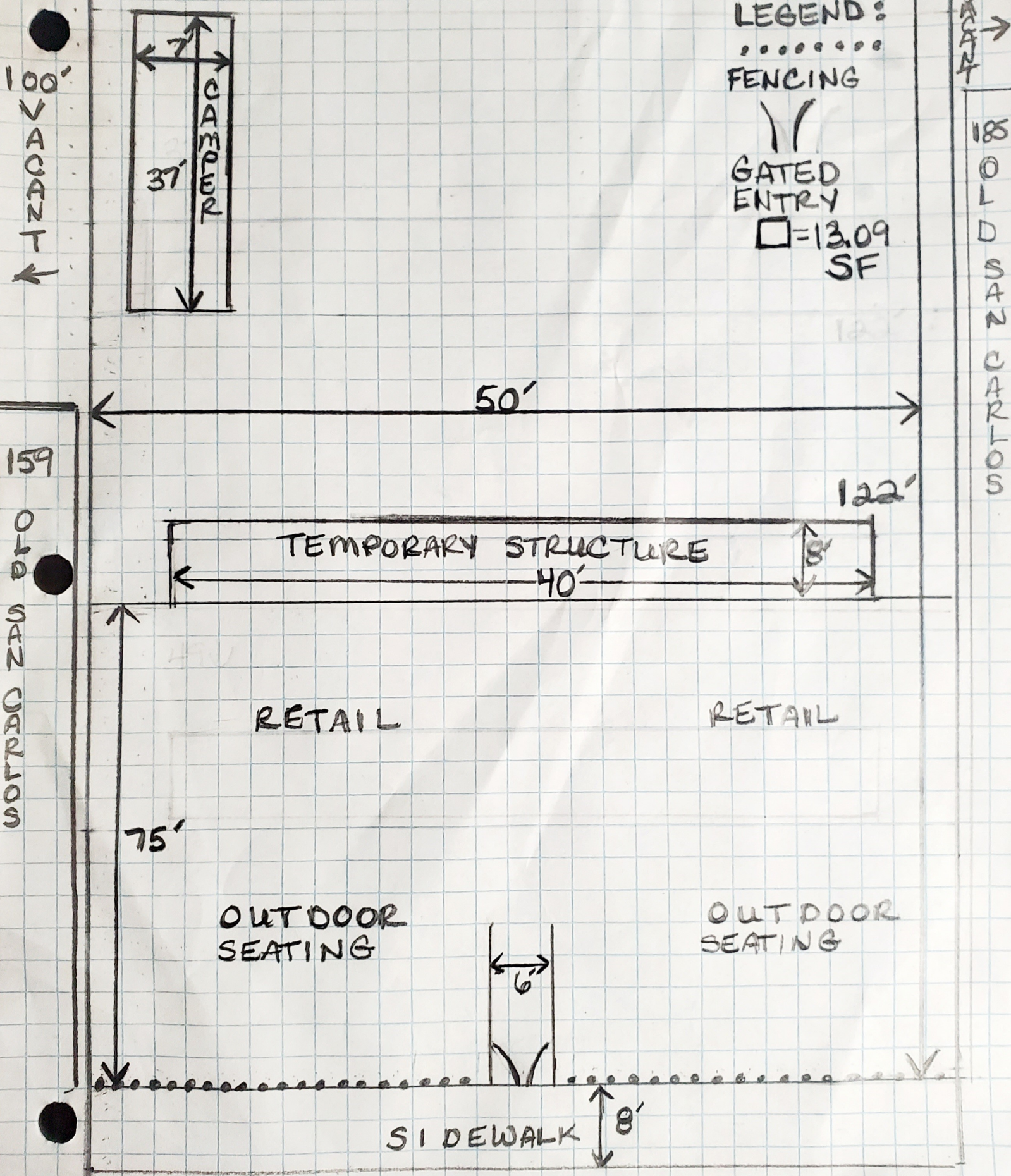
IV. STAFF REPORT EXHIBITS:

A – Proposed site layout

B – Complete application

C – Postcard to adjacent property owners

163 OLD SAN CARLOS



LEGEND:
.....
FENCING
GATED ENTRY
□ = 13.09 SF

OLD SAN CARLOS



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: 1163 OLD SAN CARLOS BLVD. FMB, FL 33931
STRAP Number: 24-46-23-W3-0050A.0140
Applicant: Suzanne May - BAHAN Phone: 386.527.2370
Contact Name: Suzanne May - BAHAN Phone: same
Email: suzipilot@gmail.com Fax: _____
Current Zoning District: Downtown
Future Land Use Map (FLUM) Category: Pedestrian Commercial
FLUM Density Range: 6 per acre 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*: Suzanne May - BAHAN Phone: 386.527.2370

**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: P.O. Box 61176 Fort Myers, FL 33906

Email: suzipilot@gmail.com Fax: _____

Contact Name: same Phone: 386.527.2370



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: _____ Phone: _____

Address: _____

Email: _____ 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: 20210050
- ☐ 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: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV - Property Ownership (Single Owner)

☒ Single Owner (individual or husband and wife)

Name: Suzanne E. May Phone: 386.527.2370

Mailing Address: P.O. Box 61176 Fort Myers, FL 33906

Email: suzipilot@gmail.com Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Suzanne E. May a/k/a Suzanne May BAHAN 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.

S.E. BAHAN

Signature

Suzanne E. BAHAN

Printed Name

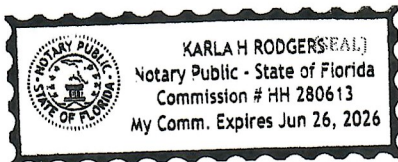
STATE OF Florida COUNTY OF Lee

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

presence OR _____ online notarization, this 14th day of July, 2023, by

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

Driver license as identification.



[Signature]
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

_____	_____
_____	_____
_____	_____
_____	_____

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, _____ (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: 24-44-23-W3-0050A.0140

Property Address: 163 OLD SAN CARLOS BLVD. FMB, FL

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee 33931

County? ☐ No. Attach a legible copy of the legal description as Exhibit 6-1.

☒ Yes. Property identified in subdivision: Island Shores

Book: 9 Page: 25 Unit: 2 Block: A Lot(s): 14 & 15

B. Boundary Survey: Except per Steve Poposki - see letter attached
waiver for EXHIBIT 6-2
☐ 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) 50 feet

Depth (please provide an average width if irregular in shape) 122 feet

Frontage on street: 50 feet. Frontage on waterbody: 0 feet

Total land area: 12,365 ☐ acres ☒ square feet

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

Directly to North of Mantazas Pass Bridge
on FMB Island side.) - OLD SAN CARLOS BLVD.
OLD SAN CARLOS BLVD PARALLELS BRIDGE TO
NORTH

☒ 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 | ☐ Marina |
| ☐ Mixed Residential | ☐ Recreation |
| ☐ Boulevard | ☐ Wetlands |
| ☒ Pedestrian Commercial | ☐ Platted Overlay |



Case# _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-A

Additional Required Information for a Special Exception Application

This is the second part of a two-part application. This part requests specific information for a special exception. Include this form with the Request for Public Hearing form.

Project Name:	SUZANNE MAY BAHAN
Authorized Applicant:	SUZANNE MAY BAHAN
LEOPA STRAP Number(s):	24-46-23-W3-0050A.0140

Current Property Status:	Vacant
Current Zoning:	Downtown
Future Land Use Map (FLUM) Category:	Pedestrian Commercial
Platted Overlay?	☐ yes ☒ no
FLUM Density Range:	10 per acre

Requested Action:

☐	Use of premises in the EC (Environmentally Critical) zoning district for:
☒	Use of premises in the <u>Downtown</u> zoning district for:
Transfer of existing Special Exception 20210050 to adjacent vacant property for an open-air outdoor temporary 200P/Retail venue, so I can earn revenue to repair, rebuild my business properties and home.	

PART I
Narrative Statements

A. Request for: (indicate the proposed use that requires a special exception)

Transfer of existing Special Exception 20210050 to 1163 Old San Carlos (adjacent, same owner property.) Requesting, also, that the LPA and Council allow outdoor entertainment due to the outdoor nature of temporary venue. The outdoor entertainment would fully comply with noise ordinances in place. Also, the current Special Exception limits alcohol consumption to inside building (185 Old San Carlos Blvd.) this would need to be modified to allow outdoor consumption/carry on outdoor venue property (1163 Old San Carlos Blvd.) This transfer would be temporary until 185 OSC can be repaired.

B. Reasons for request: (state how the property qualifies for a special exception and what impact granting the request could have on surrounding properties.

Direct these statements toward the guidelines in LDC Section 34-88)

The property qualifies for a Special Exception because:

I've already received a Special Exception 20210050, next door at 185 Old San Carlos Blvd. 1163 Old San Carlos Blvd is vacant land now and would be an excellent outdoor venue allowing income to be earned in order to repair 185 Old San Carlos Blvd, rebuild 1163 Old San Carlos Blvd, and repair my home on back-rear of 185 OSC. Surrounding properties are heavily damaged and vacant, or just vacant. Therefore, no impact.

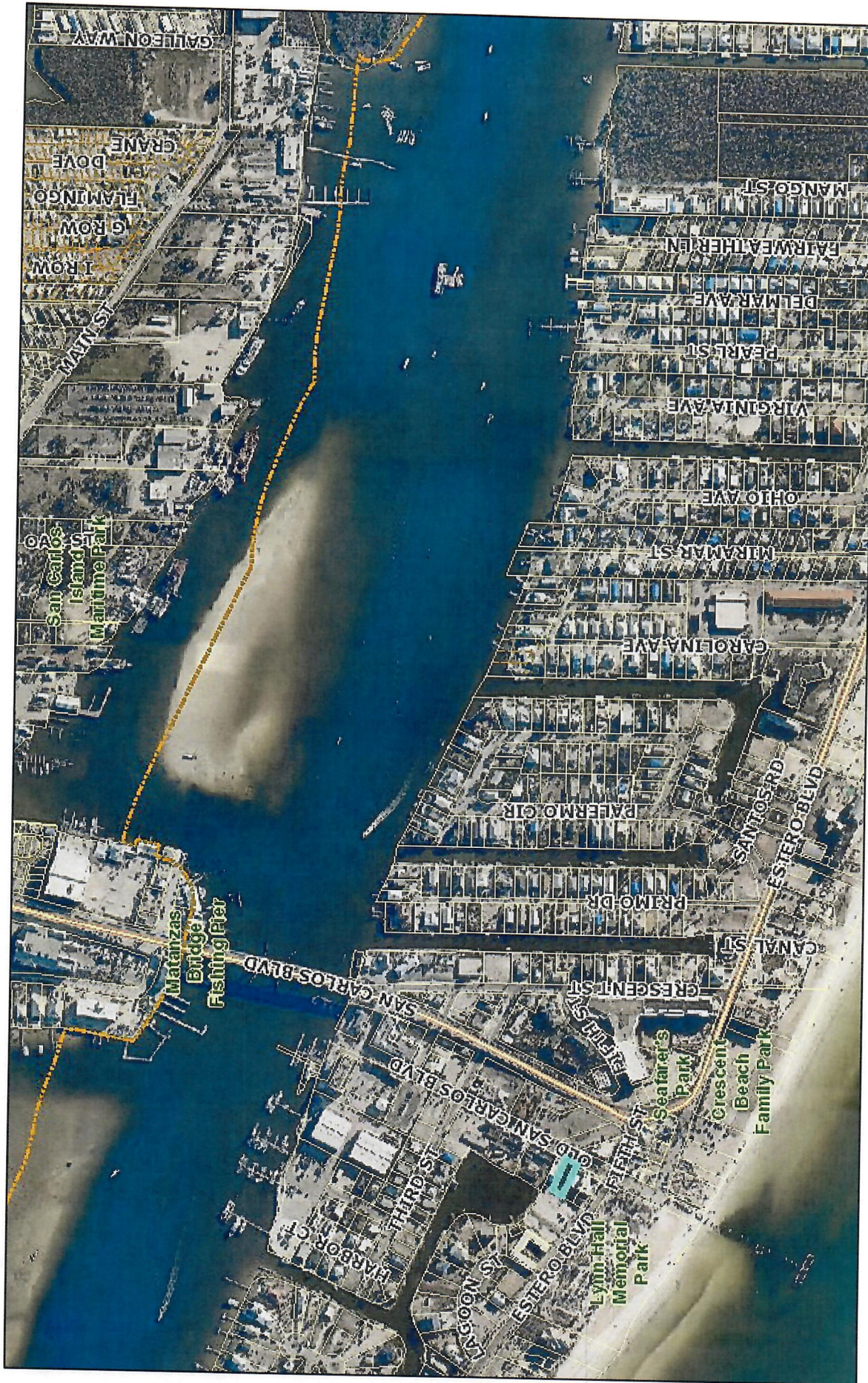


N/A - most, if not all properties in the surrounding area are vacant. No impact.

Page 266 of 335

EXHIBIT 6-3

GeoView Map



July 6, 2023

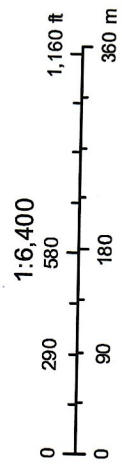
Air Photos: 2023 Hi-Res (3 inch)

 Hospital Locations

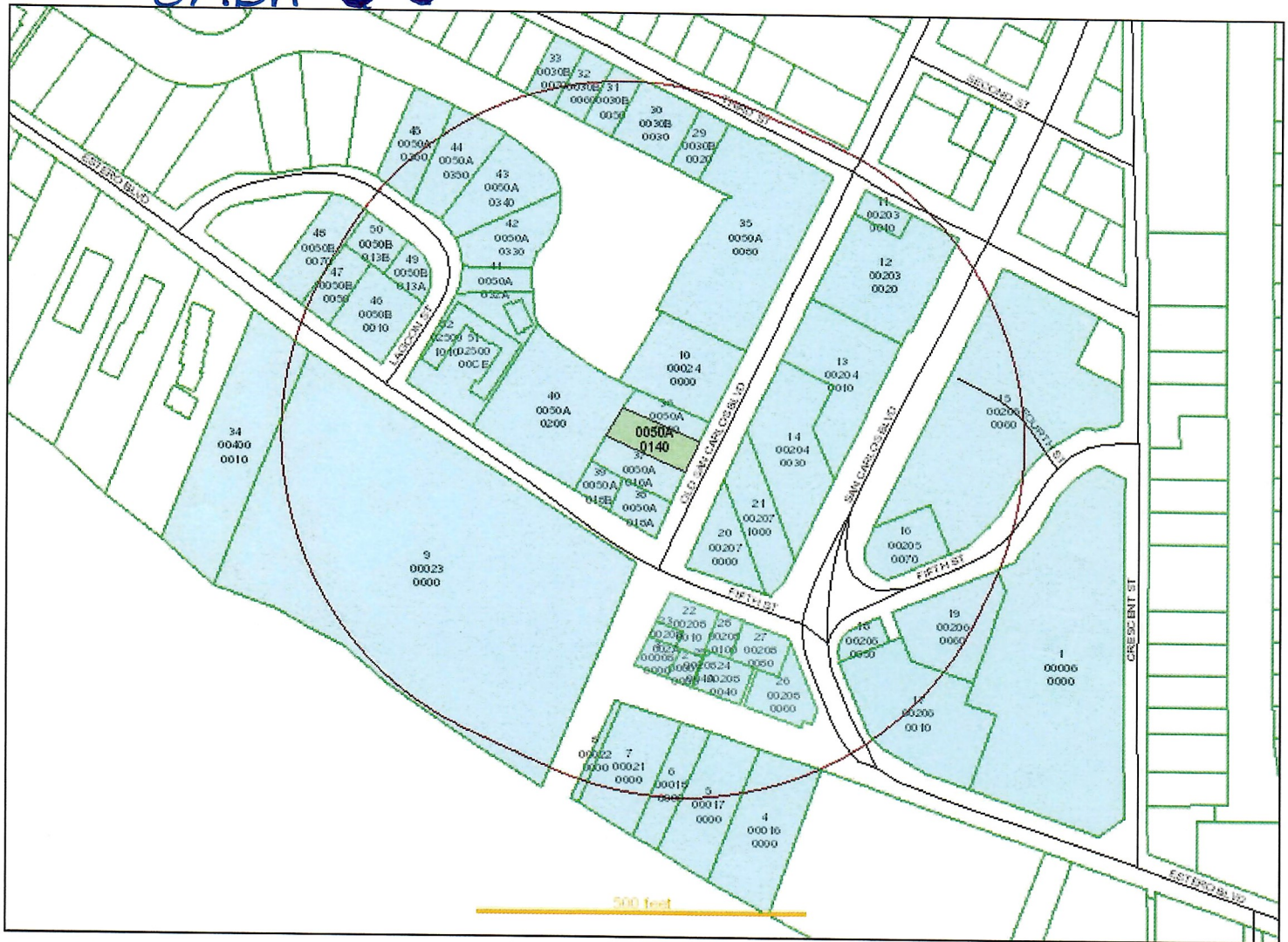
 Library Locations

School Locations

 School 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 interpretation.



