



Fort Myers Beach Town Council

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

Agenda

Monday, November 6, 2023

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER
- II. INVOCATION
- III. PLEDGE OF ALLEGIANCE
- IV. APPROVAL OF FINAL AGENDA
- V. PUBLIC COMMENT
- VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS
- VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS
- VIII. APPROVAL OF MINUTES

A. Town Council - October 16, 2023

IX. CONSENT AGENDA

- A. Resolutions 23-139 through 23-143; Extending Local State of Emergency-Hurricane Ian

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.

- B. Resolutions 23-144 through 23-148; Extending Declaration of State of Local Emergency-Hurricane Idalia

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE

PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

- C. Resolution 23-136; Statewide Mutual Aid Agreement
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A STATEWIDE MUTUAL AID AGREEMENT WITH FLORIDA DIVISION OF EMERGENCY MANAGEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.
- D. Resolution 232-150; Restroom Trailer - Palm Avenue Beach Access
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A COOPERATIVE PURCHASE AGREEMENT BETWEEN THE TOWN AND READY2GO RESTROOM TRAILERS IN AN AMOUNT NOT TO EXCEED \$66,256.62, UTILIZING SOURCEWELL, AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT, EXPEND FUNDS, AND TAKE ALL APPROPRIATE ACTIONS TO PURCHASE A REPLACEMENT RESTROOM TRAILER; AND PROVIDING FOR AN EFFECTIVE DATE.
- E. FMB Community Foundation Flag design
Review and approve flag design produced by vendor for the FMB Community Foundation to use as a fundraiser. Proceeds from the sale of the flags are to be used to donate to beach causes.
- F. Public Safety Motorola Radio Purchase
Approve the purchase of radios for Town operations and emergencies
- G. LeeTran Seasonal Tram
Authorize Temporary LeeTran Parking on property located at 2545 Estero Blvd for up to six months.
- H. Special event - Re-occurring Concert Series at Bayside Park
Approve the request for the Bayside Concert Series on Sundays from 4-7pm in Bayside Park with the approval of waiver for open container for the permit.

X. PUBLIC HEARINGS

- A. Ordinance 23-16; Small Scale Map Amendment for 21471 Widgeon Terrace
First Reading and Public Hearing on Proposed Ordinance 23-16 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR A PORTION OF THE PROPERTY LOCATED AT 21471 WIDGEON TERRACE AND PART OF THE ADJACENT COMMON ELEMENT PROPERTY OF FLAMINGO HARBOR CONDOMINIUM, FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing

and schedule for second reading and final adoption on November 20, 2023 at 9:00 AM

- B. Resolution 23-135; VAR20230175, 5137 Estero Blvd.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230175 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 5137 ESTERO BLVD; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

XI. ADMINISTRATIVE AGENDA

- A. Resolution 23-151; Change Order #3, Grubbs Emergency Services

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A CHANGE ORDER BETWEEN THE TOWN AND GRUBBS EMERGENCY SERVICES FOR INCREASING CONTRACT TIME 60 DAYS AND INCREASING CONTRACT PRICE \$1,250,392.00.

- B. Resolution 23-153; ICS Materials

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN SEPTEMBER 1, 2023 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE BEACH; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE No. 102423-01 IN THE AMOUNT \$220,059.39; AND PROVIDING FOR AN EFFECTIVE DATE.

XII. FINAL PUBLIC COMMENT

XIII. TOWN MANAGER'S ITEMS

XIV. TOWN ATTORNEY'S ITEMS

XV. COUNCILMEMBERS ITEMS AND REPORTS

XVI. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON FACEBOOK AND 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.



Fort Myers Beach Town Council

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

Minutes Monday, October 16, 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

Council Member King moved to approve the final agenda; second by Council Member Veatch.
Motion carried unanimously.

V. PUBLIC COMMENT

Fire Chief Scott Wirth commented on the legislation by Rep. Botana regarding imposing a merger of the Fort Myers Beach and Bonita Springs fire departments. He reviewed the bill and stated it did not give anyone a choice and the merger served no public purpose. He asked the Town Council to support the fire department and oppose the legislation.

Ron Fleming addressed the hostile takeover of the fire districts. Neither chief had the opportunity to discuss the plan with Mr. Botana because he left on vacation for two weeks. The plan would be filed without statistics or analysis for his claims. Mr. Fleming stated that Mr. Botana ignored him after multiple attempts to contact him. Mr. Fleming reviewed his education and experience in fire prevention.

He felt the bill should not pass as written and requested a resolution from the Town Council opposing the plan.

Jennifer Gordon, from Local 1826, District 3, represented the floor members, firefighters, and civilian inspectors at Fort Myers Beach. She opposed the bill by Rep. Botana because it took the will of the people out of the equation. She wants to see a study proving any benefit or cost-savings a merger could provide. She felt that people should decide after a study is done.

Steve Johnson, Commissioner for the Fort Myers Beach Mosquito Control District, stated that he thought the district was also included in the merger proposal but had not received a draft of the bill. Ian destroyed the district building, but they served the community in one week. He described how the district managed mosquitoes. He requested that the process to include the constituents be followed. James Cecil represented Admiral's Bay and indicated they were trying to make repairs but kept encountering problems. He thought the restoration company submitted an application about eight times and was denied each time. He reviewed the reasons why they were rejected and noted the application was in review right now. He asked for help and Mayor Allers referred him to Operations and Compliance Director Frankie Kropocek.

Paul Yearwood, Board President of the Island Reef Condo Association, said they formed a rebuilding group that handled most of the issues. The pool was partly in the EC zone and any steps they could take to expedite the process would be helpful to know.

Mayor Allers read information from Rep. Botana regarding the proposed merger. Council Member King would like the Council to support the community and the fire department. Vice Mayor Atterholt could not imagine taking this kind of policy initiative without the appropriate data and study and without talking to all the principals involved. He supported the resolution. Council Member Woodson agreed. Council Member Veach rebutted statements made by Rep. Botana. He agreed that they needed a real study regarding the effectiveness of the proposed action. Mayor Allers supported the resolution.

Council Member Veach moved to authorize the mayor to sign a letter drafted by the town attorney; second by Council Member Woodson.

Motion carried unanimously.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Veach noted it was Breast Cancer Awareness Month and he encouraged everyone to get checked. He thanked Chasing Denver, the town and the businesses for the concert.

Council Member Woodson revealed she is a breast cancer survivor and commented that the event at Bayside Park was great.

Council Member King stated his mother was a breast cancer survivor. He thanked everyone for the concert, including the staff, Director Hauge, Wahoo Willie's and Snug Harbor.

Mayor Allers agreed with all comments.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS**A. Anchorage Advisory Committee (AAC)****Appoint Members to the FY2023-2024 Anchorage Advisory Committee (AAC)**

Council Member Veach moved to appoint Jim Hockett and Ed Schoonover to the two vacant positions; second by Council Member King. Motion carried unanimously.

VIII. PRESENTATION

- A. Marcus Goodman - Executive Director of Lee County Housing Authority Mr. Goodson stated this was the third time he has presented to a Council and reviewed his Fort Myers and Lee County history. He described the current projects he is involved with and noted that they would have to move quickly if the town was interested in accessing funding. He indicated that he would like to work with the town on the project and he would bring in experts to assist. Vice Mayor Atterholt stated that the town needed details and asked how Mr. Goodson would move forward if he were in their shoes. Mr. Goodson replied that the town had to bring in the right people, including himself. He described his role and how he would move forward with funding requests and leveraging funds for the project. He explained that before the hurricane, previous councils were looking at possibly building on San Carlos Island, which could be done with DR funding. Mayor Allers questioned whether the land owned by Lee County on San Carlos Island would be viable. Mr. Goodson was unaware of the seven-acre track and would contact Lee County. Mayor Allers indicated the project could serve three communities in that location. Council Member Woodson agreed that a workforce housing project would not work on the beach but could be feasible across the bridge. She questioned whether Lee County was looking to purchase property that could benefit the beach and surrounding counties. Mr. Goodson replied that they were focusing on North Fort Myers, but maybe Lee County would consider a land contribution. Council Member Veach bought up using the town hall property, but Mr. Goodson indicated that the parcel would not be large enough for 50 units. He explained that the first step of the project was acquiring land. Council Member Veach commented on the advantages of mixed-income housing. Mr. Goodson stated that he personally had not been involved with mixed-income projects, but the Lee County Housing Authority would get involved with mixed-income projects. He explained selling tax credits to investors and gap funding. Mayor Allers supported working with the county concerning their land or using DR funds to purchase land off the island. Council Member Veach discussed workforce housing off-island and noted it would not solve as many problems as it would if it was on the island. Mayor Allers felt there were opportunities off-island.