Date of Report: July 12, 2023

Buffer Distance: 500 feet

Parcels Affected: 52

Subject Parcel: 24-46-23-W3-0050A.0140

[Click here to download the map image, mailing labels \(Avery 5161\) and CSV formatted information.](#)

EXHIBIT 6-7 To change, add or remove subject parcels please change the parcel selection in [GeoView](#)

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
TPI-FMB LLC 103 15TH AVE NW STE 200 WILLMAR MN 56201	24-46-23-W3-00006.0000 251 CRESCENT ST FORT MYERS BEACH FL 33931	BUSINESS CTR PHILLIPS PB 9 PG 9 LOTS 10 THRU 15 + OR 587/198 LESS R/W 2353/3036	1
1005 ESTERO LLC 1005 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00007.0000 1005 ESTERO BLVD FORT MYERS BEACH FL 33931	FRM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 46 23 RUN NWLY AT INC	2
KALYMNIOUS PARTNERSHIP LLP 1001 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00008.0000 1001 ESTERO BLVD FORT MYERS BEACH FL 33931	FRM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 RUN NW 69 DEG 54 MIN WITH SEC	3
PRESAUD PROPERTIES FL 361 SEMINOLE WAY FORT MYERS BEACH FL 33931	24-46-23-W3-00016.0000 1046 ESTERO BLVD FORT MYERS BEACH FL 33931	FROM SW COR BLK E CRESCENT PK ADD ON E LI SEC 24 RUN S ALG SD LI TO S LI CO RD	4
PERSAUD PROPERTIES FL INVESTME 361 SEMINOLE WAY FORT MYERS BEACH FL 33931	24-46-23-W3-00017.0000 1028 ESTERO BLVD FORT MYERS BEACH FL 33931	FROM SW COR BLK E CRES PK ADD ON E LI SEC 24 RUN S ALG SD LI TO S LI CO RD TH	5
BENCIN ENTERPRISES INC BEACH ACCOUNTING	24-46-23-W3-00018.0000 1010 ESTERO BLVD	A PAR AS DESC IN OR 1234 PG 1371	6

17274 SAN CARLOS BLVD #202 FORT MYERS BEACH FL 33931	FORT MYERS BEACH FL 33931		
WHITAKER WILLIAM D & 15820 SAN ANTONIO CT FORT MYERS FL 33908	24-46-23-W3-00021.0000 1000 ESTERO BLVD FORT MYERS BEACH FL 33931	PARL IN SE1/4 SEC 24 S OF ESTERO BLVD+E OF SAN CARLOS DR DESC OR 1547 PG 1077	7
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00022.0000 10 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BEG NW COR BLK 8 BUSINESS CTR SUBD RUN NWLY ALG EXTENDED N LINE PIER ONLY	8
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00023.0000 950 ESTERO BLVD FORT MYERS BEACH FL 33931	BEG NW COR BLK 8 BUSINESS CTR SUB RUN NWLY ALG EXTEN NLI PIER ON 22.0000	9
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00024.0000 201 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	FROM NWLY COR BLK 8 BUSINESS CENTER SUBD RUN NWLY ALG PROLONGATION OF	10
SOB INC 340 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00203.0010 340 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.3 PB 9 PG 9 LOT 1	11
RICHARD JOHN W TR 237 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00203.0020 318/320 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 3 PB 9 PG 9 LOTS 2 THRU 6 + LTS 22 +23 + POR OF VAC ST	12
STINGRAYS RAW BAR INC 250 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00204.0010 250 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CTR LTS 1 + 2 BLK 4 LOTS 1 THRU 5 BLK 5 W OF ST RD 865 R/W + POR OF VAC ST	13
DIANNE HOLLAND TRUST + 570 KULAIWI DR WAILUKU HI 96793	24-46-23-W3-00204.0030 200 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 4 PB 9 PG 9 LTS 3 THRU 7 PT 8 + 9 + PT VAC ALLY	14
LIGHTHOUSE ISLAND RESORT INC 1051 FIFTH ST FORT MYERS BEACH FL 33931	24-46-23-W3-00205.0060 1051 FIFTH ST FORT MYERS BEACH FL 33931	PORTION OF BUSINESS CENTER BLK 3 & 5 PB 9 PG 9 AND A PORTION OF VACATED FOURTH ST AND PORTION OF VACATED 5TH AVE IN SEC 24 TWP 46 RNG 23	15
TPI-FMB LLC 103 15TH AVE NW STE 200 WILLMAR MN 56201	24-46-23-W3-00205.0070 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 5 PB 9 PG 9 PT LOT 7 + LOTS 8 + 9	16
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	24-46-23-W3-00206.0010 1113 ESTERO BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB9 PG9 LTS 1-4 LESS R/W + DESC OR 1904/4451	17
TOWN OF FORT MYERS BEACH 2525 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00206.0050 1054 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB 9 PG 9 LOT 5 R/W OR 1154 PG 1510	18
TPI-FMB LLC 103 15TH AVE NW STE 200 WILLMAR MN 56201	24-46-23-W3-00206.0060 1150 FIFTH ST FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 6 PB 9 PG 9 LOTS 6 THRU 9	19
150 SAN CARLOS BLVD CORP 4500 VERPLANCH PLACE NW WASHINGTON DC 20016	24-46-23-W3-00207.0000 150 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK 7 PB 9 PG 9 ALL BLK 7	20
TOWN OF FORT MYERS BEACH FINANCE DEPT 2525 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-00207.1000 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER R/W OF CENTER STREET LYING BETWEEN BLK 7 BLK 7 PB 9 PG 9	21
CHAVEZ CARLOS L TR 991 AQUA LN FORT MYERS FL 33919	24-46-23-W3-00208.0010 80 OLD SAN CARLOS BLVD FORT MYERS BEACH FL 33931	BUSINESS CENTER BLK.8 PB 9 PG 9 LOTS 1 + 2 LESS THE W 44	22
CHAVEZ CARLOS L TR 991 AQUA LN	24-46-23-W3-00208.002A 50 OLD SAN CARLOS BLVD	BUSINESS CENTER BLK 8 PB 9 PG 9	23

HOLBROOK LESLIE E 3658 COUNTY RD 31 GALION OH 44833	24-46-23-W3-0050A.032A 859 LAGOON ST FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 NWLY 40 FT LOT 32	41
PURTELL JAMES F TR 60 STONEY BEACH RD OSHKOSH WI 54902	24-46-23-W3-0050A.0330 855 LAGOON ST FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 33	42
BOYD TODD & JULIE SOMERS WHARF 16 WATER ST UNIT L ST GEORGES GE 04 BERMUDA	24-46-23-W3-0050A.0340 849/851 LAGOON ST FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 34	43
DULLARD ROBERT TR + PO BOX 2695 FT MYERS BCH FL 33932	24-46-23-W3-0050A.0350 843 LAGOON ST FORT MYERS BEACH FL 33931	ISLAND SHORES UT 2 BLK.A PB 9 PG 25 LOT 35	44
BLOCD AHL LEASING LLC 3538 TIMBER RIDGE TRL CEDAR RAPIDS IA 52411	24-46-23-W3-0050A.0360 839/841 LAGOON ST FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.A PB 9 PG 25 LOT 36	45
SOUTHLAND CORPORATION CORPORATE TAX DEPT 2711 N HASKELL AVE DALLAS TX 75204	24-46-23-W3-0050B.0010 841 ESTERO BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.B PB 9 PG 25 LOTS 1 THRU 4	46
COURTNEY S MARK & DEBORAH S TR 83 CRANBERRY RD GROVE CITY PA 16127	24-46-23-W3-0050B.0050 831 ESTERO BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.B PB 9 PG 25 LOTS 5 + 6	47
PAINE FRED 823 LAGOON ST FORT MYERS BEACH FL 33931	24-46-23-W3-0050B.0070 821/825 ESTERO BLVD FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.B PB 9 PG 25 LOTS 7 8 + PT LOTS 9 13 14	48
ARTRIP BARBARA K TR 3225 E RIVERSIDE DR UNIT 57E FORT MYERS FL 33916	24-46-23-W3-0050B.013A 850 LAGOON ST FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.B PB 9 PG 25 PT LOTS 13 + 14	49
SCHWARTZ DEREK & KRISTEN 3329 ROSA AVE NEW SMYRNA BEACH FL 32168	24-46-23-W3-0050B.013B 846/848 LAGOON ST FORT MYERS BEACH FL 33931	ISLAND SHORES UNIT 2 BLK.B PB 9 PG 25 LOTS PT 13 + 14 FROM SE	50
SAND CASTLE BEACH CLUB CONDO 905 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-02500.00CE SAND CASTLE BEACH CONDO C/E FORT MYERS BEACH FL 33931	SAND CASTLE BEACH CLUB A TIME-SHARE COMMON AREA DESC OR 1463 PG 2328 + CPB 6 PG 230	51
SAND CASTLE BEACH CLUB CONDO A 905 ESTERO BLVD FORT MYERS BEACH FL 33931	24-46-23-W3-02500.1010 905 ESTERO BLVD FORT MYERS BEACH FL 33931	SAND CASTLE BEACH CLUB A TIME-SHARE OR 1463-2328 UNITS 101-215 / 29 UNITS	52

RESOLUTION NUMBER 21-46

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING SPECIAL EXCEPTION 20210050 TO ALLOW CONSUMPTION ON PREMISES AS A 2COP (BEER AND WINE); WITHIN 500 FEET OF A PARK AT 185 OLD SAN CARLOS; 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, applicant Suzanne Bahan.. requested a special exception to open an adult video arcade with retail and 2COP, and a deviation from LDC Sec. 34-1264(a)(2) of the Town of Fort Myers Beach Land Development Code which does not allow alcohol sales within 500 feet from park; and

WHEREAS, the STRAP number for the subject property is 24-46-23-W3-0050A.0130

WHEREAS, the Property is in the "Pedestrian Commercial" category of the Future Land Use Map of the Comprehensive Plan and the "Downtown" zoning district of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 10, 2021. and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-88 of the LDC. The LPA voted 5-0 to approve with conditions the Consumption on Premises (2COP, Beer and Wine Only), with no outdoor consumption.

WHEREAS, on October 4, 2021 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by Section 34-88 of the LDC; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve/deny the request.

NOW THEREFORE, BE IT RESOLVED 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 meet its burden of proof that the requested Special Exception do meet the requirements of the Town Comprehensive Plan and LDC, and approving the Special Exception is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties and public, the Town Council APPROVES the Special Exception and 2COP and the deviation from Section 34-1264(a)(2) of the LDC to allow alcohol sales within 500 feet of Lynn Hall Memorial Park.

Section 3. In approving the Special Exception, the Town Council makes the following findings and conclusions in accordance with the requirements of Sections 34-84 and 34-88 of the LDC:

- A. There exist changed or changing conditions which make approval of the request appropriate
- B. The request is consistent with the goals, objectives, policies, and intent of the Fort Myers Beach Comprehensive Plan
- C. The request meets or exceeds all performance and locational standards set forth for the proposed use.
- D. The request will protect, conserve, or preserve environmentally critical areas and natural resources.
- E. The request will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
- F. The requested consumption on premises (2COP) use will be in compliance with applicable general zoning provisions and supplemental regulations pertaining set forth in Chapter 34 of the Land Development Code.

Section 4. If the Town Council approves the requested special exception, the following conditions of approval are imposed on the Applicant and the Property:

- A. The 2COP is only valid in conjunction with a retail sales operation within the same business.
- B. No amplified music or entertainment unless within an entirely enclosed building. All activities are subject to the Town's noise regulations.
- C. No consumption of alcohol beyond the footprint of the existing enclosed structure.

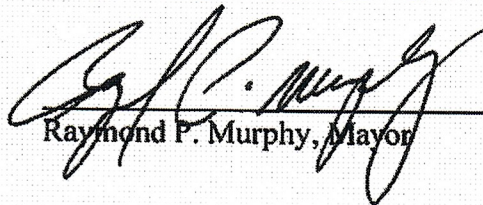
D. Any violation of the conditions of approval shall render the special exception null and void.

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

Raymond P. Murphy, Mayor	Aye
Rexann Hosafros, Vice Mayor	Aye
Dan Allers	Aye
Bill Veach	Aye
Jim Atterholt	Aye

ADOPTED this 4th day of October 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

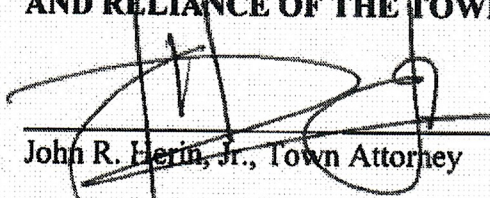
FORT MYERS BEACH TOWN COUNCIL


Raymond P. Murphy, 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 18 day of October 2021.



EXHIBIT 6-2 WAIVER

s b <suzipilot@gmail.com>

RE: Requesting Waiver for Boundary Survey for Temporary 2COP location at 163 Old San Carlos Blvd. Fort Myers Beach, FL 33931.

1 message

Stephen Poposki <spoposki@fmbgov.com>

To: s b <suzipilot@gmail.com>

Wed, Jul 12, 2023 at 2:22 PM

Cc: Sarah Propst <sarah.propst@fmbgov.com>

Good afternoon Ms. Bahan,

You may proceed without a boundary survey for the temporary 2COP location at 163 Old San Carlos Blvd. Fort Myers Beach, FL 33931 unless otherwise notified by the Town planning division that a current survey has become necessary for your request.

Regards,

**Steve Poposki**Community Development Director and
Building Official

Town of Fort Myers Beach

2525 Estero Boulevard

Fort Myers Beach, FL 33931

FMBgov.com

Think Green. Please print this e-mail only if necessary.

Please Note: Florida has very broad public records laws. Most written communications to and from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications may be subject to public disclosure.

Frequently asked questions

From: s b <suzipilot@gmail.com>**Sent:** Tuesday, July 11, 2023 4:11 PM**To:** Stephen Poposki <spoposki@fmbgov.com>; Sarah Propst <sarah.propst@fmbgov.com>

Subject: Requesting Waiver for Boundary Survey for Temporary 2COP location at 163 Old San Carlos Blvd. Fort Myers Beach, FL 33931.

Mr. Poposki:

My name is Suzanne (May) Bahan and I am requesting a Waiver for Boundary Survey for my property at 163 Old San Carlos Blvd. Fort Myers Beach, FL 33931 - Strap# 24-46-23-W3-0050A.0140. I have already received a Special Exception 20210050/ Resolution Number 21-46. I am proposing to move the Special Exception to my now vacant property at 163 Old San Carlos Blvd, as a temporary location while I wait on insurance claims to pay out. This will also allow me to generate needed revenue to repair and rebuild my properties. Obviously, I have to have a hearing in front of the Town Council and the LPA in order to transfer this Special Exception to the aforementioned and adjacent property. However, before I can submit public hearing applications, I've been instructed that I must receive a Waiver of Boundary Survey on said property directly from you. I have the property dimensions and have calculated square footage with the assistance of the Lee County Clerk of Court and the Property Appraiser's Office.

This temporary move of the Special Exception would be for an outside venue with temporary features like seating and retail/consumption areas, and portable trailers (food or shipping container(s)). Therefore, and given the lengthy wait-times for surveyors, I'm asking that you consider granting me a Waiver for Boundary Survey. Please understand that I have not had any source of income since Hurricane Ian and my insurance policies have not paid out. Therefore, this Waiver would be greatly appreciated.

Thank you,

Suzanne (May) Bahan, Owner

163 & 185 Old San Carlos Blvd.

Fort Myers Beach, FL 33931

386-527-2370

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

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An easement for the use of public utilities 3 feet in width is hereby reserved for a distance of 30 feet from street lines along the rear lines of lots 30, 31, Block A and along each side of lots 32 to 40, inclusive, the northerly side of lot 41, Block A and each side of lots 1 to 25, inclusive, except sides of Mattonna St., in Block C.

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Reg. Land Surveyors
Johnson & Cothern, F.R.S.

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Page 276 of 335



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

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: August 21, 2023

CASE: SEZ20230126-Amendment

ADDRESS: 163 Old San Carlos Blvd

APPLICANT: Suzanne Bahan

REQUEST: The applicant is requesting an amendment to SEZ20210050 to move the Special Exception from 185 Old San Carlos to 163 Old San Carlos and amend conditions of approval.

TOWN CONTACT: SARAH PROPST SARAH.PROPST@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,
Fort Myers Beach, FL 33931

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TOWN CONTACT: SARAH PROPST SARAH.PROPST@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,
Fort Myers Beach, FL 33931

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: August 21, 2023

CASE: SEZ20230126-Amendment

ADDRESS: 163 Old San Carlos Blvd

APPLICANT: Suzanne Bahan

REQUEST: The applicant is requesting an amendment to SEZ20210050 to move the Special Exception from 185 Old San Carlos to 163 Old San Carlos and amend conditions of approval.

TOWN CONTACT: SARAH PROPST SARAH.PROPST@FMBGOV.COM

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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: August 21, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, WAIVING THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND APPROVAL OF PROPOSALS RECEIVED FOR ELECTRIC AND SITE WORK FOR TIMES SQUARE IN AMOUNTS NOT TO EXCEED \$_____ & \$_____; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Purchases over \$25,000 must be approved by Town Council unless the competitive procurement process is waived.