Vice Mayor Atterholt supported a project just over the bridge and to partner with Lee County for a lower-cost land option. Council members King and Woodson agreed with the vice mayor. Council Member Veach felt they could do something on the island and did not feel comfortable telling the county how to use their land. Mayor Allers responded that they were saying it made sense to look at the land because the county had control over the DR funds. Mr. Goodson agreed that partnering with the county would be more feasible because land on the beach was expensive. Mayor Allers and other council members supported the town manager working with Mr. Goodson.

IX. APPROVAL OF MINUTES

A. Town Council - September 25, 2023

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

Motion carried unanimously.

B. Town Council Budget Hearings - September 25, 2023

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

Motion carried unanimously.

C. Town Council - October 2, 2023

Mr. Joseph ~~Publiese~~ Pugliese submitted an application to the LPA. In XVI., add: There was consensus from the Town Council to move forward with the Policies and Procedures.

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

Motion carried unanimously.

X. CONSENT AGENDA

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

Motion carried unanimously.

A. Resolutions 23-126, 23-127 and 23-128; Extending Local State of Emergency-Hurricane Ian

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

Motion carried unanimously.

- B. Resolutions 23-129, 23-130, 23-131 and 23-132; Extending Declaration of State of Local Emergency-Hurricane Idalia

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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

Motion carried unanimously.

XI. PUBLIC HEARINGS

- A. Ordinance 23-15; Owner Builder Permit

Final Reading and final Public Hearing: **AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 6-325, "OWNER-BUILDER EXEMPTION", OF DIVISION 5, "CONTRACTOR LICENSING", OF ARTICLE II, "BUILDING CODES", OF CHAPTER 6, "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS", OF THE CODE OF THE TOWN OF FORT MYERS BEACH, TO CLARIFY WHO IS ELIGIBLE FOR AN OWNER-BUILDER PERMIT, PROVIDING FOR CONFLICTS OF LAW; SCRIVENER'S ERRORS; SEVERABILITY; AND AN EFFECTIVE DATE.**

Mayor Allers read the title of the ordinance. Town Attorney Vose reviewed the change in language for clarification.

No public comment.

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

Motion carried unanimously by roll call vote.

- B. Ordinance 23-13; Amending EC Zoning/Location of Construction Near Beaches

Final Reading and Public Hearing: **AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE III., DIVISION 4, SECTION 34-652 ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT AND CHAPTER 6, ARTICLE III., DIVISION 2, SECTION 6-366 LOCATION OF CONSTRUCTION NEAR BEACHES; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.**

Mayor Allers read the title of the ordinance. Community Development Planner Sarah Propst reviewed the background of the topic as described on the blue sheet.

No public comment.

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

Motion carried unanimously by roll call vote.

C. Ordinance 23-14; Administrative Setback Variances

Final Reading and Public Hearing: **AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE II., DIVISION 6, SECTION 34-268 ADMINISTRATIVE SETBACK VARIANCES; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.**

Mayor Allers read the title of the ordinance. Planner Propst noted that this amendment corrected an error in the language discovered by staff.

No public comment.

Council Member Veach moved to approve the ordinance; second by Council Member Woodson.

Motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. Resolution 23-124; RFQ-20-06-AD, STA #20, Post-Ian Residential Canal Debris Assessment Survey

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AN AGREEMENT BETWEEN THE TOWN AND COASTAL ENGINEERING CONSULTANTS, INC. FOR DEBRIS DATA COLLECTING AND ASSESSMENT SURVEY IN TOWN OF FORT MYERS BEACH CANALS FOR A COST NOT TO EXCEED \$42,020.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Environmental Project Manager Chadd Chustz noted that the town had to scan the water to access the debris and provide a report so the contractors could remove the debris. He understood the cost would be reimbursed by FEMA.

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

Motion carried unanimously.

B. Resolution 23-134; Upland Services

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AN AGREEMENT BETWEEN THE TOWN AND MATANZAS INN FOR UPLAND SERVICES FOR THE MATANZAS MOORING FIELD FOR AN ANNUAL COST NOT TO EXCEED \$36,000.00

Mayor Allers read the title of the resolution. Project Manager Chustz reviewed why the resolution was needed. He noted that the facilities would be available by November 1, 2023.

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

Motion carried unanimously.

C. Resolution 23-133; Mobile Harbormaster Office

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AN AGREEMENT BETWEEN THE TOWN AND COOL-BINZ OF GREATER NAPLES TO LEASE A MOBILE OFFICE FOR A COST OF \$8,305.99; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Project Manager Chustz stated that the mobile office was needed since the harbormaster's office was damaged by Ian.

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

Motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt noted that ULI would present at the next M&P meeting and another group was interested. He will contact the second group and invite them to the M&P. A building official and three additional permit technicians from the Jacobs group were on board. The next phase will include additional permit plan reviewers and inspectors. He noted that the cost, if any, would be minimal.

Director Kropocek indicated that the trailers were in production, and he should have an update within a week. They should be delivered by November 1, 2023. Town Manager Hyatt noted that the electricity at Bay Oaks Rec Center was ready for FP&L. He commented that Culture, Parks & Rec Director Hauge was working with FP&L to schedule a time to power up the transformer. The grand opening for the ball field is tentatively set for next Wednesday. He will provide an update regarding the pool at the next meeting.

Town Manager Hyatt introduced Adrian LaBlanc from Title Basin, who replaced Ann Compson. Heather Pritchett introduced herself and reviewed her background. Program Manager Chustz provided an update regarding the emergency berm in the critical wildlife area. He added that Newton Park would be a staging area for some time, but he would work with Director Hauge about partitioning a section for temporary restrooms if the Council desired. Vice Mayor Atterholt replied that it would be worth exploring. Director Hauge stated that the town received \$40,000.00 from TDC for trailers at Newton Park and he was researching programming opportunities. He added that he was working on installing the temporary restrooms and Director Kropocek noted that he was working with FP&L to provide electricity for AC in the restrooms.

XV. TOWN ATTORNEY'S ITEMS

No items from Town Attorney Vose. Planner Propst addressed commercial activities on residential canals and indicated that the code allowed water taxis or

shuttles by permit. Town Attorney Vose said they could not change the code until next year. Planner Propst noted that the code did not define water taxis or shuttles.

Town Attorney Vose reported that negotiations were ongoing with the legal cases.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member King stated that the Lee County MPO (Metropolitan Planning Organization) was discussing a merger with the Collier County MPO. Other metro municipalities will express their disapproval to the Lee County delegation on October 30, 2023. He did not have details but thought the town would lose representation and did not think a merger would benefit the town. He noted that Collier County was not interested in a merger, but state representatives were.

Consensus was reached for Council Member King to work with the town attorney to draft a letter opposing the proposed merger to be signed by the mayor.

Vice Mayor Atterholt indicated he would have an update regarding the beach school at the next meeting. He noted that a meeting with the superintendent was scheduled for Thursday, October 19, 2023. He questioned whether the Anchorage Advisory Committee (AAC) should be involved with dredging canals. Council Member Veach responded that the AAC was responsible for the mooring field. Mayor Allers suggested that they add dredging to the AAC's responsibilities. Council Member Veach stated that MERTF was responsible for the waters, but it might be good for the committees to decide which one wanted to work on canal dredging.

Council Member Woodson suggested that they define a public benefit at an M&P session. Vice Mayor Atterholt and Council Member Veach agreed to add the topic. Council Member Woodson brought up implementing community policing before the season. She commented on the Horizon Council strategic planning session and suggested the council consider a similar facilitated strategic planning session. Consensus was reached to add it to an M&P session. Town Clerk Baker will forward the previous strategic plan to all members.

Mayor Allers wanted to make it clear that the Council was listening to the community and developers regarding rebuilding. He explained that the land swap with the fire department was not feasible for the fire district. Fire Chief Scott Wirth reviewed the history of the proposed swap and explained why it would no longer work. The fire department will rebuild the fire station on their property.

No items from Council Member Veach.

XVII. ADJOURNMENT

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

The meeting was adjourned at 12:11 p.m.

1. **Requested Motion:**

Meeting Date: November 6, 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. 23-139, Extending Declaration of Local Emergency Ian 10.31.23-11.6.23
2. 23-140, Extending Declaration of Local Emergency Ian 11.7.23-11.13.23
3. 23-141, Extending Declaration of Local Emergency Ian 11.14.23-11.20.23
4. 23-142, Extending Declaration of Local Emergency Ian 11.21.23-11.27.23
5. 23-143, Extending Declaration of Local Emergency Ian 11.28.23-12.4.23

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 - 10/26/2023
Approved - 10/26/2023
Approved - 10/27/2023
Final Approval - 10/27/2023

RESOLUTION 23-139

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 31st day of October 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 4th day of November 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 4th day of November 2023.