What the action accomplishes:

Waives the Town's procurement policy and authorizes work for electrical and site improvements to re-install the clock.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Jason Freeman, Public Works
Director

5. **Background:**

The Town is working diligently to re-install the iconic Times Square clock that was donated this summer by the Merschmans this summer as quickly as possible before the one year hurricane anniversary. Discussions with local electricians indicated that all of the electric and equipment will need to be replaced due to hurricane and storm surge damage. The proposed scopes of work also includes the removal and reinstallation of the existing pavers in coordination with electrical repairs around the clock which is located in a high pedestrian traffic area.

The Town has received the proposals from companies that have agreed to meet the deadline of completing a turnkey project for the underground electric and site work needed within the next month. Verdin, the clock manufacturer, is scheduling to install the clock in mid September. One proposal includes the installing and donating a new bench area at the base of the clock. This option would utilize the same contractors as Bayside Park to expedite repairs and one mobilization. The Town also received a previous proposal from a company that could also do the required work for the installation of the clock, but not within the timeframe.

Staff is seeking direction on which proposal to accept.

Attachments:

1. 23-93, Times Square Electrical for Clock

Financial Impact:

Not to exceed totals

6. **Alternative Action**

Continue seeking proposals for installation.

7. **Management Recommendations:**

Authorize one of the repair proposals for Bayside Park.

8. **Recommended Approval:**

Jason Freeman, Public Works Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/16/2023
Approved - 8/17/2023
Approved - 8/17/2023
Final Approval - 8/17/2023

RESOLUTION NUMBER 23-93

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, WAIVING THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND APPROVAL OF THE PROPOSALS RECEIVED FOR ELECTRIC AND SITE WORK FOR TIMES SQUARE THE AMOUNTS NOT TO EXCEED \$_____ AND \$_____; 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 ("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, the Town of Fort Myers Beach has been working diligently on coordinating repairs to the Town's facilities including Times Square and received a donation of a replacement Times Square clock in June 2023; and

WHEREAS, the Town can meet the target installation date for Bayside Park through the use of _____ and _____ to complete electrical, site, and paver work required due to hurricane and storm surge damage to return the electrical components back to the clock.

NOW, THEREFORE, BE IT 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. This Resolution authorizes the Town to sign proposals for electrical and site work for Times Square and waive the Town's procurement policy directing Town staff to continue coordination with these contractors for repairs in the amounts not to exceed \$_____ and \$_____.

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 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, Councilmember
Bill Veach, Councilmember
Karen Woodson, Councilmember

ADOPTED this 21st day of August 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:**

Vose Law Firm, LLP, Town Attorney

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

1. **Requested Motion:**

Meeting Date: August 21, 2023

Authorize Town Staff to maximize sand placement onto the beach, 1) constructing the full design beach (OPTION #1) along shoreline lengths with adequate property owner participation, 2) constructing the full design beach seaward of the ECL (OPTION #2) on shoreline lengths with isolated non-participating properties, and 3) constructing the beach at ECL elevation grade seaward (OPTION #3) on shoreline lengths dominated by non-participating properties.

Why the action is necessary:

The engineered design beach constructed in its entirety provides the maximum resiliency against storm impacts for shoreline protection of beachfront properties and the community as a whole.

For shoreline lengths without property owner participation / easement signed, the Town cannot use TDC funds to nourish the beach on private property.

What the action accomplishes:

Constructing the ENTIRE engineer designed beach maximizes storm impact reduction benefits, maximizes open beach recreational space, and creates nesting habitat for endangered and threatened species

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

An easement is required for Beachfront landowner participation in the Estero Island Shoreline Protection Project (aka Beach Renourishment). The easement allows the Town to place sand and plant dune vegetation on private property LANDWARD of the Erosion Control Line (ECL) in accordance with the Dune Management Plan. In addition, State permitting also requires the Town to monitor and till the project area for 3 years after completion. The easement does NOT grant any public access to the beach from Estero Blvd (SEE VOSE LEGAL OPINION MEMO).

Beachfront property owner participation in the renourishment project has been strong in the North segment (Bowditch to Margaritaville) and the South segment (Creciente to Sun Caper). However only 1/3 of the property owners in the Central Segment (Lani Kai to Lanark) have returned easements. Staff is continuing to engage property owners for easement participation, but it is likely that a significant portion of the Central segment shoreline is not participating in the project.

On properties with easements executed, the design beach can be constructed in its entirety to the landward fill limit.

***N.B. provided there is a threshold of 1000 shoreline feet of participating properties. i.e. isolated properties with easements surrounded by non-participating projects may not receive the full design beach with maximum beach sand fill volume.

Option 2 constructs full design seaward of the Erosion Control Line (ECL), which will leave a trough landward of the ECL to the berm where it exist. **The width of the trough will vary based on the location of the ECL relative to the landward fill limit.**

Option 3 constructs the beach at the elevation/grade at the ECL and builds it seaward. The beach elevation is not increased above the elevation at the ECL, therefore a trough is not created.

Attachments:

1. Beach Fill Options
2. Vose Legal Opinion - Beach Renourishment Issues
3. ISOLATED PROPERTIES NORTH SEGMENT - Beach Fill Options
4. NO RESPONSE PROPERTIES CENTRAL SEGMENT - Beach Fill Options

Financial Impact:

Option 1 utilizes the entire fill volume budgeted.

Option 2 utilizes approximately 15% less fill volume than Option 1.

Option 3 utilizes approximately 15% less fill volume than Option 2.

Project construction cost will be reduced

6. Alternative Action

Direct Staff to NOT place sand waterward of the Erosion Control Line for beachfront properties that do not sign the Town's Easement to place sand landward of the Erosion Control Line.

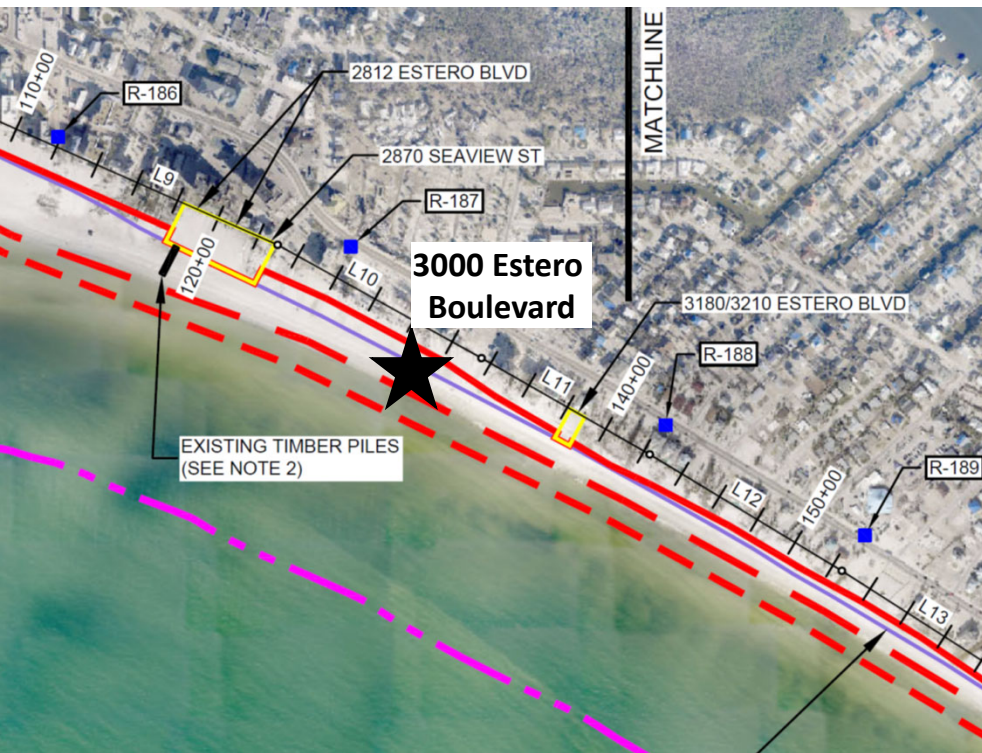
7. Management Recommendations:

Direct staff to maximize sand placement onto the beach, 1) constructing the full design beach (OPTION #1) along shoreline lengths with adequate property owner participation, 2) constructing the full design beach seaward of the ECL (OPTION #2) with isolated non-participating properties, and 3) construction the beach at ECL elevation grade seaward (OPTION #3).

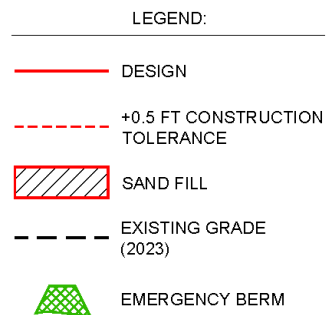
8. Recommended Approval:

Chadd Chustz, Environmental Services
Steve Poposki, Community Development Director
Amy Baker, Town Clerk
Gretchen R.H. Vose, Town Attorney
Andy Hyatt, Town Manager

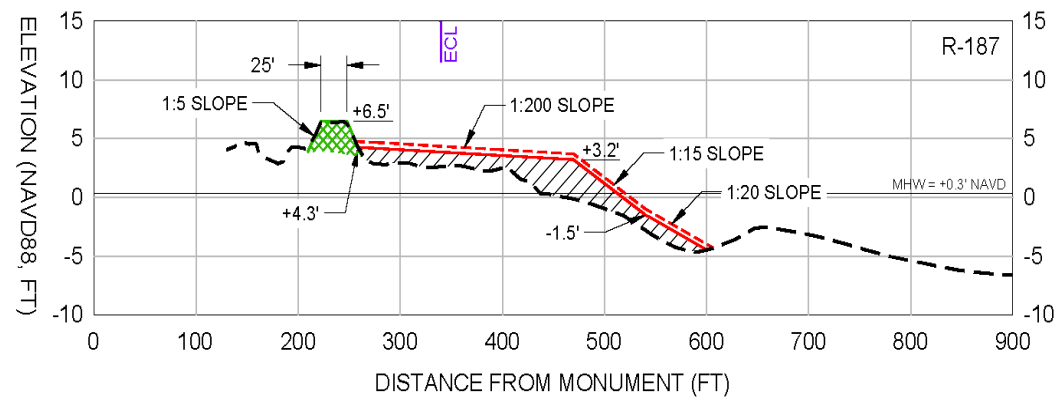
Created/Initiated - 8/15/2023
Approved - 8/15/2023
Approved - 8/15/2023
Approved - 8/17/2023
Final Approval - 8/17/2023



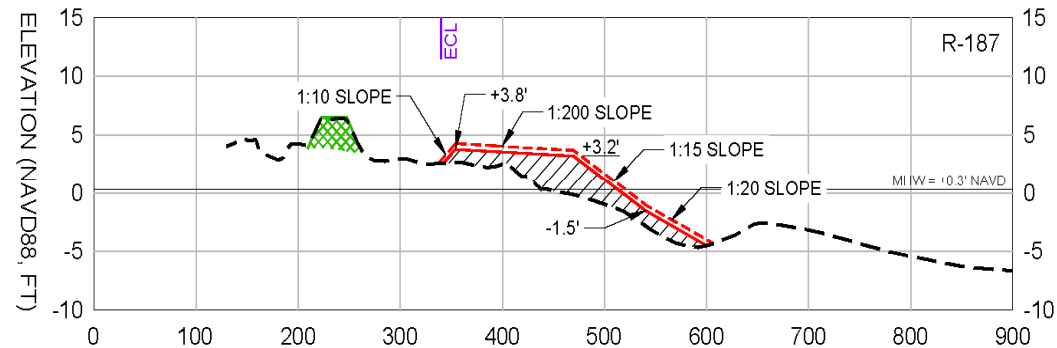
Excerpt from Beach Nourishment Construction Plans



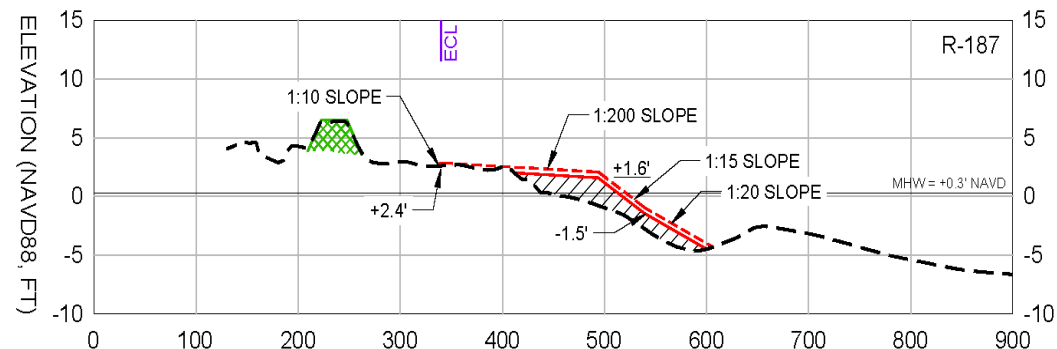
OPTION 1

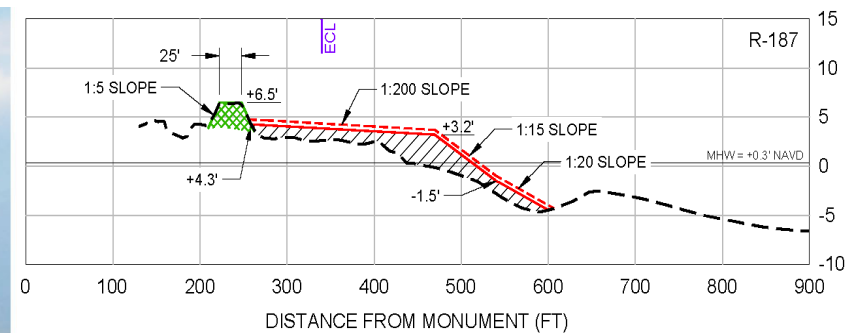


OPTION 2



OPTION 3

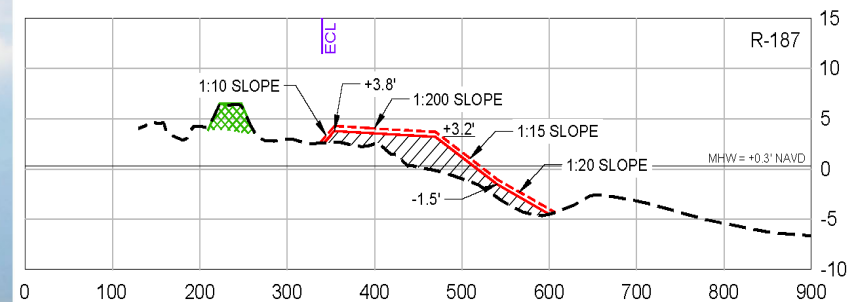




OPTION 1



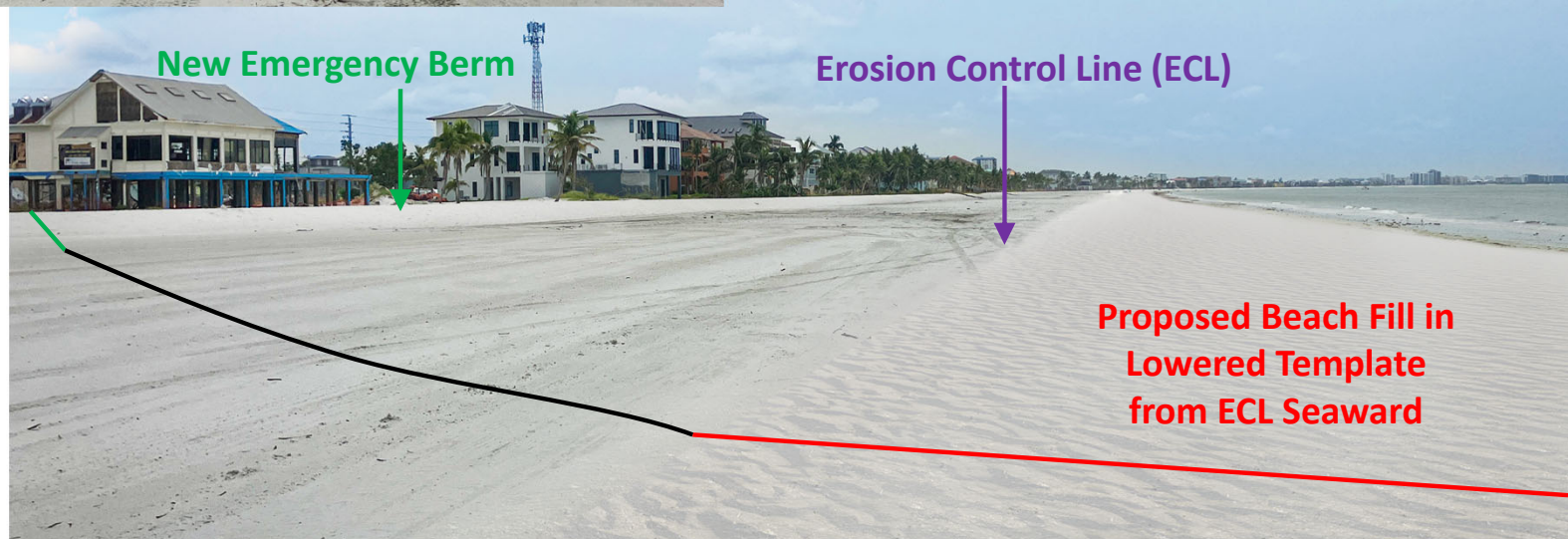
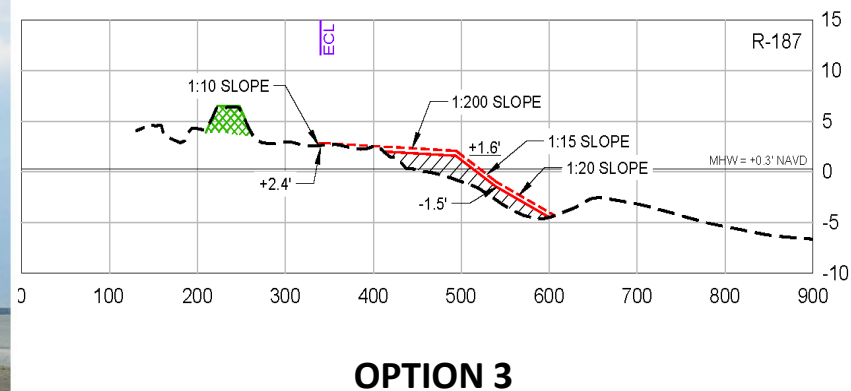
**Photograph looking SE,
~3000 Estero Blvd**
courtesy of Chadd Chustz, July 29, 2023



OPTION 2



**Photograph looking SE,
~3000 Estero Blvd**
courtesy of Chadd Chustz, July 29, 2023



Photograph looking SE,
~3000 Estero Blvd
courtesy of Chadd Chustz, July 29, 2023

M E M O R A N D U M

TO: Mayor Allers, Vice Mayor Atterholt, and Town Council Members King, Veach and Woodson
COPY: Town Manager Hyatt, Chadd Chustz, Environmental Project Manager
FROM: Gretchen R. H. ("Becky") Vose, Esq., Nancy Stuparich, Esq., Town Attorneys
DATE: July 29, 2023
SUBJECT: Beach Renourishment/Easement Issues

There appears to be a great deal of confusion and many questions regarding a variety of issues as to the beach renourishment project, as well as easements needed for that work to take place. I will try to succinctly address each issue about which I have been notified. As always, I am available on my cell phone to discuss these issues with you further at your convenience.

- I. Issue** – Does the placement of publicly funded sand on private property give the public the right to use or access private beachfront property?

Answer – No. The placement of publicly funded sand does not make the privately owned portion of the beach a public beach. In addition, the public does not have the right to traverse private property to reach the public beach seaward of the ECL/MHWL.

However, the public already has access to, and can reasonably use for customary beach uses, the beach seaward of the erosion control line (ECL), or if there is no ECL in a location, seaward of the mean high water line (MHWL). However, the public does not have the right to traverse private property to reach the public beach seaward of the ECL/MHWL. Access to the public beach must be obtained through a publicly accessible access point.

This situation is not changed merely due to the placement of publicly funded sand on private property, or the signing of an easement for the placement/maintenance of such sand. The standard form easement that is being requested to be signed by the Town will not change any of these issues.

In particular, the easement does not create a dedication, gift, or right to use the private property by the public. Use given by the easement is limited to purposes of sand placement and maintenance and vegetation planting (and related work) on the beach area by authorized governmental representatives.

- II. Issue** – Why is public money being spent to place sand on properties that are owned by beachfront property owners who might be perceived by many as wealthy?

Answer – Public money is being spent on beach renourishment to protect the entire island. If the beach goes away (as sadly some of it has due to Hurricane Ian), public infrastructure and private property on the island that is not beachfront will likely suffer damages in future weather events.

The first defense against coastal flooding is maintaining a healthy beach, which is the object and purpose of beach renourishment. Merely placing sand seaward of the ECL/MHWL (on public property) would not be effective to protect the island as a whole and would likely be quickly washed away by storms.

Placing sand merely seaward of the ECL/MHWL would also create a trough of water between the newly placed sand and the upland private property, which would impede turtles in their important reproductive journey, and would not appropriately or effectively prevent future storm damages.

The FDEP staff has experts trained in the appropriate measures to protect the island going forward in storm recovery and preventing more damage due to future storms and normal wave action.

The Town of Fort Myers Beach is working hand in hand with FEMA, FDEP, and Lee County in taking the proper and scientifically appropriate steps to assist the Town, its residents, property owners and business owners in hurricane recovery and preparation for future storm events.

III. Issue – Are beachfront property owners required to sign an easement and agree to beach renourishment?

Answer – No. A beachfront property is not required to sign an easement, but without an easement, the Town will not place sand and take appropriate actions to maintain the beach in front of properties when the owners of the properties decline to sign an easement.

Declining to sign an easement does not mean that a property owner cannot purchase and install sand on its own property and pay for the maintenance of that sand at the expense of the property owner.

In instances in which a property owner declines to sign an easement but wishes to purchase and install their own sand, appropriate state and local permits would need to be acquired and if such permits are granted, beach grade sand could be purchased and installed on private property at the cost of the individual property owner(s). More information regarding purchasing sand can be found at www.fmbgov.com/beach and at www.floridadep.gov/hurricane.

IV. Issue – Is there a form easement agreement that must be signed to get publicly funded beach renourishment, and can each property owner make changes to the form easement agreement?

Answer – There is a form easement agreement that can be viewed and downloaded on the Town's website at www.fmbgov.com/beach.

There have been numerous requests by individual property owners to tailor a particular easement agreement with individual terms only applicable to that particular property.

Having numerous forms of agreements is problematic since it would be difficult, if not impossible, to keep track of what can be done (allowed under the individually tailored easement) on a particular parcel of property when the massive public works project of beach renourishment is taking place.

Merely deleting certain properties from the project (those properties for which an easement has not been executed) will be difficult enough, but applying different standards to different participating property owners would necessarily result in a more expensive project and would open up an administrative nightmare for the supervision of this important project.

One issue that has been raised, which *can* be accommodated, is that if there is a concern that some of the property for which an easement is requested (typically related to riparian rights property not specifically owned by the upland owner), a revision can be added (although frankly not needed) that states that the easement is granted only as to any rights the owner may have as to the property outside the regular legal description of the property. Again, this last issue does not have to be addressed in an easement, but if any property owner is hesitant to sign the easement as drafted due to this issue, the Town can address that issue for you.

V. Issue – When must signed easements be delivered to the Town to participate in the beach renourishment program?

Answer – There is a deadline of 4:00 P.M., Monday, July 31, 2023. The deadline has been extended into August as the Town waits on the US Army Corps (USACE) to issue the permit. But once the USACE permit is issued, Staff will move quickly to issue the invitation to bid. Staff will make every effort to include late easements into the project, but waiting to sign may jeopardize the properties inclusion into the project.

The deadline is needed for the Town to get the information as to participating properties to the engineer so that appropriate plans for the project can be drawn and the project can be bid. The Town's coastal engineer must begin design plans for the contractor to construct the beach. The invitation to contractors to bid on the project must go out soon for the project to stay on schedule. Changes after the design process begins, or after a contract is issued, would increase the costs involved in the project and possibly delay the completion of the overall project. Updates to the deadline will be noticed on the Town's website www.fmbgov.com/beach.

Personal delivery, fax or emailed delivery of the executed easement by that date (with original hard copy immediately sent by U.S. Mail, Fed Ex. or UPS) is acceptable.

A wide-angle photograph of a tropical beach. The foreground shows the ocean with gentle waves and some floating debris. The middle ground features a sandy beach with a few palm trees and a small boat in the water. The background is a clear blue sky with some light clouds.

BEACH MANAGEMENT UPDATE TOWN COUNCIL AUGUST 21, 2023

OUTLINE

- RECOVERY PLAN SUMMARY
- FEMA CATEGORY B EMERGENCY BERM (CENTRAL-SOUTH)
- FEMA CATEGORY G (NORTH)
- FDEP HURRICANE RECOVERY PLAN
- BEACH NOURISHMENT PROJECT



RECOVERY PLAN SUMMARY

HURRICANE IAN DAMAGES: **220,400 CY** of Sand Eroded from FMB

- FEMA Category B
 - Emergency Berm for the Natural Beach
(CENTRAL & SOUTH SEGMENTS + Carlos Point Beach)
 - 86,969 CY
- FEMA Category G
 - Ian erosion on the Engineered Beach (NORTH SEGMENT)
 - 56,845 CY
- FDEP Hurricane Recovery Plan Requests
 - Additional Erosion Quantity
 - 74,170 CY
 - South Estero Island
 - 15,000 CY
 - Local Cost Share of FEMA Cat B & Cat G Projects

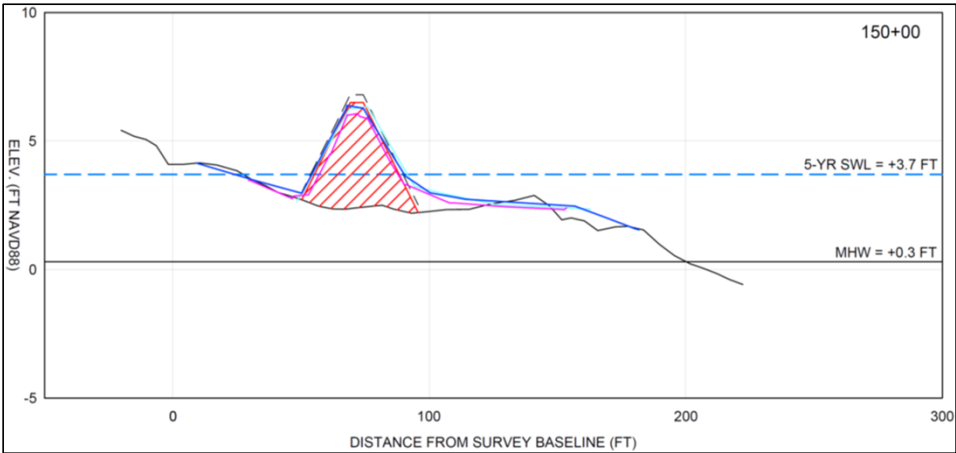


FEMA CATEGORY B EMERGENCY BERM (CENTRAL-SOUTH)

- FEMA / FDEM PUBLIC ASSISTANCE: \$7,970,943
 - 86,969 CY = 121,756 Tons
- CONSTRUCTION PERIOD: April 6 – June 27
 - Substantial Completion: Central = 92,669 Tons (76%)
 - Resume Work On South After Shorebird Nesting Season Concludes
- TWO CHANGE ORDERS
 - CO#1 Added 8 Days To Account For Town Requests for Berm Segments
 - CO#2 – **Action Needed Today: Approve Additional Time/Money (\$170K):**
Addresses Shorebird Protection During Nesting Season
 - CEC Supplemental Services: **Action Needed Today: Approve Time/Money (\$20K)**
- TOWN REQUESTING ADDITIONAL TIME EXTENSION FROM FEMA THROUGH OCTOBER 31, 2023



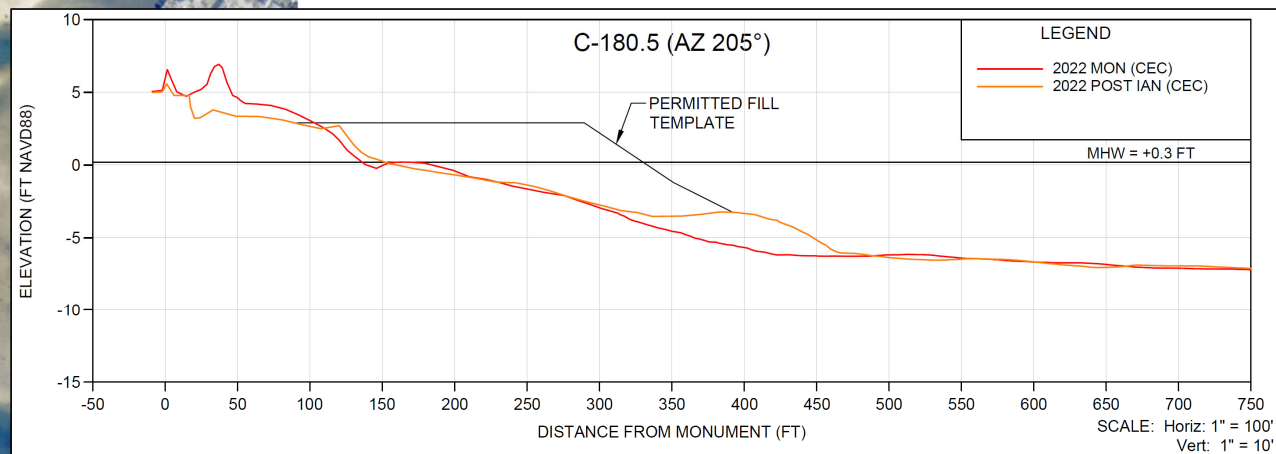
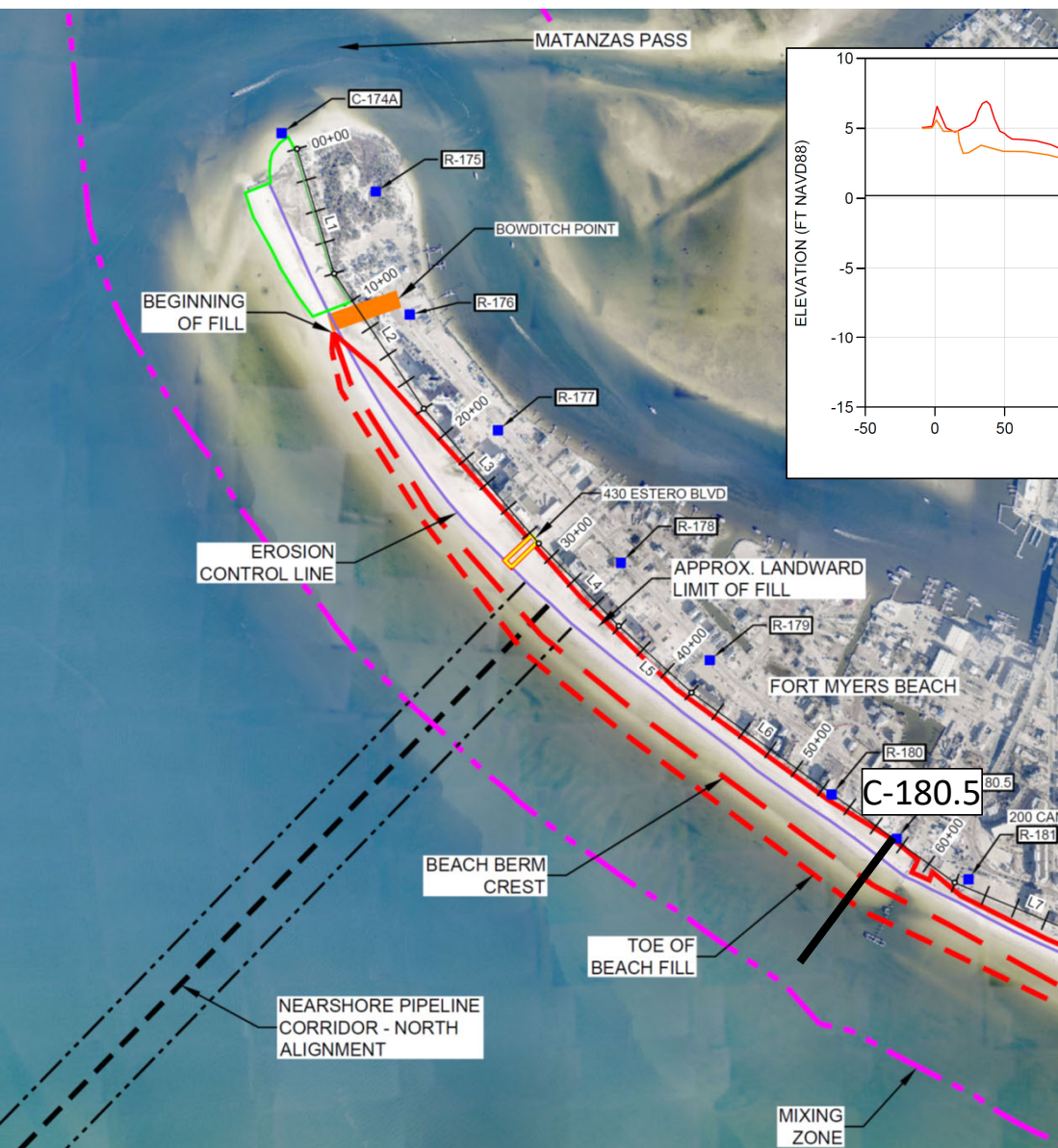
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87+50:84+30 new no material
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1840 Estero Blvd, Fort Myers Beach, FL 33931, USA

FEMA CATEGORY G (NORTH)

- FEMA / FDEM PUBLIC ASSISTANCE: \$1,408,050 (*pending*)
 - 56,845 CY of Sand; 33,200 Dune Plants
- REPAIR STORM DAMAGE TO ENGINEERED BEACH
 - North Segment Originally Restored in 2011 (~ 6,900 feet)
 - Beach Nourishment Project Scheduled to Maintain the Beach ~ Eligible for FEMA Post-Storm Recovery Public Assistance
- CONSTRUCT CAT G RECOVERY PROJECT CONCURRENT WITH BEACH NOURISHMENT PROJECT
 - Seeking Federal Authorizations through FEMA, USACE, USFWS, NMFS and BOEM Agencies