RESOLUTION 23-140

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 7th day of November 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 4th day of November 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 4th day of November 2023.

RESOLUTION 23-141

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 14th day of November 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 4th day of November 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 4th day of November 2023.

RESOLUTION 23-142

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

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

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

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

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

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

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

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

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

Section 2. Hurricane Ian has caused a catastrophic disaster in the Town, damaging, or destroying over ninety percent (90%) of the Town's public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings, and areas and continues to pose a serious threat to the health, lives, property, and safety of the business owners and residents of the Town. Accordingly, the state of local emergency is hereby extended for seven (7) additional days *nun pro tunc* from 9:00 AM on the 20th day of November 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 4th day of November 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 4th day of November 2023.

RESOLUTION 23-143

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 November 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 4th day of November 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 4th day of November 2023.

1. **Requested Motion:**

Meeting Date: November 6, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 23-99.

Attachments:

1. 23-144, Extention of Local Emergency - Idalia 10.31.23-11.6.23
2. 23-145, Extention of Local Emergency - Idalia 11.7.23-11.13.23
3. 23-146, Extention of Local Emergency - Idalia 11.14.23-11.20.23
4. 23-147, Extention of Local Emergency - Idalia 11.21.23-11.27.23
5. 23-148, Extention of Local Emergency - Idalia 11.28.23-12.4.23

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 - 10/26/2023
Approved - 10/26/2023
Approved - 10/27/2023
Final Approval - 10/27/2023

RESOLUTION NUMBER 23-144

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or

order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be

made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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 6th day of November 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

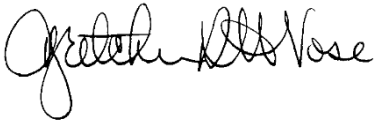
FORT MYERS BEACH TOWN COUNCIL

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:**

A handwritten signature in black ink, appearing to read "Matthew D. Vose". The signature is fluid and cursive, with the first name "Matthew" being more prominent than the last name "Vose".

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 6th day of September 2023.

RESOLUTION NUMBER 23-145

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or

order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be

made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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 6th day of November 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:**

A handwritten signature in black ink, appearing to read "Matthew D. Vose". The signature is fluid and cursive, with the first name "Matthew" being more prominent than the last name "Vose".

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 6th day of September 2023.

RESOLUTION NUMBER 23-146

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or

order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be

made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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 6th day of November 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

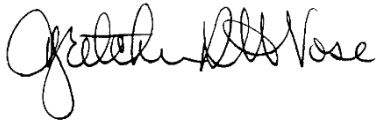
FORT MYERS BEACH TOWN COUNCIL

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:**

A handwritten signature in black ink, appearing to read "Matthew D. Vose". The signature is fluid and cursive, with the first name "Matthew" being more prominent than the last name "Vose".

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 6th day of September 2023.

RESOLUTION NUMBER 23-147

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or

order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
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- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
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 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
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7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be

made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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 6th day of November 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:**

A handwritten signature in black ink, appearing to read "Matthew D. Vose". The signature is fluid and cursive, with the first name "Matthew" being more prominent than the last name "Vose".

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 6th day of September 2023.

RESOLUTION NUMBER 23-148

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Idalia impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 29, 2023, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.
2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or

order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements” for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.
6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:
 - (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.
 - (b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

- (c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
 - (d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.
 - (e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.
 - (f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.
 - (g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.
 - (h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.
 - (i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
 - (j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:
- (a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.
 - (b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.
8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be

made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

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 6th day of November 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

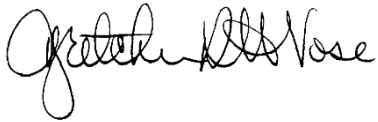
FORT MYERS BEACH TOWN COUNCIL

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:**

A handwritten signature in black ink, appearing to read "Matthew D. Vose". The signature is fluid and cursive, with the first name "Matthew" being more prominent than the last name "Vose".

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 6th day of September 2023.

1. **Requested Motion:**

Meeting Date: November 6, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A STATEWIDE MUTUAL AID AGREEMENT WITH FLORIDA DIVISION OF EMERGENCY MANAGEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Allow for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted.

What the action accomplishes:

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

5. **Background:**

The Town of Fort Myers Beach entered into a Statewide Mutual Aid Agreement with the State of Florida Division of Emergency Management in January 2020. Periodically the agreement is updated.

Attachments:

1. 23-136, Statewide Mutual Aid Agreement
2. SMAA_2023

Financial Impact:

6. **Alternative Action**

Do not approve the agreement

7. **Management Recommendations:**

Approve the 2023 Statewide Mutual Aid Agreement

8. **Recommended Approval:**

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

Created/Initiated - 10/24/2023
Approved - 10/24/2023
Approved - 10/25/2023
Final Approval - 10/25/2023

RESOLUTION NUMBER 23-136

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A STATEWIDE MUTUAL AID AGREEMENT WITH FLORIDA DIVISION OF EMERGENCY MANAGEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State of Florida Emergency Management Act, Chapter 252, authorized the State and its political subdivisions to provide emergency aid and assistance in the event of a disaster or emergency; 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, Florida law also authorizes the State to coordinate the provision of any equipment, services, or facilities owned or organized by the State or its political subdivisions for use in the affected area upon the request of the duly constituted authority in the area; and

WHEREAS, the Town of Fort Myers Beach, Lee County, Florida, by and through its Town Council, wishes to authorize the request, provision, and receipt of inter-jurisdictional mutual assistance in accordance with the Emergency Management Act, Chapter 252, Florida Statutes among political subdivisions within the State; and

WHEREAS, the Town of Fort Myers Beach, Lee County, Florida wishes to maximize the prompt, full, and effective use of resources of all participating governments in the event of an emergency or disaster by adopting the Statewide Mutual Aid Agreement in substantially the form attached hereto as Exhibit "A".

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 Agreement between the Town and Florida Division of Emergency Management. A copy of the sole source 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 6th day of November 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 November 2023.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

STATEWIDE MUTUAL AID AGREEMENT - 2023

This Agreement is an acknowledgment of receipt by the Florida Division of Emergency Management (“the Division”) and the local government (“Participating Party”) signing this Agreement. Execution of this agreement replaces all previous iterations and is active until a new agreement is drafted and requested by The Division.

This Agreement is based on the existence of the following conditions:

- A. The State of Florida is vulnerable to a wide range of emergencies and disasters that are likely to cause the disruption of essential services and the destruction of the infrastructure needed to deliver those services.
- B. Such emergencies and disasters often exceed the emergency response and recovery capabilities of any one county or local government.
- C. Such incidents may also give rise to unusual and unanticipated physical and technical needs which a local government cannot meet with existing resources, but that other local governments within the State of Florida may be able to provide.
- D. The Emergency Management Act, chapter 252, *Florida Statutes*, provides each local government of the state the authority to develop and enter into mutual aid agreements within the state for reciprocal emergency aid in case of emergencies too extensive to be dealt with unassisted, and through such agreements ensure the timely reimbursement of costs incurred by the local governments which render such assistance.
- E. Pursuant to chapter 252.32, *Florida Statutes*, the Division renders mutual aid among the political subdivisions of the state to carry out emergency management functions and responsibilities.
- F. Pursuant to chapter 252, *Florida Statutes*, the Division has the authority to coordinate and direct emergency management assistance between local governments and concentrate available resources where needed.

Based on the existence of the foregoing conditions, the Parties agree to the following articles:

ARTICLE I: DEFINITIONS

As used in this Agreement, the following expressions shall have the following meanings:

- A. The “Agreement” is this Agreement, which shall be referred to as the Statewide Mutual Aid Agreement (“SMAA”).