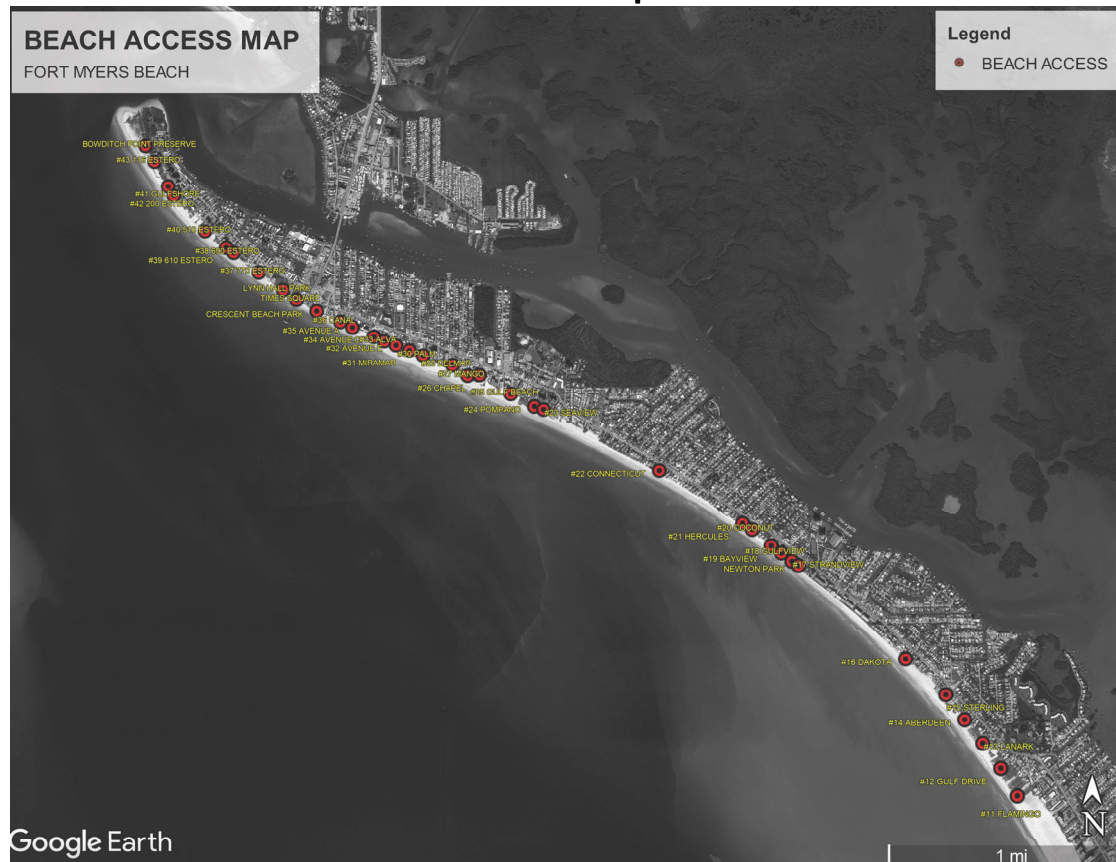
NORTH BEACH SEGMENT

FDEP HURRICANE RECOVERY PLAN

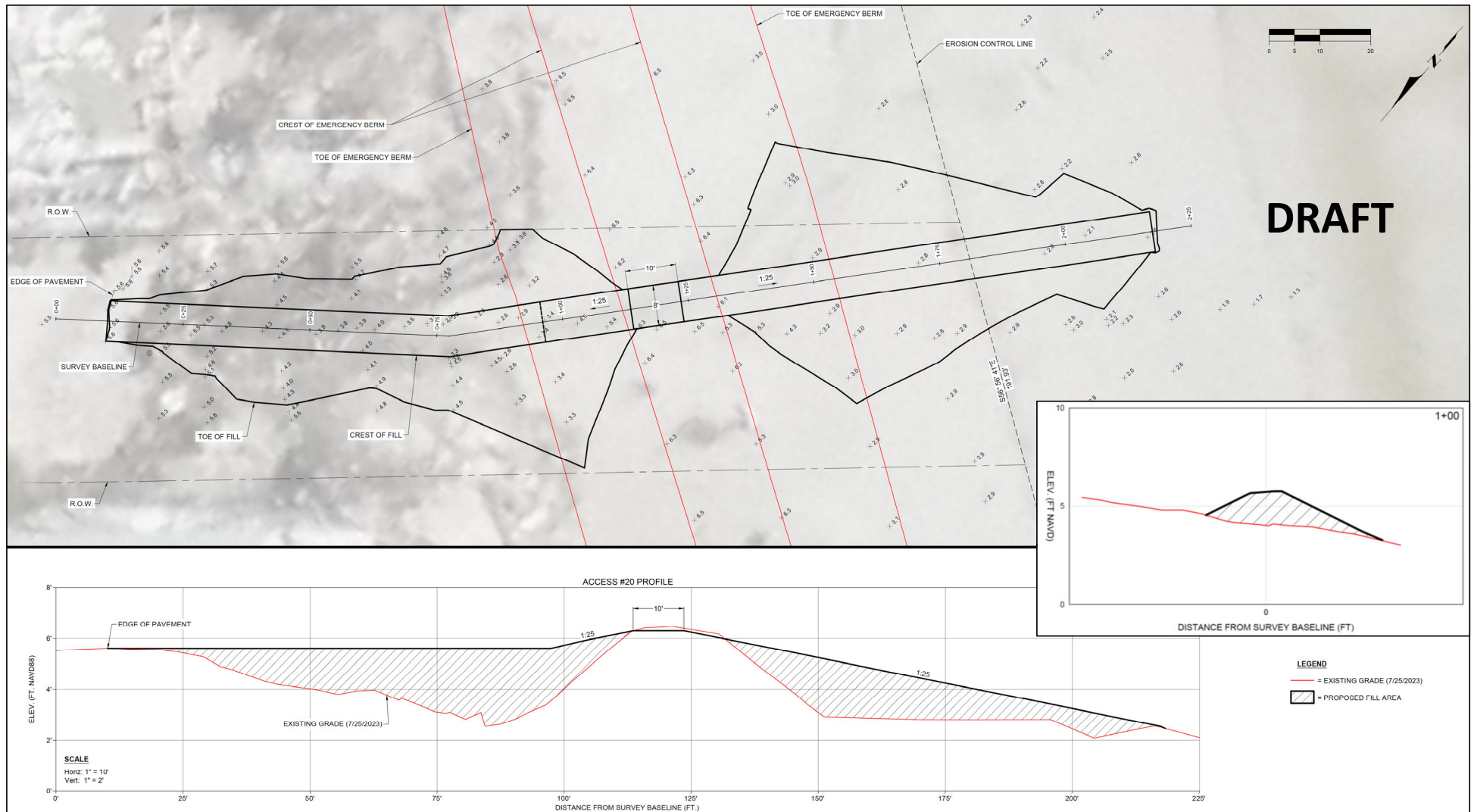
- TOWN SEEKING ASSISTANCE FROM STATE OF FLORIDA
 - 74,170 CY of Sand
- PUBLIC BEACH ACCESSES
 - Priority Accesses: 20, 21, 22, 24, 27, 30, 32, 33, 34, 36
 - Follow ADA Guidelines for Sand Ramps onto Beach
 - Secondary Accesses: Remaining
- ADDITIONAL BERM SEGMENTS
- SCOUR FILLS: 5000 BLOCK AND CARLOS POINT

PUBLIC BEACH ACCESSSES

- Priority Accesses: 20, 21, 22, 24, 27, 30, 32, 33, 34, 36
 - Second Truck Haul Project – seeking State Recovery \$\$ and TDC Funding
 - Follow ADA Guidelines for Sand Ramps onto Beach

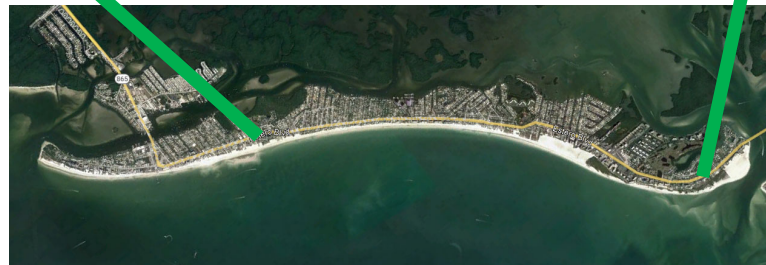


BEACH ACCESS # 20 PRELIMINARY PLANS



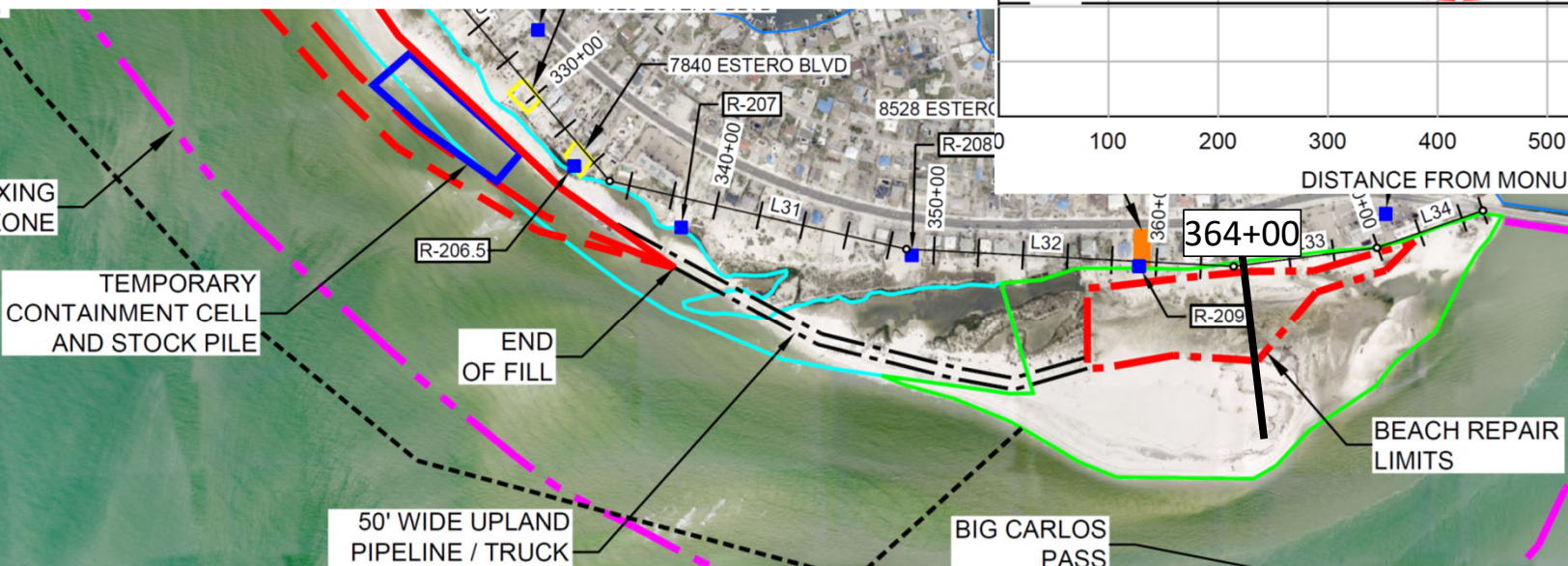
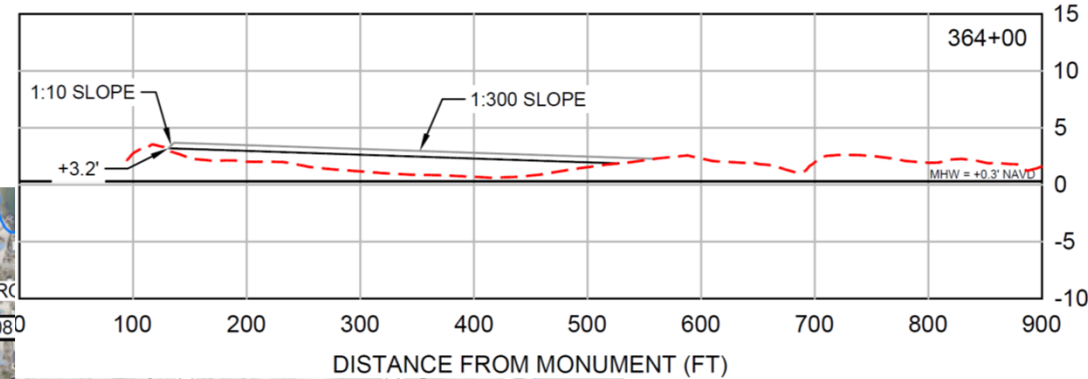
ADDITIONAL BERM SEGMENTS

- Reports of Flooding during King Tides
- Requires Easements from Upland Owners

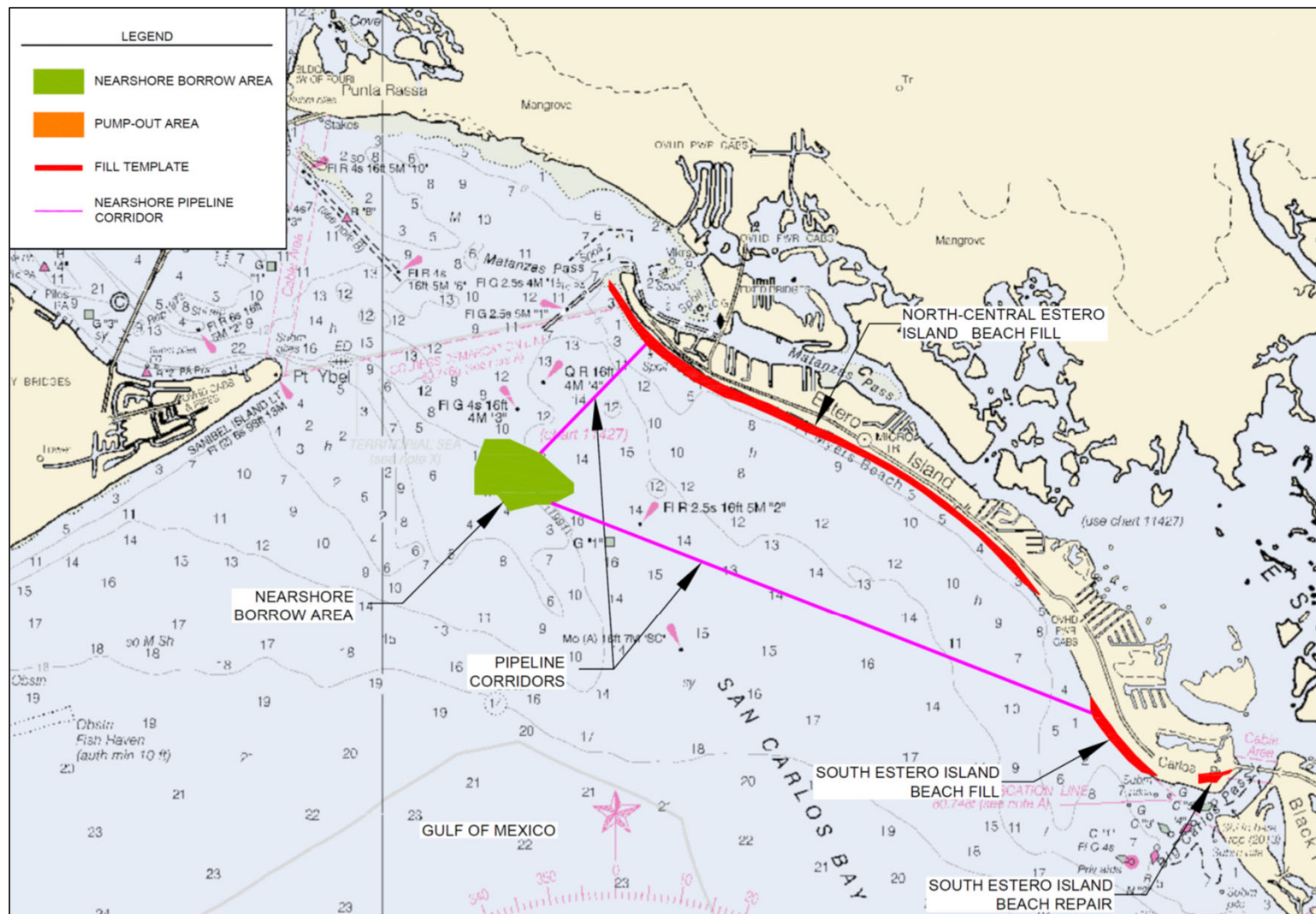


SCOUR FILLS

- Holes, Low Elevation, Filled with Water
- Paths Scoured behind Berm (landward)
- On Beach in front of Berm (waterward)
- 5000 – 6000 Block
- Carlos Point