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- B. The “Division” is the Florida Division of Emergency Management.
- C. A “Requesting Party” to this Agreement is a Participating Party who requests assistance under this agreement.
- D. An “Assisting Party” to this Agreement is a Participating Party who provides assistance to a Requesting Party under this agreement.
- E. The “Period of Assistance” is the time during which an Assisting Party renders assistance to a Requesting Party under this agreement and includes the time necessary for the resources and personnel of the Assisting Party to travel to the place specified by the Requesting Party and the time necessary to return to their place of origin.
- F. A “Mission” is a documented emergency response activity performed during a Period of Assistance, usually in reference to one operational function or activity.
- G. A “local government” is any educational district, special district, or any entity that is a “local governmental entity” within the meaning of section 11.45(1)(g), *Florida Statutes*.
- H. An “educational district” is any school district within the meaning of section 1001.30, *Florida Statutes*, and any Florida College System Institution or State University within the meaning of section 1000.21, *Florida Statutes*.
- I. A “special district” is any local or regional governmental entity which is an independent special district within the meaning of section 189.012(3), *Florida Statutes*, established by local, special, or general act, or by rule, ordinance, resolution, or interlocal agreement.
- J. A “tribal council” is the respective governing bodies of the Seminole Tribe of Florida and Miccosukee Tribe of Indians recognized as special improvement district by section 285.18(1), *Florida Statutes*.
- K. An “interlocal agreement” is any agreement between local governments within the meaning of section 163.01(3)(a), *Florida Statutes*.
- L. A “Resource Support Agreement” as used in this Agreement refers to a supplemental agreement of support between a Requesting Party and an Assisting Party.
- M. “Proof of work” as used in this Agreement refers to original and authentic documentation of a single individual or group of individuals’ emergency response activity at a tactical level.



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- N. "Proof of payment" as used in this Agreement refers to original and authentic documentation of an emergency response expenditure made by an Assisting Party.
- O. A "Reimbursement Package" as used in this Agreement refers to a full account of mission response documentation supported by proof of work and proof of payment.
- P. Any expressions not assigned definitions elsewhere in this Agreement shall have the definitions assigned them by the Emergency Management Act, Chapter 252, *Florida Statutes*.

ARTICLE II: APPLICABILITY OF THE AGREEMENT

Any Participating Party, including the Division, may request assistance under this Agreement for a "major disaster" or "catastrophic disaster" as defined in section 252.34, *Florida Statutes*, minor disasters, and other such emergencies as lawfully determined by a Participating Party.

ARTICLE III: INVOCATION OF THE AGREEMENT

In the event of an emergency or anticipated emergency, a Participating Party may request assistance under this Agreement from any other Participating Party or the Division if, in the judgement of the Requesting Party, its own resources are inadequate to meet the needs of the emergency or disaster.

- A. Any request for assistance under this Agreement may be oral, but within five (5) calendar days must be confirmed in writing by the Requesting Party. All requests for assistance under this Agreement shall be transmitted by the Requesting Party to another Participating Party or the Division. If the Requesting Party transmits its request for Assistance directly to a Participating Party other than the Division, the Requesting Party and Assisting Party shall keep the Division advised of their activities.
- B. The Division shall relay any requests for assistance under this Agreement to such other Participating Parties as it may deem appropriate and coordinate the activities of the Assisting Parties to ensure timely assistance to the Requesting Party. All such activities shall be carried out in accordance with the State's Comprehensive Emergency Management Plan.

ARTICLE IV: RESPONSIBILITIES OF REQUESTING PARTIES

To the extent practicable, all Requesting Parties shall provide the following information to their respective county emergency management agency, the Division, and the intended Assisting Party or Parties. In providing such information, Requesting Parties should utilize Section I of the



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Resource Support Agreement (RSA) Form, available via the [Division approved documents SharePoint site](#)¹.

- A. A description of the Mission to be performed by the Assisting Party;
- B. A description of the resources and capabilities needed to complete the Mission successfully;
- C. The location, date, and time personnel and resources from the Assisting Party should arrive at the incident site, staging area, facility, or other location designated by the Requesting Party;
- D. A description of the health, safety, and working conditions expected for deploying personnel;
- E. Lodging and meal availability;
- F. Any logistical requirements;
- G. A description of any location or facility outside the territorial jurisdiction of the Requesting Party needed to stage incoming resources and personnel;
- H. The location date, and time for personnel of the Requesting Party to meet and receive the personnel and equipment of the Assisting Party; and
- I. A technical description of any communications equipment needed to ensure effective information sharing between the Requesting Party, any Assisting Parties, and all relevant responding entities.

ARTICLE V: RESPONSIBILITIES OF ASSISTING PARTIES

Each Party shall render assistance under this Agreement to any Requesting Party to the extent practicable that its personnel, equipment, resources, and capabilities can render assistance. If upon receiving a request for assistance under this Agreement a Party determines that it has the capacity to render some or all of such assistance, it shall provide the following information without delay to the Requesting Party, the Division, and the Assisting Party's County emergency management agency. In providing such information, the Assisting Party should utilize the Section II of the Resource Support Agreement (RSA) Form, available via the [Division approved documents SharePoint site](#).

¹ FDEM approved documents such as activity logs and mutual aid forms can be found at:
https://portal.floridadisaster.org/projects/FROC/FROC_Documents/Forms/AllItems.aspx?View=%7B6F3CF7BD%2DC0A4%2D4BE2%2DB809%2DC8009D7D0686%7D



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- A. A description of the personnel, equipment, supplies, services and capabilities it has available, together with a description of the qualifications of any skilled personnel;
- B. An estimate of the time such personnel, equipment, supplies, and services will continue to be available;
- C. An estimate of the time it will take to deliver such personnel, equipment, supplies, and services to the location(s) specified by the Requesting Party;
- D. A technical description of any communications and telecommunications equipment available for timely communications with the Requesting Party and other Assisting Parties;
- E. The names and contact information of all personnel whom the Assisting Party has designated as team leaders or supervisors; and
- F. An estimated cost for the provision of assistance.

ARTICLE VI: RENDITION OF ASSISTANCE

The Requesting Party shall afford the emergency response personnel of all Assisting Parties, while operating within the jurisdictional boundaries of the Requesting Party, the same powers, duties, rights, and privileges, except that of arrest unless specifically authorized by the Requesting Party, as are afforded the equivalent emergency response personnel of the Requesting Party. Emergency response personnel of the Assisting Party will remain under the command and control of the Assisting Party, but during the Period of Assistance, the resources and responding personnel of the Assisting Party will perform response activities under the operational and tactical control of the Requesting Party.

- A. Unless otherwise agreed upon between the Requesting and Assisting Party, the Requesting Party shall be responsible for providing food, water, and shelter to the personnel of the Assisting Party. For Missions performed in areas where there are insufficient resources to support responding personnel and equipment throughout the Period of Assistance, the Assisting Party shall, to the fullest extent practicable, provide their emergency response personnel with the equipment, fuel, supplies, and technical resources necessary to make them self-sufficient throughout the Period of Assistance. When requesting assistance, the Requesting Party may specify that Assisting Parties send only self-sufficient personnel and resources but must specify the length of time self-sufficiency should be maintained.



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- B. Unless the Requesting Party has specified the contrary, it shall, to the fullest extent practicable, coordinate all communications between its personnel and the responding personnel of the Assisting Parties, and shall determine and share the frequencies and other technical specifications of all communications equipment to be used, as appropriate, with the deployed personnel of the Assisting Parties.
- C. Personnel of the Assisting Party who render assistance under this Agreement shall receive the usual wages, salaries, and other compensation as are normally afforded to personnel for emergency response activities within their home jurisdiction, and shall have all the immunities, rights, interests, and privileges applicable to their normal employment. If personnel of the Assisting Party hold local licenses or certifications limited to the jurisdiction of issue, then the Requesting Party shall recognize and honor those licenses or certifications for the duration of the Period of Assistance.

ARTICLE VII: REIMBURSEMENT

After the Period of Assistance has ended, the Assisting Party shall have 45 days to develop a full reimbursement package for services rendered and resources supplied during the Period of Assistance. All expenses claimed to the Requesting Party must have been incurred in direct response to the emergency as requested by the Requesting Party and must be supported by proof of work and proof of payment.

To guide the proper documentation and accountability of expenses, the Assisting Party should utilize the Claim Summary Form, available via the [Division approved documents SharePoint site](#) as a guide and summary of expense to collect information to then be formally submitted for review by the Requesting Party.

To receive reimbursement for assistance provided under this agreement, the Assisting Party shall provide, at a minimum, the following supporting documentation to the Requesting Party unless otherwise agreed upon between the Requesting and Assisting Parties:

- A. A complete and authentic description of expenses incurred by the Assisting Party during the Period of Assistance;
- B. Copy of a current and valid Internal Revenue Service W-9 Form;
- C. Copies of all relevant payment and travel policies in effect during the Period of Assistance;
- D. Daily personnel activity logs demonstrating emergency response activities performed for all time claimed (for FDEM reimbursement Division approved activity logs will be required for personnel activity claims);



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- E. Official payroll and travel reimbursement records for all claimed personnel expenses;
- F. Neat and comprehensive fringe benefit calculations for each position class or category of claimed personnel;
- G. Written justification for all additional expenses/purchases incurred during the Period of Assistance;
- H. Proof of payment for additional/miscellaneous expenses incurred during the Period of Assistance
- I. Equipment activity logs demonstrating equipment use and operation in support of emergency response activities for all time claimed (for FDEM reimbursement Division approved forms will be required for equipment activity claims);
- J. Proof of reimbursement to all employees who incurred emergency response expenses with personal money;
- K. Justification for equipment repair expenses; and
- L. Copies of any applicable supporting agreements or contracts with justification.