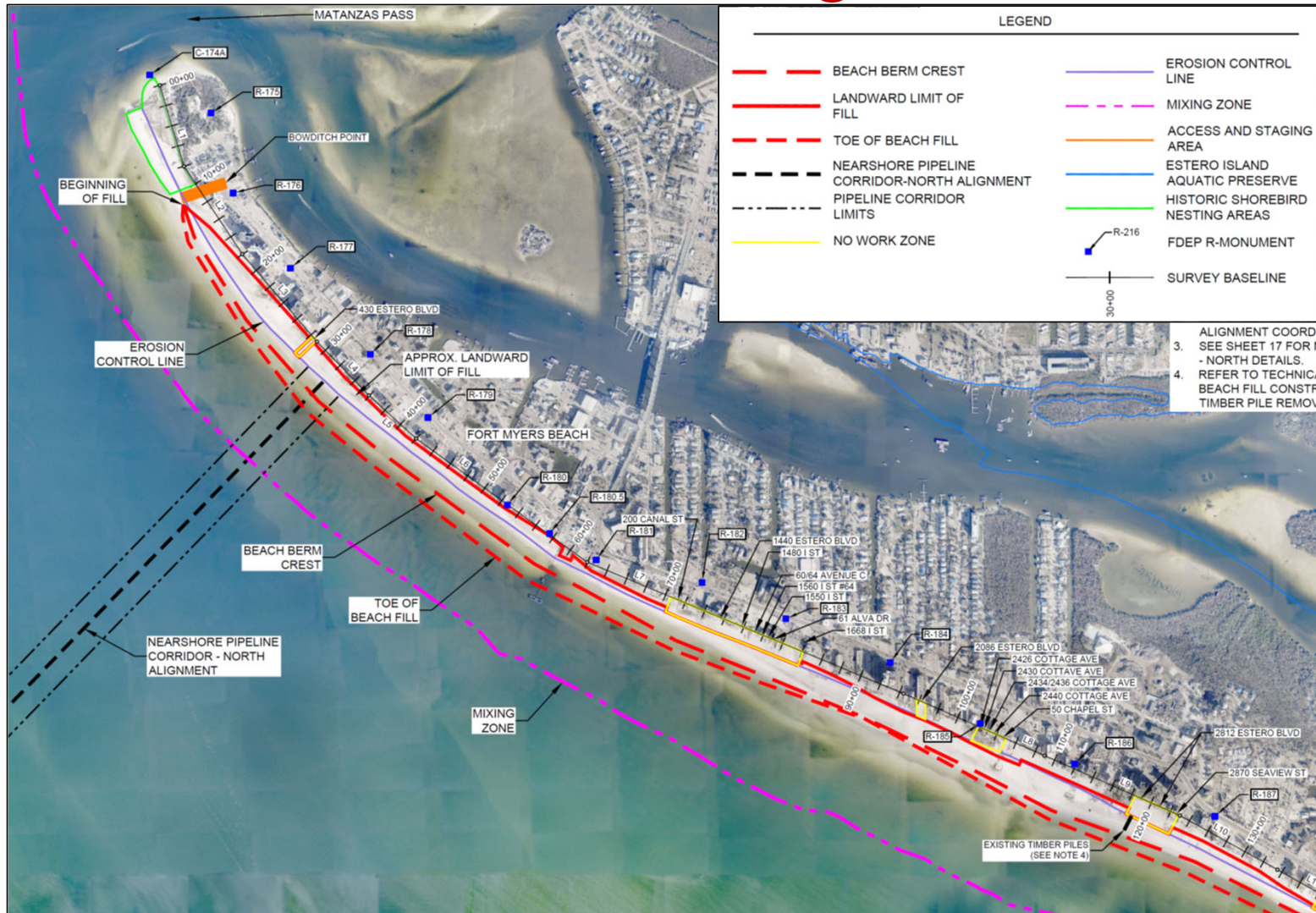
ESTERO ISLAND BEACH NOURISHMENT PROJECT



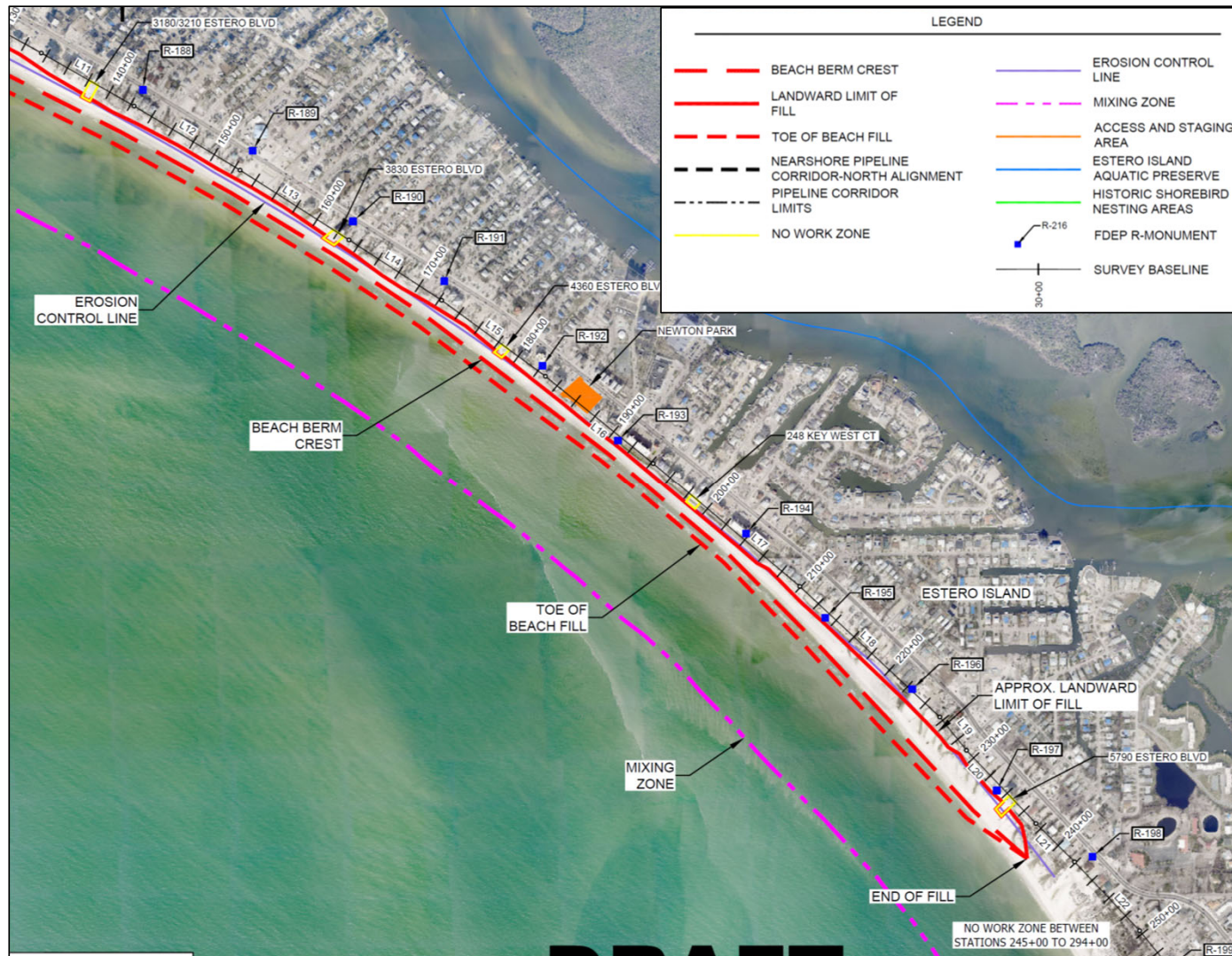
ESTERO ISLAND BEACH NOURISHMENT PROJECT

- FDEP Permit # 0413684-001-JC (expires January 18, 2038)
- FDEP Permit Mod #0413684-002-JN (pending)
- USACE Permit # SAJ-2000-03017 (SP-SJF) Outstanding-Action Needed (pending commenting agencies: NMFS, USFWS, Tribes)
- Lee County ILA: Pending (***Future Action – approval by Council***)
- State of Florida Funding Contracts: Pending.
 - ***Action Needed Today- Approve FY24-25 Resolution***
- Planning Schedule:
 - Permitting: Present – September 2023
 - Final Design: Present – September 2023
 - Bid Process: September 2023 – November 2023
 - Construction: November 2023 – June 2024.

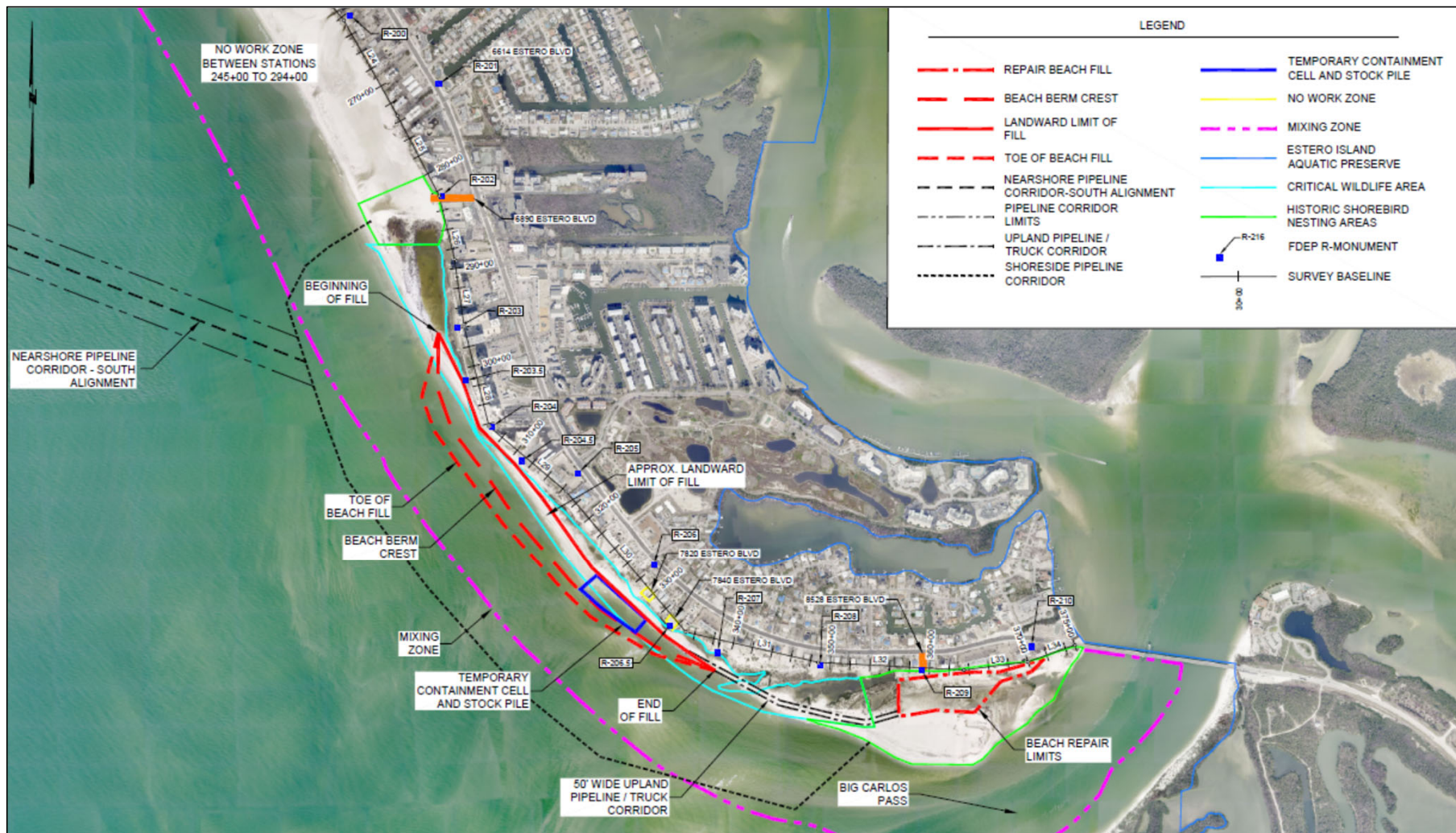
North-Central Segment



Central Segment



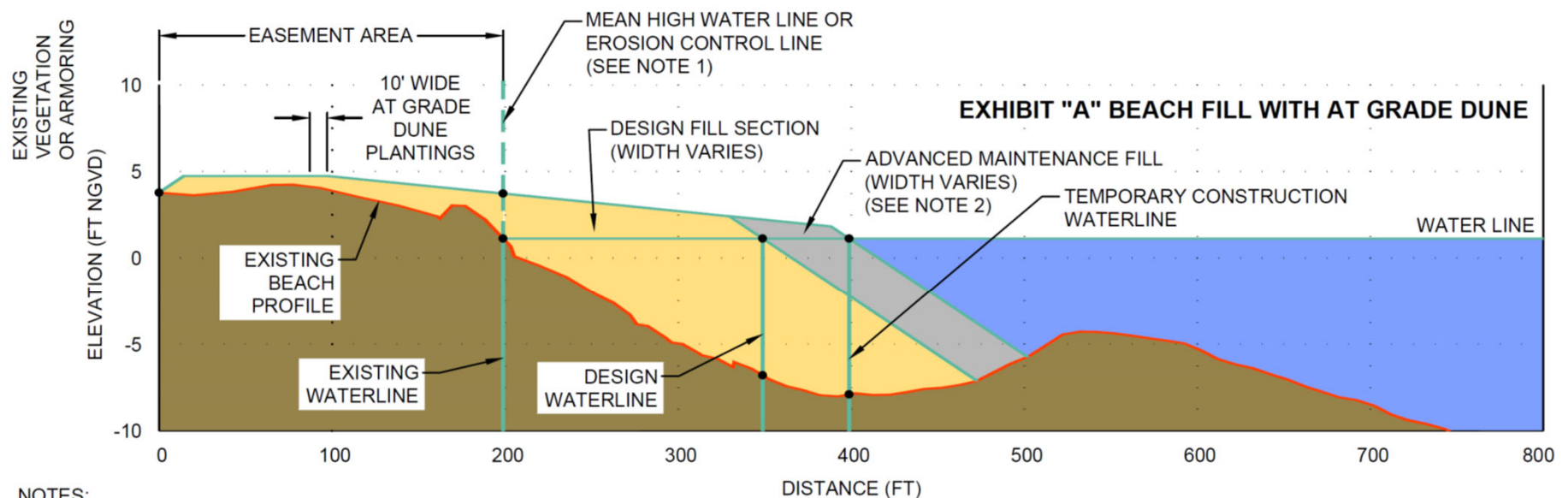
South Segment



CONSTRUCTION EASEMENTS

Purpose: To allow for the Town, Contractor, Engineer, and Monitors to conduct work on private property

County Attorney's Office: Unlawful expenditure of TDC funds to pay for sand placement on private property



NOTES:

1. THE SEAWARD LIMIT OF THE EASEMENT AREA IS THE MEAN HIGH WATER LINE OR THE EROSION CONTROL LINE IF ONE IS ESTABLISHED.
2. ADVANCED MAINTENANCE MAY BE PROPOSED SUBJECT TO FISCAL CONSTRAINTS.
3. LOCATIONS OF THE AT GRADE DUNE PLANTINGS ON PRIVATE PROPERTY MAY BE ADJUSTED SUBJECT TO PERMIT CONDITIONS.

CONSTRUCTION EASEMENTS

OPTIONS FOR BEACH FILL PLACEMENT

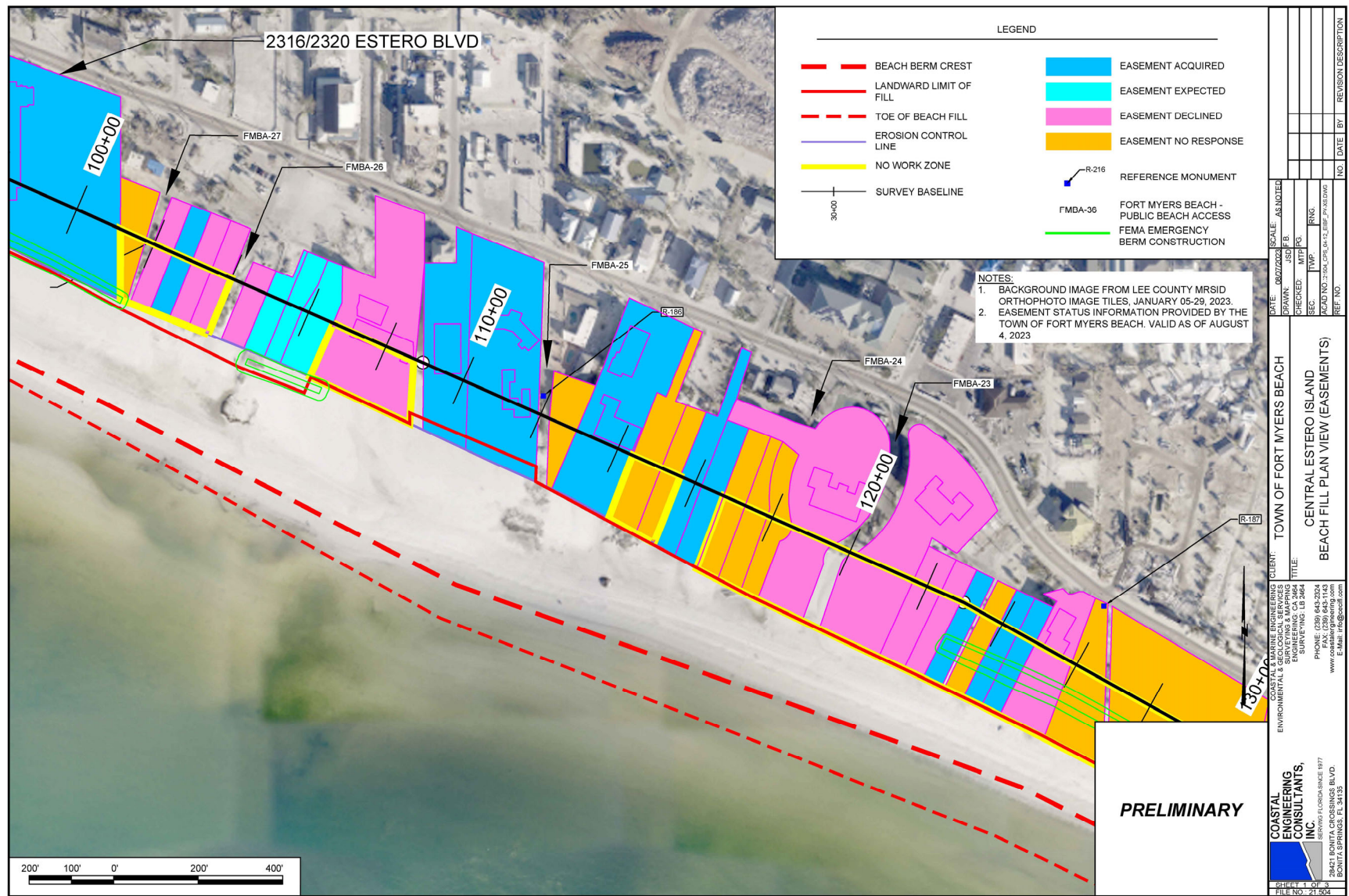
1. Easements in Hand: Build entire permitted template.
2. No Easement - Build permitted template from ECL seaward noting this will create low lying areas between uplands or berm and new fill.
3. No Easement: Lower template and build from ECL seaward to avoid creating low lying areas between uplands or berm and new fill.