If a dispute or disagreement regarding the eligibility of any expense arises, the Requesting Party, Assisting Party, or the Division may elect binding arbitration. If binding arbitration is elected, the Parties must select as an arbitrator any elected official of another Participating Party, or any other official of another Participating Party whose normal duties include emergency management, and the other Participating Party shall also select such an official as an arbitrator, and the arbitrators thus chosen shall select another such official as a third arbitrator.

The three (3) arbitrators shall convene by teleconference or videoconference within thirty (30) calendar days to consider any documents and any statements or arguments by the Division, the Requesting Party, or the Assisting Party concerning the protest, and shall render a decision in writing not later than ten (10) business days after the close of the hearing. The decision of a majority of the arbitrators shall bind the parties and shall be final.

If the Participating Parties do not elect binding arbitration, this agreement and any disputes arising thereunder shall be governed by the laws of the State of Florida and venue shall be in Leon County, Florida. Nothing in this Agreement shall be construed to create an employer-employee relationship or a partnership or joint venture between the participating parties. Furthermore, nothing contained herein shall constitute a waiver by either Party of its sovereign immunity or the provisions of section 768.28, Florida Statutes. Nothing herein shall be construed as consent by either Party to be sued by third parties.



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ARTICLE VIII: COST ELIGIBLE FOR REIMBURSEMENT

The costs incurred by the Assisting Party under this Agreement shall be reimbursed as needed to make the Assisting Party whole to the fullest extent practicable.

- A. Employees of the Assisting Party who render assistance under this Agreement shall be entitled to receive from the Assisting Party all their usual wages, salaries, and any and all other compensation for mobilization, hours worked, and demobilization. Such compensation shall include any and all contributions for insurance and retirement, and such employees shall continue to accumulate seniority at the usual rate. As between the employees and the Assisting Party, the employees shall have all the duties, responsibilities, immunities, rights, interests, and privileges incident to their usual employment. The Requesting Party shall reimburse the Assisting Party for these costs of employment.
- B. The costs of equipment supplied by the Assisting Party shall be reimbursed at the rental rate established in FEMA' s Schedule of Equipment, or at any other rental rate agreed to by the Requesting Party. In order to be eligible for reimbursement, equipment must be in actual operation performing eligible work. The labor costs of the operator are not included in the rates and should be approved separately from equipment costs. The Assisting Party shall pay for fuels, other consumable supplies, and repairs to its equipment as needed to keep the equipment in a state of operational readiness. Rent for the equipment shall be deemed to include the cost of fuel and other consumable supplies, maintenance, service, repairs, and ordinary wear and tear. With the consent of the Assisting Party, the Requesting Party may provide fuels, consumable supplies, maintenance, and repair services for such equipment at the site. In that event, the Requesting Party may deduct the actual costs of such fuels, consumable supplies, maintenance, and services from the total costs otherwise payable to the Assisting Party. If the equipment is damaged while in use under this Agreement and the Assisting Party receives payment for such damage under any contract of insurance, the Requesting Party may deduct such payment from any item or items billed by the Assisting Party for any of the costs for such damage that may otherwise be payable.
- C. The Requesting Party shall pay the total costs for the use and consumption of any and all consumable supplies delivered by the Assisting Party for the Requesting Party under this Agreement. In the case of perishable supplies, consumption shall be deemed to include normal deterioration, spoilage, and damage notwithstanding the exercise of reasonable care in its storage and use. Supplies remaining unused shall be returned to the Assisting Party in usable condition upon the close of the Period of Assistance, and the Requesting Party may deduct the cost of such returned supplies from the total costs billed by the Assisting Party for such supplies. If the Assisting Party agrees, the Requesting Party may also replace any and all used consumable supplies with like



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supplies in usable condition and of like grade, quality and quantity within the time allowed for reimbursement under this Agreement.

- D. The Assisting Party shall keep records to document all assistance rendered under this Agreement. Such records shall present information sufficient to meet the audit requirements specified in the regulations of FEMA and any applicable circulars issued by the State of Florida. Upon reasonable notice, the Assisting Party shall make its records available the Requesting Party for inspection or duplication between 8:00 a.m. and 5:00 p.m. on all weekdays, except for official holidays.

ARTICLE IX: INSURANCE

Each Participating Party shall determine for itself what insurance to procure, if any. With the exceptions in this Article, nothing in this Agreement shall be construed to require any Participating Party to procure insurance.

- A. Each Participating Party shall procure employers' insurance meeting the requirements of the Workers' Compensation Act, as amended, affording coverage for any of its employees who may be injured while performing any activities under the authority of this Agreement, and shall be provided to each Participating Party.
- B. Any Participating Party that elects additional insurance affording liability coverage for any be provided to each Participating Party. activities that may be performed under the authority of this Agreement shall
- C. Subject to the limits of such liability insurance as any Participating Party may elect to procure, nothing in this Agreement shall be construed to waive, in whole or in part, any immunity any Participating Party may have in any judicial or quasi-judicial proceeding.
- D. Each Participating Party which renders assistance under this Agreement shall be deemed to stand in the relation of an independent contractor to all other Participating Parties and shall not be deemed to be the agent of any other Participating Party.
- E. Nothing in this Agreement shall be construed to relieve any Participating Party of liability for its own conduct and that of its employees.
- F. Nothing in this Agreement shall be construed to obligate any Participating Party to indemnify any other Participating Party from liability to third parties.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



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ARTICLE X: GENERAL REQUIREMENTS

Notwithstanding anything to the contrary elsewhere in this Agreement, all Participating Parties shall be subject to the following requirements in the performance of this Agreement:

- A. All Participating Parties shall allow public access to all documents, papers, letters, or other materials subject to the requirements of the Public Records Act, as amended, and made or received by any Participating Party in conjunction with this Agreement.
- B. No Participating Party may hire employees in violation of the employment restrictions in the Immigration and Nationality Act, as amended.
- C. No costs reimbursed under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Legislature of the State of Florida or any of its agencies.
- D. Any communication to the Division under this Agreement shall be sent via either email, the Division of Emergency Managements Enterprise System (DEMES), or mail to the Response Bureau, Florida Division of Emergency Management, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.
- E. Any communication to a Participating Party shall be sent to the official or officials specified by that Participating Party. For the purpose of this section, any such communication may be sent by the U.S. Mail, e-mail, or other electronic platforms.

ARTICLE XI: EFFECTS OF AGREEMENT

Upon its execution by a Participating Party, this Agreement shall have the following effect with respect to that Participating Party:

- A. The execution of this Agreement by any Participating Party which is a signatory to the Statewide Mutual Aid Agreement of 1994 shall terminate the rights, interests, duties, responsibilities, and obligations of that Participating Party under the Statewide Mutual Aid Agreement of 1994, but such termination shall not affect the liability of the Participating Party for the reimbursement of any costs due under the Statewide Mutual Aid Agreement of 1994, regardless of whether such costs are billed or unbilled.
- B. The execution of this Agreement by any Participating Party which is a signatory to the Public Works Mutual Aid Agreement shall terminate the rights, interests, duties, responsibilities and obligations of that Participating Party under the Public Works Mutual Aid Agreement, but such termination shall not affect the liability of the Participating Party for the reimbursement of any costs due under the Public Works Mutual Aid Agreement,



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regardless of whether such costs are billed or unbilled.

- C. Upon the activation of this Agreement by the Requesting Party, this Agreement shall supersede any other existing agreement between it and any Assisting Party to the extent that the former may be inconsistent with the latter.
- D. Upon its execution by any Participating Party, this Agreement will continue in effect for one (1) year from its date of execution by that Participating Party, and it shall automatically renew each year after its execution, unless within sixty (60) calendar days before the renewal date the Participating Party notifies the Division, in writing, of its intent to withdraw from the Agreement.
- E. The Division shall transmit any amendment to this Agreement by sending the amendment to all Participating Parties not later than five (5) business days after its execution by the Division. Such amendment shall take effect not later than sixty (60) calendar days after the date of its execution by the Division and shall then be binding on all Participating Parties. Notwithstanding the preceding sentence, any Participating Party who objects to the amendment may withdraw from the Agreement by notifying the Division in writing of its intent to do so within that time in accordance with section E of this Article.
- F. A Participating Party may rescind this Agreement at will after providing the other Participating Party a written SMAA withdrawal notice. Such notice shall be provided at least 30 days prior to the date of withdrawal. This 30-day withdrawal notice must be: written, signed by an appropriate authority, duly authorized on the official letterhead of the Participating Party, and must be sent via email, the Division of Emergency Managements Enterprise System (DEMES), or certified mail.