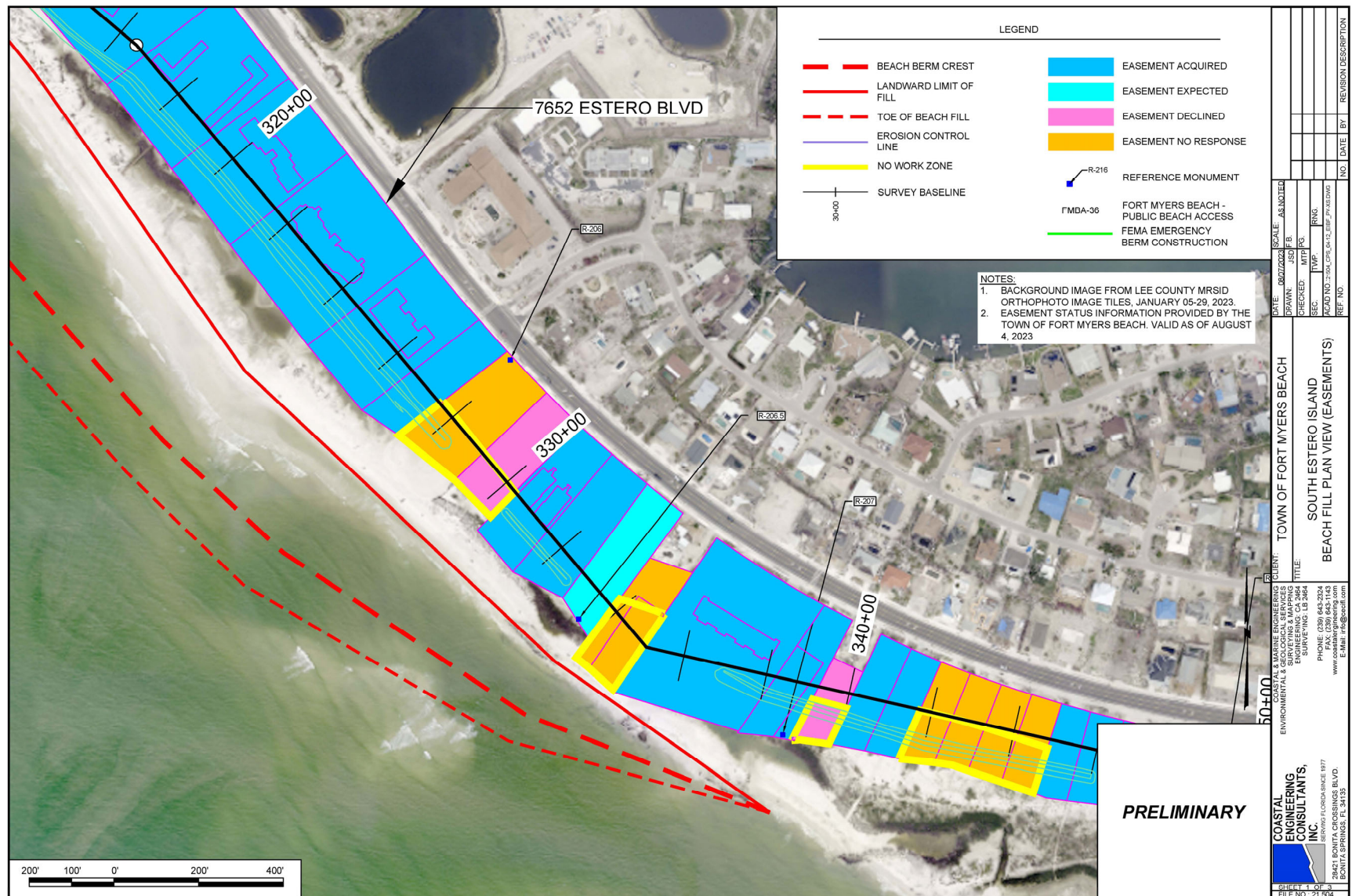
STATUS	NORTH	CENTRAL	SOUTH	TOTAL
YES	30	65	17	112
EXPECTED	1	10	1	12
NO	1	24	1	26
NO RESPONSE	6	73	2	81
TOTAL	38	172	21	231

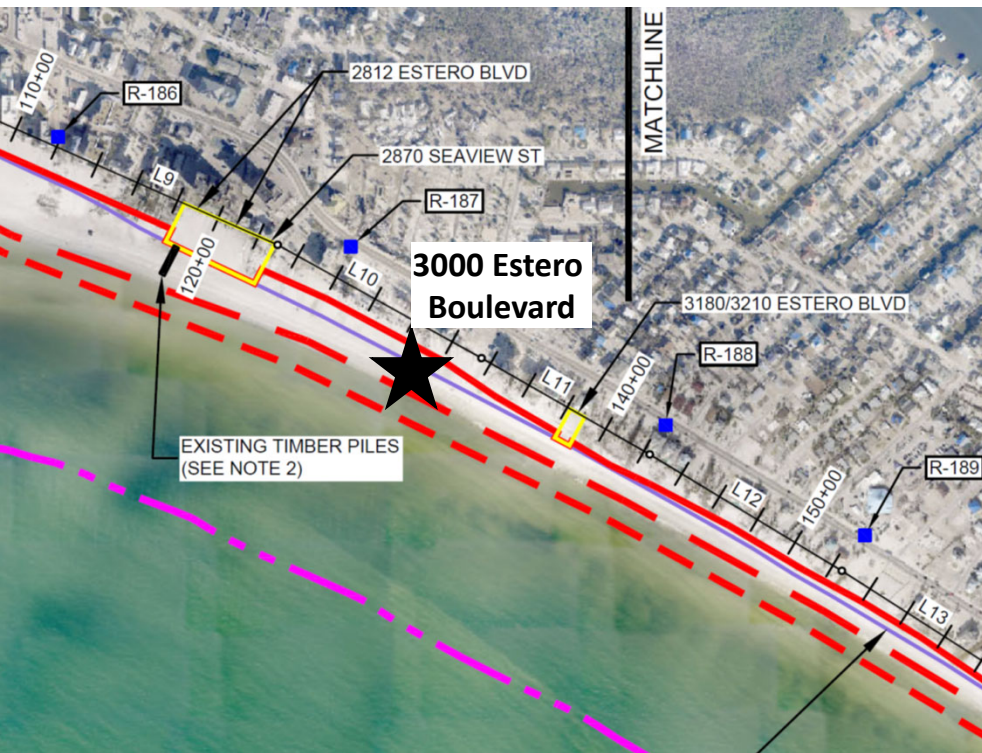
*Easement Status as of August 4, 2023

Actions Needed Today:

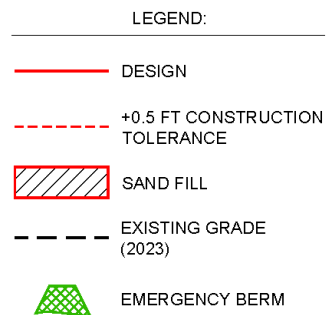
-Decide on Option 2 or Option 3 for properties that have responded No (no easements) and for property owners who have not responded



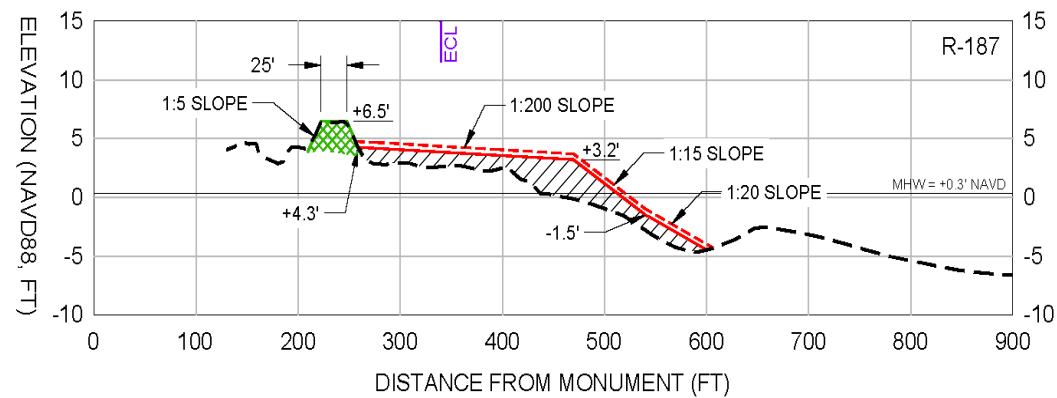




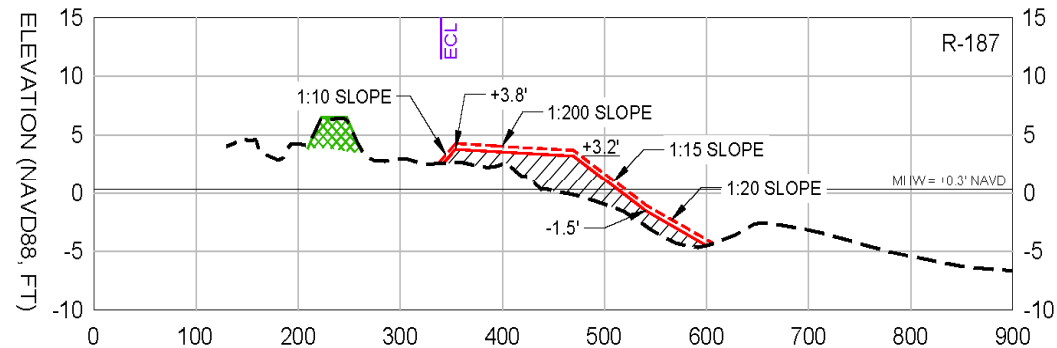
Excerpt from Beach Nourishment Construction Plans



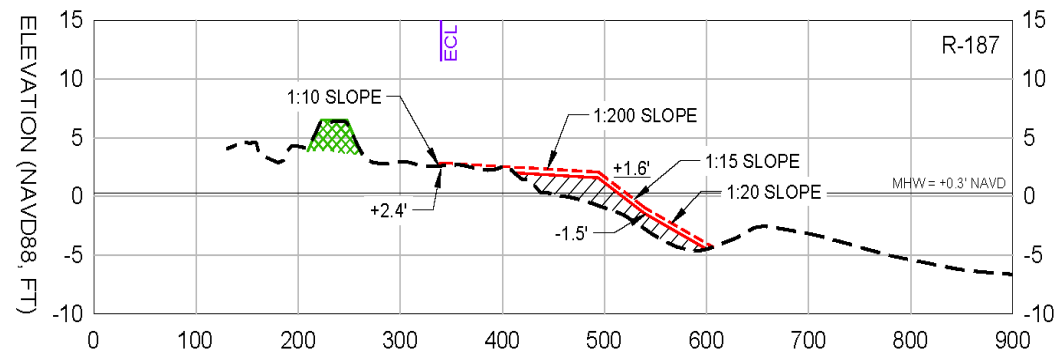
OPTION 1

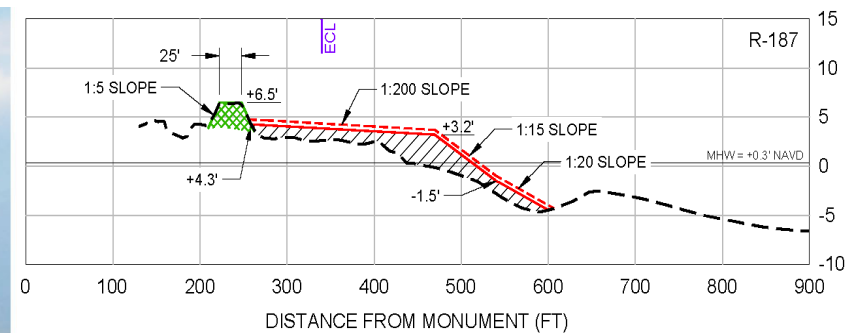


OPTION 2



OPTION 3

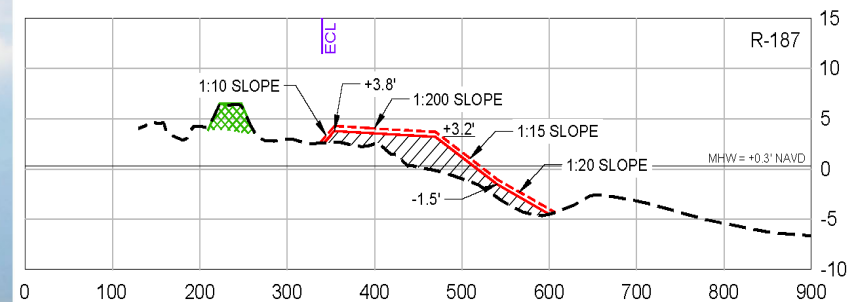




OPTION 1



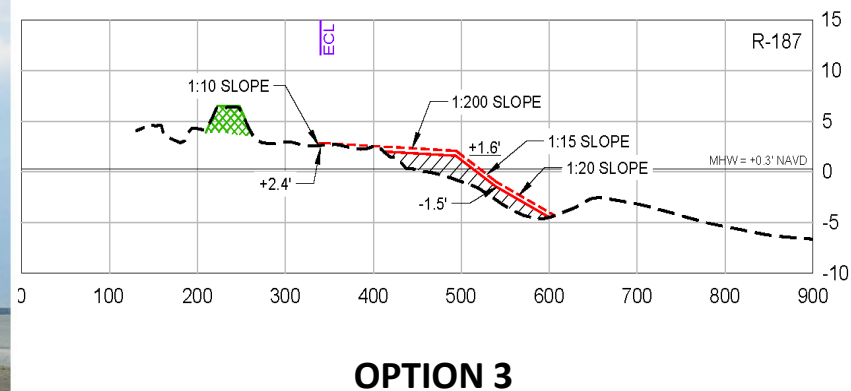
Photograph looking SE,
~3000 Estero Blvd
courtesy of Chadd Chustz, July 29, 2023



OPTION 2



**Photograph looking SE,
~3000 Estero Blvd**
courtesy of Chadd Chustz, July 29, 2023



Photograph looking SE,
~3000 Estero Blvd
courtesy of Chadd Chustz, July 29, 2023

What to Expect...

- When the pipeline first makes landing at the beach, the Contractor will pump sand to build a pad of sand. Once pad is created, the contractor will add pipe sections and progress along the beach using grading equipment to shape the beach. Bulldozers, grading equipment and movable office will move with the beach fill advance. Active construction typically takes a few days to complete sand placement for 200 feet of beach. However, the pipeline remains in place through the end of pumping. Contractor will then final grade and till the beach.



Post-Construction Requirements

- Beach Tilling
 - Till beach for three consecutive seasons to loosen sand and enhance sea turtle nesting (hydraulically placed sand is artificially compacted)
- Sea Turtle Lighting Compliance
 - Conduct lighting surveys/reporting
- Annual Monitoring
 - Conduct beach profiles, aerial photos, and performance assessment



www.fmbgov.com/BEACH

**REPORT A CONCERN**

Report a street, beach, utilities, code, permitting, zoning issue
[Read On...](#)

Create a Website Account - Manage notification subscriptions, save form progress and more.

Website Sign In

**ABOUT FMB**

DOING TOWN BUSINESS

THINGS TO DO

HOW DO I?

**Hurricane Ian Resources**

Beach

Boating

Dolphins

Fertilizer Information

Little Estero Island Critical Wildlife Area

Manatees

Native & Invasive Plants

Sea Turtles

Shorebirds

Water Quality

Beach Recovery

The Town Is Bringing Sand to the Beach!

Our goals are to restore and maintain critically eroding shorelines using high quality sand to construct an "engineered beach design." This will provide storm damage reduction benefits to properties, enhance recreational space, and improve critical habitat for threatened and endangered shorebirds, tortoises, and sea turtles.

TEMPORARY CONSTRUCTION EASEMENT FOR BEACHFRONT PROPERTIES (updated)

COASTAL ENGINEERING CONSULTANTS PRESENTATION

JIM ATERHOLT INTERVIEW WITH TOWN'S COASTAL ENGINEER & ENVIRONMENTAL STAFF

BEACH PROJECT TECHNICAL DOCUMENTS

Emergency Berm Plans

Estero Island Nourishment Plans

Dune Management Plan & Exhibit

The beach recovery plan over the next year is to place approximately 1.1 million cubic yards of sand on Fort Myers Beach. First, the Town plans to construct an emergency berm in the easement area to provide protection from storm surge in accordance with Federal Emergency Management Agency (FEMA) & Florida Division of Environmental Protection (FDEP) guidelines. The goal is to provide a berm along the length of the beach to maximize protection and minimize future scour on upland properties from storms. The emergency berm project will begin as soon as FEMA funding is confirmed and a contractor bid is approved to begin construction. The berm project will likely involve trucks hauling mined, beach compatible sand, and will take approximately 90 to 120 days to complete. The Town has also requested funding from FDEP for emergency work.

In addition, the Estero Island Nourishment Project is scheduled to begin construction during the third to fourth quarter of this year. This project is a continuation of the Town's long term goal to maintain our critically eroding shoreline. Sand will be pumped from offshore onto the beach via pipes. The design beach will take approximately six months to construct. State and Federal permitting requires monitoring and tilling for several years after the sand is placed. In addition, the Town has obtained authorization for maintenance grading in the project area to maintain a positive grade for better drainage to reduce pooling on the beach for the life of the State permit, which is 15 years.

Town requests easements to be signed by beachfront property owners



1. **Requested Motion:**

Meeting Date: August 21, 2023

Discuss draft communication plan and provide edits

Why the action is necessary:

Hurricane Ian amplified the need for, changed the content of, and created different expectations for communications from the Town to the public. The Town's not had a communications plan in the past and Ian has created the opportunity to create one.

What the action accomplishes:

This plan will help guide and direct the content and delivery of information to the public that Town Council has deemed necessary and that the public wants by setting goals, objectives and defining resources.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Adoption

4. **Submitter of Information:**

5. **Background:**

In June, Town Council gave input to create an annual plan to guide public communications in the coming year. A draft of the plan based on Town Council's direction and public input from a digital survey has been prepared for Town Council's review and edits. The edited plan will be brought back before Town Council in September for adoption.

Attachments:

1. COMM PLAN August 21 2023

Financial Impact:

Defined in the plan

6. **Alternative Action**

7. **Management Recommendations:**

Adopt

8. **Recommended Approval:**

Jennifer Dexter, Social Media & Communications Coordinator
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 7/28/2023
Approved - 8/16/2023
Approved - 8/16/2023
Final Approval - 8/16/2023

Communication Plan **DRAFT**

For Council review August 21, 2023

Summary of Council input from June 2023 meeting:

The Town needs to tell its story of rebuilding by proactively focusing on all details of projects small to large, celebrating milestones, using video and pictures, planning activities such as sidewalk clean up days island wide and internally that help promote, permitting walk in days, etc. Permitting and code needs to be communicated in more visual and customer focused ways with frequent videos. Town Council meeting dates and times need to be shared on all social media outlets. The process for coordinating media interviews with Town Councilors needs to be agreed upon. A strategic planning process that develops a new mission and vision with goals needs to be undertaken. The capabilities of the website for targeting subscribers with the messages they want to receive need to be expanded, including developing an app. The way that communications are delivered after a storm need to be set now and shared with the public. A way to get information out when all technology fails needs to be ready for the next emergency so what happened with the challenges in communication after Ian doesn't happen again.

Summary of community input from online survey conducted June-July 2023

We received 272 responses to the digital survey that was active for about three weeks.

The preferred way to receive information was text or email at 84% (not media, social media, word of mouth.) The second preferred way was Text, website, and social media at 76%. Facebook was the most preferred social media outlet. Traditional media didn't rank high at all.

Summary of discussions with key stakeholders June-July 2023

We had one on one discussions with a handful of key stakeholders and a zoom meeting with members of the FMB Condo Association. The feedback we received from the Condo Association was that most members are happy with the amount and frequency of information that they receive from the Town, and that they feel well informed. Many are signed up to receive text and email alerts, and we re-distributed the link to get others signed up.

The key stakeholders said that social media is important and videos and pictures are important, the website needs to be better navigable for permitting, building, code, zoning. After-emergency communication by elected officials, first responders, and the Town needs improvement. Our plans for improvements seem solid and should be shared widely now.

GOALS

1. Daily distribute a variety of timely, relevant, and accurate public information using a variety of communication tools and tactics that:
 - Show the robust picture of the Town's ongoing recovery from Hurricane Ian.
 - Promote the Town's services.
 - Promote the work, actions, and decisions of Town Council.
 - Inform the public when the Town is in an active emergency
2. Prioritize and coordinate public information and set reasonable expectations for preparation, delivery, timing and methods.

AUDIENCES

- Full-time and seasonal residents, property owners
- Business owners and island workers
- Media
- County and community organizations
- Legislators
- Developers
- Visitors

OBJECTIVES

1. Highlight the work of Town Council
 - a. Press release of council meeting actions
 - b. Social media posts of highlights from council meetings as they occur
 - c. Regular Facebook live with individual town council members – "Five things to know", "Truth Tuesday"
2. Strengthen and build relationships with media, coordinate clear process for media access to elected officials and staff
 - a. Visits to newsrooms – Jenny
 - b. Policy to request media interviews
 - i. Short list of subject matter experts – Andy, Chadd, Jeff, Jenny
 - ii. All come through Jenny
 - iii. If set own, please inform Jenny
 - c. Timely and accurate response to inquiries
 - i. Interviews, questions – Jenny
 - ii. Public records – Amy
 - d. Media training for elected officials and staff subject matter experts
 - e. Produce press releases regularly
3. Promote rebuilding activities and efforts by the Town, small and large
4. Educate about permitting, code, zoning
 - a. Promote appointment times and contacts once fully staffed with techs and planned by Community Development when those become available
 - b. Environmental topics such as turtles, birds, vegetation
 - c. Walk in days to get questions answered once Community Development is ready
 - d. Mobile education proactively – go to the residents, develop methods
 - e. How to videos

5. Build relationships with community members and organizations
 - a. Participate in community activities and events with vetted organizations (Chamber, Women's Club, Community Fund, BTR, LCSO, Fire Department, Turtle Time) to interact face to face with audiences and be present to address questions
 - b. Regular speaking engagements
6. Refresh website and improve ease of access to the information that is most used by the public – permitting, code, zoning, parking, news; develop app
7. Improve communications delivery in emergency situations
 - a. See last page

BUDGET

- Intern for social media support 10 hours a week @ \$15/hour = \$600/month
- How to videos and expanded videos = digital company, depends on length and frequency
- Website refresh = \$15,000
- Permitting module \$25,000 first year / \$12,000 annual after
- Website app = \$15,000
- Promotional items including logo tent = \$2,500
- One page info sheet in utility bills = \$12,000

TOOLS & TACTICS

- Website request tracker
- Website texts and emails – 2,500 subscribers
- Website news module – 3,007 subscribers
- Weekly digital newsletter – 72% open rate
- Social media posts – LinkedIn, Facebook, Twitter, Instagram – 25,000 fans and followers, averaging 15/week – regular Facebook Lives with Town Councilors, action on rebuilding
- Traditional media interviews and info requests – 5-10 a week
- Press Releases – average 6/month
- Code Red – 17,000 subscribers
- Publications and handouts as needed
- Community Events
- Videos and pictures
- Facebook Live
- Speaking Engagements
- Emergency plan, info boards, handouts

ADDITIONAL ITEMS TBD

- Develop public social media/media policy for council
- Update social media policy for public comments on the outlets and communicate on outlets
- Update social media policy with HR for staff
- Develop staff policy for involvement in publicity
- Media training for staff subject matter experts and elected officials (Florida League of Cities)
- Internal staff policy for website content management and social media management

Emergency Communications Improvements

1. Emergency Management planning with LCSO and FMBFD

- a. Revising personnel job descriptions and reporting structures for emergencies
- b. Revising Town's emergency plan and working closely with FMBFD and LCSO
- c. Completed table top exercises to capture lessons learned
- d. Revised process for hurricane re-entry passes; planning mock drill
- e. Creating Town's first communication plan with Council and community input

2. Public communications improvements to emergency response

- a) Plan to set media availability time and place in days before storm for Town Council, Town Manager, Town subject matter experts to share information within a few hours after storm end and regularly after that – town hotel or other spot
- b) WGPU at FGCU is a good place due to its sustainability with electricity, internet, cell plus proximity to public distribution of messages. Town has plans in place now with WGPU.
- c) Push WGPU and Beach Talk Radio as most reliable proven media sources but also encourage everyone to have several ways to receive information including all local media and their social media, as well as Lee County, LCSO, FMBFD
- d) Connected with all PIOS and media in Lee County thanks to Cape Coral PD coordination
- e) Relationships with specific PIOS from other parts of Florida to provide specific assistance when called upon related to press releases, media coordination, website, and social media through the Florida Public Information Officers Association – most of this work can be remote
- f) Responsibility for CODE RED has been switched to the communications department and tested three times (two real-time, one test) – we have 17,000 subscribers and cleared up list with tests
- g) Developing off-island location for public info to be posted/staff person to be present there immediately after storm ends who will have the most up to date information
- h) Plan for handouts with key messages to be printed at EOC and given at PODS, public info boards, island-wide by staff whose usual jobs are on hold due to the storm – possibly Parks and Rec, Community Development – as well as assistance from Fire Departments or Search and Rescue
- i) Video of Town Manager, Town Council, PW, Utilities when they first enter the island after a storm to assess damage – PIO needs to be there
- j) Priority audience will be those left on island because they will have the most chance for health and safety to be compromised and immediate need for messages. The FMBFD and LCSO are the primary responders for this as the Town will be tending to water, street, debris and other concerns in support of the first responders. Second level of audience will be those who evacuated to the Greater Fort Myers area. The third level of audience will be those who evacuated outside of Florida. The second and third level of audiences should expect to not receive technology communications from the Town for at least 48 hours after the storm and possibly longer with the exception of WGPU and Beach Talk Radio, depending on storm severity.

1. **Requested Motion:**

Meeting Date: August 21, 2023

Discussion of the 2024 Legislative Priorities

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Attachments:

1. Legislative Priorities list 2023
2. FY23 & FY24 Lost Revenue Calc

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Danielle Felton,
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/16/2023
Approved - 8/17/2023
Approved - 8/17/2023
Final Approval - 8/17/2023



TOWN OF FORT MYERS BEACH

2023 Legislative Priorities

HURRICANE IAN RECOVERY



Mayor Dan Allers
Vice Mayor Jim Atterholt
Councilmember Bill Veach
Councilmember John King
Councilmember Karen Woodson



About the Town of Fort Myers Beach

The Town of Fort Myers Beach, incorporated since 1995, is on Estero Island off the southwest Florida coast of the Gulf of Mexico. The beach stretches for seven miles and has sugar-white sand and spectacular shell finds and sunsets. The Town is known for its "Small Town Vibe" and its many cottages that dotted the island. Fort Myers Beach is unique in its own culture, population and natural beauty.

Prior to Hurricane Ian, about 6,000 full-time residents lived on the Island with approximately 60,000 seasonal residents and 1 million annual visitors.

The Town took a catastrophic direct hit from Hurricane Ian on Wednesday, Sept. 28, 2022. Ian was a category 4-plus hurricane. Sustained winds were clocked just a few miles per hour short of a category 5. The storm wreaked widespread damage throughout the Town. Hundreds of structures were destroyed and nearly every structure on the Island was severely impacted in some way. This storm has been described as being in the top five of most catastrophic natural disasters in the world. With a storm surge of upwards of 18 feet in spots, the island suffered major flood damage, destroying all the old, low-level cottages.

Even though this destruction was catastrophic and the recover process is and will continue to be arduous, the residents and employees of the Town are resilient and determined to rebuild. With the help of the State Legislature, the thriving, bustling, and unique Town of Fort Myers Beach will be restored and it will be better, safer and ready for whatever nature has in store for us!

Legislative Priorities

For 2023, the Town is requesting Legislative funding for local projects that the Town cannot afford on its own.

#1 Revenue Neutrality, Est. \$8,100,00

Since Hurricane Ian destroyed many properties and businesses, tax revenue for the Town of Fort Myers Beach is, and will continue to be for some time, an unsustainable amount of income. Currently Town revenue is down approximately 75%.

The Town of Fort Myers Beach requests the State to fund property tax revenue replacement to ensure that the Town can continue to operate and rebuild, not only for its residents but also to recover the tourism industry, which is the greatest source of tax revenue.

#2 Beach Renourishment, Est. \$10,015,105

Estero Island has seven miles of what used to be pristine beaches and shoreline. Since the storm, these natural beauties have washouts and ruts and have lost vegetation and two to three feet of elevation. The beaches desperately need to be restored. To have well nourished

beaches is vital for the environment, natural habitats, quality of life for the many residents, and the tourism industry.

The Town requests the State to fund this project.

#3 Town Hall Building Construction, Est. \$24,461,899

An old bank was purchased in the early years of incorporation and converted into the Town Hall Building. After many years and much growth, a second floor was added. Since this expansion, the needs for the building have continued to grow.

After Hurricane Ian winds and 12' feet of storm surge destroyed over half of the building it was deemed irreparable and marked for demolition. We are working with FEMA to potentially reimburse the cost of restoring the building to its pre-storm status. However, pre-storm status is not sufficient for current needs and does not allow for growth.

The Town requests that the State fund the rebuilding and expansion of Town Hall that unifies the office environment, provides room for growth, and welcomes public access with a more secure council chambers for many years to come.

Town Hall before Hurricane Ian



Town Hall after Hurricane Ian



#4 Hazard Mitigation Match

To waive Town Hazard Mitigation Match requirement.

#5 Island Wide Turtle Friendly Lighting, Est. \$1,800,000

As a barrier Island, the need for low light, amber colored lighting is crucial for the health and longevity of the Turtles that nest here, hatch here and begin their life journey here.

FPL has been working closely with the Town to acquire these lights however, the cost to the Town would be a detriment to our financial health.

The Town requests the State to absorb this cost to provide proper lighting to ensure the health of an entire species in addition to the safety of all who drive, bicycle, and walk on the streets.

Town of Fort Myers Beach Contact Information:

- Dan Allers, Mayor: 239-284-5224, AllersD@fmbgov.com
- Jim Atterholt, Vice Mayor: 317-500-1746, AtterholtJ@fmbgov.com
- Bill Veach, Councilman: 239-322-8615, VeachB@fmbgov.com
- John R. King, Councilman: 239-955-3455, JohnKing@fmbgov.com
- Karen Woodson, Councilwoman: 239-955-3450, KarenWoodson@fmbgov.com
- Keith Wilkins, Interim Town Manager, 239-313-0895, TownManager@fmbgov.com

Projected Lost Revenue for FY23 & FY24

	FY23 Budget	Projected Annual Actual	Projected FY23 Lost Revenue	FY24 Budget	Projected FY24 Lost Revenue	Total Lost Revenue for FY23 & FY24
Ad Valorem Taxes	4,246,739	4,246,739	-	2,437,655	(1,809,084)	(1,809,084)
Public Service Tax	950,000	389,400	(560,600)	570,000	(380,000)	(940,600)
Gas Utility Tax	12,000	4,533	(7,467)	7,200	(4,800)	(12,267)
State Communications Services	550,000	367,652	(182,348)	330,000	(220,000)	(402,348)
Plans Review Fee	5,000	5,000	-	1,500	(3,500)	(3,500)
Mobile Home License	13,000	7,667	(5,333)	6,500	(6,500)	(11,833)
New Short Term Rental	169,100	77,781	(91,319)	100,000	(69,100)	(160,419)
Right of Way	105,000	6,900	(98,100)	52,500	(52,500)	(150,600)
Harborage User Fees	201,000	17,700	(183,300)	100,000	(101,000)	(284,300)
Parking Facilities Revenue	2,300,000	689,562	(1,610,438)	700,000	(1,600,000)	(3,210,438)
Parking Permit Revenue	5,000	5,000	-	500	(4,500)	(4,500)
Mound House Programs & Tours	50,000	1,725	(48,275)	20,000	(30,000)	(78,275)
Pool Revenue	87,000	-	(87,000)	5,000	(82,000)	(169,000)
Newton Classes	400	-	(400)	-	(400)	(800)
Mound House Admissions	50,000	2,993	(47,008)	20,000	(30,000)	(77,008)
Mound House Memberships	18,500	1,386	(17,114)	5,000	(13,500)	(30,614)
BORC Revenue	90,000	27,812	(62,188)	25,000	(65,000)	(127,188)
Merchandise	39,800	5,899	(33,901)	20,500	(19,300)	(53,201)
Newton Park Rentals	7,000	-	(7,000)	-	(7,000)	(14,000)
Mound House Rentals	5,000	1,170	(3,830)	1,000	(4,000)	(7,830)
Total Lost Revenue	8,904,539	5,858,918	(3,045,621)	4,402,355	(4,502,184)	(7,547,805)