ARTICLE XII: INTERPRETATION AND APPLICATION OF AGREEMENT

The interpretation and application of this Agreement shall be governed by the following conditions:

- A. The obligations and conditions resting upon the Participating Parties under this Agreement are not independent, but dependent.
- B. Time shall be of the essence of this Agreement, and of the performance of all conditions, obligations, duties, responsibilities, and promises under it.
- C. This Agreement states all the conditions, obligations, duties, responsibilities, and promises of the Participating Parties with respect to the subject of this Agreement, and there are no conditions, obligations, duties, responsibilities, or promises other than those expressed in this Agreement.



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

- D. If any sentence, clause, phrase, or other portion of this Agreement is ruled unenforceable or invalid, every other sentence, clause, phrase, or other portion of the Agreement shall remain in full force and effect, it being the intent of the Division and the other Participating Parties that every portion of the Agreement shall be severable from every other portion to the fullest extent practicable. The Division reserves the right, at its sole and absolute discretion, to change, modify, add, or remove portions of any sentence, clause, phrase, or other portion of this Agreement that conflicts with state law, regulation, or policy. If the change is minor, the Division will notify the Participating Party of the change and such changes will become effective immediately; therefore, please check these terms periodically for changes. If the change is substantive, the Participating Parties may be required to execute the Agreement with the adopted changes. Any continued or subsequent use of this Agreement following the posting of minor changes to this Agreement shall signify implied acceptance of such changes.
- E. The waiver of any obligation or condition in this Agreement by a Participating Party shall not be construed as a waiver of any other obligation or condition in this Agreement.

NOTE: This iteration of the State of Florida Statewide Mutual Aid Agreement will replace all previous versions.

The Division shall provide reimbursement to Assisting Parties in accordance with the terms and conditions set forth in this Article for missions performed at the direct request of the Division. Division reimbursement eligible expenses must be in direct response to the emergency as requested by the State of Florida. All required cost estimations and claims must be executed through the DEMES Mutual Aid Portal and assisting agencies must use all required [FDEM forms](#) for documentation and cost verification. If a Requesting Party has not forwarded a request through the Division, or if an Assisting Party has rendered assistance without being requested to do so by the Division, the Division shall not be liable for the costs of any such assistance.

FDEM reserves the right to deny individual reimbursement requests if deemed to not be in direct response to the incident for which asset was requested.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the date specified below:



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

FOR ADOPTION BY A CITY

STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT

By: _____ Date: _____

Kevin Guthrie, Executive Director or
Ian Guidicelli, Authorized Designee

ATTEST:
CITY CLERK

CITY OF _____
STATE OF FLORIDA

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Approved as to Form:

By: _____

County Attorney



STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT



Ron DeSantis, Governor

Kevin Guthrie, Executive Director

SAMPLE AUTHORIZING RESOLUTION FOR ADOPTION OF STATEWIDE MUTUAL AID AGREEMENT

RESOLUTION NO. _____

WHEREAS, the State of Florida Emergency Management Act, Chapter 252, authorizes the State and its political subdivisions to provide emergency aid and assistance in the event of a disaster or emergency; and

WHEREAS the statutes also authorize the State to coordinate the provision of any equipment, services, or facilities owned or organized by the State or its political subdivisions for use in the affected area upon the request of the duly constituted authority of the area; and

WHEREAS this Resolution authorizes the request, provision, and receipt of interjurisdictional mutual assistance in accordance with the Emergency Management Act, Chapter 252, among political subdivisions within the State; and

NOW, THEREFORE, be it resolved by _____

_____ that in order to maximize the prompt, full and effective use of resources of all participating governments in the event of an emergency or disaster we hereby adopt the Statewide Mutual Aid Agreement which is attached hereto and incorporated by reference.

ADOPTED BY: _____

DATE: _____

I certify that the foregoing is an accurate copy of the Resolution adopted by

_____ on _____.

BY: _____

TITLE: _____

DATE: _____

1. **Requested Motion:**

Meeting Date: November 6, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A COOPERATIVE PURCHASE AGREEMENT BETWEEN THE TOWN AND READY2GO RESTROOM TRAILERS IN AN AMOUNT NOT TO EXCEED \$66,256.62, UTILIZING SOURCEWELL, AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT, EXPEND FUNDS, AND TAKE ALL APPROPRIATE ACTIONS TO PURCHASE A REPLACEMENT RESTROOM TRAILER; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Purchases over \$25,000 need to be approved by the Town Council.

What the action accomplishes:

Authorizes the purchase and installation of the replacement restroom trailer on Palm Avenue Beach Access to provide public restrooms to the community.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

5. **Background:**

The Town is requesting approval for the purchase of a replacement restroom trailer to place at the Palm Avenue Beach Access from the same vendor as before. The restroom trailer the Town previously had was destroyed during Hurricane Ian. In order to continue providing this amenity to the public, the Town has contracted portable restrooms at this location. As the Town's efforts to rebuild continue, the purchase of a new restroom trailer will provide a replacement to the previously owned trailer at this location. This restroom trailer is included in the Town's updated hurricane plan.

Pricing for the restroom trailer is from the Sourcewell cooperative purchasing agreement.

Attachments:

1. 23-150, Purchase of Replacement Restroom Trailer
2. Estimate_1137_from_Ready2Go_Restroom_Trailers_Sales_LLC
3. Palm Avenue Restrooms Pre-Ian
4. WCI - Accessibility Certification Letter 8-26-22
5. SOURCEWELL APPROVED DLR LETTER READY2GO (1)
6. Piggyback for RR Trailer

Financial Impact:

Not to exceed \$66,256.62 utilizing hurricane reimbursement funding, insurance, and Tourist Development Council (TDC) grant funding.

6. **Alternative Action**

7. **Management Recommendations:**

Approve the purchase.

8. **Recommended Approval:**

Flor Lemmer, Administrative Officer

Created/Initiated - 10/25/2023

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

Approved - 10/27/2023
Approved - 10/27/2023
Approved - 10/27/2023
Approved - 10/30/2023
Final Approval - 10/30/2023

RESOLUTION NUMBER 23-150

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A COOPERATIVE PURCHASE AGREEMENT BETWEEN THE TOWN AND READY2GO RESTROOM TRAILERS IN AN AMOUNT NOT TO EXCEED \$66,256.62 UTILIZING SOURCEWELL, AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT, EXPEND FUNDS, AND TAKE ALL APPROPRIATE ACTIONS TO PURCHASE A REPLACEMENT RESTROOM TRAILER; 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 wishes to purchase a replacement restroom trailer for the Palm Avenue Beach Access; and

WHEREAS, under the Town Code, the purchase of goods under a contract awarded by another governmental entity is authorized provided the finance department director makes a written determination that time and expense factors make it financially advantageous for the Town to do so; and

WHEREAS, Sourcewell entered into a competitively procured contract to purchase restroom trailers and related services, and the Town’s Finance Director has determined that piggybacking on this contract is financially advantageous to the Town; and

WHEREAS, the Town believes it is in the best interest of the Town’s business owners, residents, and visitors to enter into a piggyback contract with Ready2Go Restroom Trailers.

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

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

Section 2. The piggyback contract between the Town and Ready2Go Restroom Trailers, attached as Exhibit “A”, is approved, the Town Manager is authorized to execute the contract and expend funds on behalf of the Town, and take all appropriate actions to purchase a replacement restroom trailer.

Section 3. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

Section 4. This resolution shall take effect immediately upon its adoption.

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 King, Council Member
Bill Veach, Council Member
Karen Woodson, Council Member

ADOPTED this 6th day of November 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., Town Attorney

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

Ready2Go Restroom Trailers Sales LLC

1525 Park Manor Blvd. #300

Pittsburgh, PA 15205 US

mark@ready2gorestroomtrailers.com



Estimate

ADDRESS

Flor Lemmer, CGSP
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers, FL 33931

SHIP TO

Flor Lemmer, CGSP
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers, FL 33931

ESTIMATE # 1137**DATE** 10/19/2023**EXPIRATION DATE** 11/18/2023**TRACKING NO.**

SourceWell

PRODUCT	DESCRIPTION	QTY	RATE	AMOUNT	SKU
UL620-ADA-2	1 EA Ultralav - ACG - Model# UL620-ADA-2 1 EA Ultralav 1 EA Steel Frame 1 EA Flat Front 1 EA Tag 1 EA 20ft Long 1 EA Flat Roof 1 EA 6ft Wide 1 EA 2-5/16in 14,000lb Coupler 1 EA 5in Tube Mainframe w/Floor Under Frame 1 EA 8/0 x 27" G3 Safety Chains with Slip Hook 20 EA 7'0" Approximate Inside Height 20 EA 92-3/4in Tube Posts 20 EA Vertical Posts 16in On Center 1 EA 5,000lb Top Crank Round A-Frame Jack(ADA) 1 EA Standard A-Frame Tongue 1 EA ADA Suspension 2 EA 5,000lb Axle Spindle 2 EA ST235/80R16E GY Rad 8B Silver Spoke Steel Wheel 2 EA Chrome Center Caps on Wheels 1 EA 32 x 78 Entry Door, RH Hinge - Knob Lock - Square 1 EA 32 x 78 Entry Door, LH Hinge - Knob Lock - Square 1 EA 24 x 60 Utility Room Access Door, LH Hinge 1 EA 36 x 80 Entry Door, RH Hinge - Knob Lock - Square	1	69,207.30	69,207.30	

PRODUCT	DESCRIPTION	QTY	RATE	AMOUNT	SKU
	20 EA 3/4in PlexCore Decking				
	20 EA Black Coin Rubber Floor				
	Covering				
	1 EA 1" Sidewall Fiberglass				
	Insulation - R5				
	1 EA PolyCor Silver Frost				
	Sidewall Liner				
	1 EA Women's Restroom				
	1 EA Men's Restroom w/Urinal				
	1 EA ADA Restroom				
	1 EA 12 Volt LED Dome Light				
	(Requires 12v Wall Switch)				
	12 EA 12v LED 6" Round Dome				
	Light w/Chrome Ring				
	3 EA 12v LED 9" Porch Light				
	1 EA LED Fender Mount				
	Clearance Lights				
	2 EA LED Clear Lens Amber				
	Clearance Lights				
	2 EA LED Clear Lens Red				
	Clearance Lights				
	1 EA LED Wraparound Clear				
	Lens Tail Lights				
	1 EA LED Clear Lens Rear				
	Clearance Light ID Bar				
	2 EA 120v 30A Motorbase with				
	Twist Lock Connect				
	1 EA 120v 6 Gallon Hot Water				
	Heater				
	1 EA 105 Gallon Fresh Water				
	Tank				
	1 EA 3/8" Polyethylene Waste				
	Holding Tank				
	2 EA Sight Glass - Waste Tank				
	Level Indicator				
	1 EA ADA Landing & Ramp				
	System w/Handrails				
	1 EA Electric Winch for Landing				
	1 EA Alum. Rack & Straps for				
	Ramp & Railings				
	1 EA 1-Piece Aluminum Roof				
	20 EA Polar White .030				
	Aluminum Exterior				
	20 EA Bonded Exterior				
	Sidewalls				
	1 EA Smooth Aluminum				
	Fenders				
	1 EA 13.5Mach3				
	A/C+HT+WallTStat-Wt(req 12v)				
UL - Heater per room	Heater in restroom (3)	1	1,965.00	1,965.00	
UL- SourceWELL	SourceWELL Discount	1	-8,540.68	-8,540.68	
UL- SourceWELL	SourceWELL processing fee	1	125.00	125.00	
Freight	Transport of Restroom/Shower/ or Specialty Trailer	1	3,500.00	3,500.00	

PRODUCT	DESCRIPTION	QTY	RATE	AMOUNT	SKU
VIN Number - Info	Trailer#1: 7V0W12016PE401809	1			

TOTAL \$66,256.62

Accepted By

Accepted Date





August 26, 2022

To Whom It May Concern:

RE: Accessible Facilities in
American Cargo Group Trailers, LLC (UltraLav)

Glenco, Inc. has reviewed plans and specifications and conducted inspections in a representative sample toilet trailer model. The trailers are manufactured by American Cargo Group Trailers, LLC (UltraLav). Our agency found them to be in compliance with the following standards:

- International Code Council Standard ICC A117.1-2009 – Accessible and Usable Buildings and Facilities.
- International Code Council Standard ICC A117.1-2017 – Accessible and Usable Buildings and Facilities.
- Americans with Disabilities Act Accessibility Guidelines (ADAAG) – 2010 Edition.

The toilet trailer models found to be in compliance are the following models:

- UL614-ADA.
- UL620-ADA-2

Please contact me if you have any questions

Sincerely,

Jeffrey R. Walton, P.E.

Jeffrey R. Walton, P.E.
Glenco, Inc.
jeff@glencoinc.com
(570) 837-0577, Ext. 119

Indiana P.E. License #19600457





1503 McNaughton Ave.
Elkhart, IN 46514
Phone: (574) 264-9661

Date: 4/27/2023

To: Sourcewell Member

Subject: Authorized Approved Dealers for Sourcewell Contract

To whom it may concern,

American Cargo Group was awarded a contract for Sourcewell Solicitation Number: RFP #092922 (Trailers with Related Equipment, Accessories, and Services)

American Cargo Group's Sourcewell contract number is: 092922-AGO

As stated in our RFP response, American Cargo Group does not sell direct but rather through a select group of Authorized Dealers. Any Authorized Dealer selected to process a Sourcewell trailer order/purchase through this contact has met stringent requirements, is a dealer in good standing, and has agreed to all the terms and conditions outlined in the Sourcewell Contract.

This letter confirms that the dealer listed below is an official authorized dealer for American Cargo Group.

Ready2Go Restroom Trailers Sales LLC
1525 Park Manor Blvd #300
Pittsburgh, PA 15205
Primary Contact: Mark Rosen
Phone: 412-498-2632
Email: mark@ready2gorestroomtrailers.com
Website: ready2gorestroomtrailers.com

Should you have any questions or require further assistance, please do not hesitate to contact our dedicated Fleet Sales Manager, Valerie Burleigh. Her contact information can be found below. We are here to help ensure that your trailer purchase through American Cargo Group is professional, timely, and accurate.

Sincerely,

Mike Nichols
Vice President Sales
American Cargo Group

Valerie Burleigh
Phone: 254-386-6702
Email: valerie.burleigh@americancargogroup.com



**AGREEMENT TO PIGGYBACK A CONTRACT FOR GOODS AND SERVICES
COMPETITIVELY PROCURED BY ANOTHER GOVERNMENTAL ENTITY**

THIS AGREEMENT is made and entered into this 6 day of November 2023, by and between the Town of Fort Myers Beach, Florida (“Town”), a Florida municipal corporation whose principal place of business is 2525 Estero Blvd., Ft. Myers Beach, FL 33391 and **Ready2Go Restroom Trailers Sales LLC**, (“Contractor”) whose principal place of business is **1525 Park Manor Blvd #300 Pittsbrgh, PA 15205** (“Contract”). Town and Contractor may also be referred collectively as the “Parties.”

WHEREAS, Contractor and **Sourcewell**, Florida entered into a competitively procured contract known as **Trailers with Related Equipment, Accessories, and Services**, as amended (“**Sourcewell** Contract”); and

WHEREAS, Town needs to purchase **UL629-ADA-2 Restroom Trailer**; and

WHEREAS, the Town desires to have **Ready2Go Restroom Trailers Sales LLC**; and

WHEREAS, under the Town Code, the purchase of goods and services under a contract awarded by another governmental entity is authorized provided the finance department director makes a written determination that time and expense factors make it financially advantageous for the Town to do so; and

WHEREAS, Contractor is willing to **UL629-ADA-2 Restroom Trailer**, subject to the terms and conditions of the County Contract, with the specific modifications set forth herein; and

WHEREAS, the Town’s finance department director has determined that piggybacking on the **Sourcewell** Contract is financially advantageous to the Town.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the parties do mutually agree as follows:

1. **Incorporation of County Contract.** This Contract incorporates by reference, the **Sourcewell** Contract, which is attached as Exhibit A.
2. **Scope of Service.** During the Term of this Contract, Contractor will provide **UL629-ADA-2 Restroom Trailer**.
3. **Pricing.** The Town will pay Contractor a sum not to exceed **\$ 66, 256.62** for the good. This sum will be Contractor’s sole compensation for the goods and services provided by Contractor under this Contract.
4. **Designated Representative.** The Town's **Public Works Director** or designee, shall be the Town’s Designated Representative in matters arising under Contract.

Jason Freeman, Public Works Director
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL. 33931
JasonF@FMBGOV.COM

5. Modifications to Sourcewell Contract. Notwithstanding the incorporation of the Sourcewell Contract into this Contract as referenced, the Parties hereby agree to certain modifications to the Sourcewell Contract, as follows:
- a. All references in the **Sourcewell** Contract to terms such as “County” or “City” will be deemed to refer to the Town. In addition, all references within the County Contract to specific officers/departments/divisions, or to specific locations (such as for delivery of goods/services, receipt of Contractor invoicing, etc.), if not specifically addressed in this Contract, will be deemed to refer to the equivalent Town officers/departments/divisions, and Town locations, as hereafter designated by the Town’s Designated Representative.
 - b. Town’s performance and obligation to pay under the Contract is contingent upon an annual appropriation by the Town Council.
 - c. The Contractor (and its subcontractors) have an obligation to utilize the U.S. Department of Homeland Security's (DHS) E-Verify system for all newly hired employees. By executing this Contract, the Contractor certifies that it is registered with, and uses, the E-Verify system for all newly hired employees. The Contractor must obtain an affidavit from its subcontractors in accordance with paragraph (2)(b) of §448.095, Fla. Stat., and maintain a copy of such affidavit for the duration of the Contract.
 - d. This section serves as notice to the Contractor regarding the requirements of §448.095, Fla. Stat., specifically sub-paragraph (2)(c)l, and the Town’s obligation to terminate the Contract if it has a good faith belief that the Contractor has knowingly violated §448.09(1), Fla. Stat. If terminated for such reason, the Contractor will not be eligible for award of a public contract for at least one year after the date of such termination. The Town reserves the right to order the immediate termination of any contract between the Contractor and a subcontractor performing work on its behalf should the Town develop a good faith belief that the subcontractor has knowingly violated §448.095(1), Fla. Stat.
 - e. By execution of this Contract, in accordance with the requirements of §§287.135 and 215.473, Fla. Stat., Contractor certifies that Contractor is not participating in a boycott of Israel. Contractor further certifies that Contractor is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has Contractor been engaged in business operations in Cuba or Syria. Subject to limited exceptions provided in state law, the Town will not contract for the provision of goods or services with any scrutinized company referred to above. Submitting a false certification shall be deemed a material breach of Contract. The Town shall provide notice, in writing,

to Contractor of the Town's determination concerning the false certification. Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active Contract term, Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If Contractor does not demonstrate that the Town's determination of false certification was made in error then the Town shall have the right to terminate the contract and seek civil remedies pursuant to §287.135, Fla. Stat., as amended from time to time.

- f. The following provisions are required by §119.0701, Fla. Stat., and may not be amended. Contractor shall keep and maintain public records required by the Town to perform the services required under this Contract. Upon request from Town's custodian of public records, Contractor shall provide Town with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract's term and following completion of the Contract if Contractor does not transfer the public records to Town. Upon completion of the Contract, Contractor may transfer, at no cost, to Town all public records in possession of Contractor or keep and maintain public records required by Town to perform the services required under the Contract. If Contractor transfers all public records to Town upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Town, upon request from Town's custodian of public records, in a format that is compatible with Town's information technology systems. The failure of Contractor to comply with the provisions set forth in this Section shall constitute a Default and Breach of this Agreement, for which, the Town may terminate the Agreement.

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as below.

TOWN OF FORT MYERS BEACH

CONTRACTOR

Andy Hyatt, Town Manager

By: _____
Its: _____

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 Lawfirm, Town Attorney

1. **Requested Motion:**

Meeting Date: November 6, 2023

Review and approve flag design produced by vendor for the FMB Community Foundation to use as a fundraiser. Proceeds from the sale of the flags are to be used to donate to beach causes.

Why the action is necessary:

With permission that was granted by Town Council at a previous meeting, the FMB Community Foundation has used a version of the Town's logo to design a flag that they will sell as a fundraiser. The proceeds from this fundraiser will support beach causes.

What the action accomplishes:

Approves the flag design so that the FMB Community Foundation can produce it in large quantities and sell to the public as a fundraiser.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**



Attachments:

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

Please approve this flag. It will be used as a fundraiser for the FMB Community Foundation with proceeds going to beach causes. When those who purchase this flag display it, the branding of the Town's logo and color scheme gets a boost!

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 - 10/24/2023
Approved - 10/24/2023
Approved - 10/24/2023
Final Approval - 10/25/2023

1. **Requested Motion:**

Meeting Date: November 6, 2023

Approve the purchase of radios for Town operations and emergencies

Why the action is necessary:

Allows the purchase of additional radio and public safety communications for the Town.

What the action accomplishes:

Authorizes the purchase of a specified number of radios for public safety and emergency purchases.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

5. **Background:**

Town staff have been looking into acquiring updated radios for use during regular operations as well as during emergency situations. The Town has a limited number of radios in Town vehicles and a few handheld radios currently, and are requesting to purchase additional radios for public safety and Town operations. The Town lost a few of the radios during Hurricane Ian and will continue to seek any reimbursement for those to assist in cost. After Hurricane Ian, radios proved to increase communication abilities even without cell signal with standard cellular networks. These radios will be able to connect with the Lee County Public Safety network in addition to the local Town channels and Motorola Solutions holds a Cooperative Purchasing Master Agreement # 00318 with the Florida Department of Management Services .

At the September 25, 2023 Town Council meeting, consensus was reached to quote out the N70 model instead of the N50 model which allows for the option for LTE connection to the cellular data network and return this item to Town Council with current pricing.

N70: \$6,640.20 radio base price

Public Safety connection fees: \$34.21 per radio per month

Quote for 10 radios, 1 charger desktop, 10 chargers, implementation, and 5 spare batteries: \$75,670.68

Annual subscription for 10 radios on the County network: \$4,105.20

Total first year for new radios: \$79,775.88

APX N70:

The APX N70 is one of Motorola's next-generation P25 radios that was announced at APCO last year.... the APX N-series (APX N70, APX N50 and APX N30)The APX N70 is a compact platform that improves on key performance parameters and is optimized for high noise environments. The radio has 6 programmable buttons; is rugged and offers broadband LTE connectivity.

Motorola offers (4) SmartFeatures for free as part of a 1-year trial period. The SmartFeatures are subscription-based and upon expiration of the promotional subscription, can be extended or allowed to lapse (which suspends the LTE service). Agencies can extend the Application Services as a bundled subscription or purchase one or two SmartFeatures with a-la-carte subscriptions. Agencies can purchase upto five years of Application Services in advance when making the initial radio purchase.

Motorola Solutions SmartFeatures distinguish the APX N70 from earlier APX platforms (as well as the APX N50/ N30) by leveraging the integrated smartphone-line User Interface and LTE/WiFi broadband connectivity to provide capabilities available on no other traditional P25 radio:

- Seamlessly extending system access beyond physical P25 radio coverage with SmartConnect
 - Streamlining software, security and configuration updates with SmartProgramming
 - Enhanced Situational Awareness through the APX N70 Map Display with SmartMapping
 - Device location tracking via CommandCentral AWARE browser map with SmartLocate
- To support ongoing firmware and template updates over broadband LTE, Motorola requires agencies to maintain the Device Managed Service (DMS) & Radio Central (database) subscription.

Attachments:

1. apx-n70_data-sheet
2. Town of FMB_QUOTE-2317125_APX N70 & Accessories_09-06-23_CV
3. Town of FMB_QUOTE-2317125_APX N70 OutYears Subscription_09-06-23_CV
4. 1648039828_Public Safety Communications Products Services and Solutions Motorola Solutions Florida

Financial Impact:

Public Safety connection fees: \$34.21 per radio per month

Quote for 10 radios, desktop chargers, 10 chargers, 5 spare batteries, and deployment fees: \$75,670.68

Annual subscription for 10 radios on the Lee County Public Safety network: \$4,105.20

Total first year: \$79,775.88

The Town will be pursuing reimbursement opportunities for both the portion of previous radios lost and the new radios.

6. Alternative Action

7. Management Recommendations:

Approve the purchase of radios for public safety and Town operations with up to 10 N70s.

8. Recommended Approval:

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

Created/Initiated - 10/16/2023
Approved - 10/25/2023
Approved - 10/27/2023
Approved - 10/27/2023
Approved - 10/27/2023
Final Approval - 10/29/2023



APX N70

SINGLE-BAND P25 SMART RADIO

FOCUSED. FORWARD.

Safety and focus on the front line are paramount. Reliable and intuitive communications devices that are rugged and easy to use, are non negotiable for first responders. Clear communications have proven to be lifesaving in critical moments.

Reliable P25 radios must evolve to offer sophisticated features that work within a larger public safety ecosystem. They must deliver actionable intelligence to provide increased situational awareness during an incident.

We designed our APX N70 explicitly for this purpose. It provides public safety personnel the mission-critical communications and real-time information they need to stay connected and respond safely.

Inherently rugged, it offers an intuitive interface to ensure reliable eyes-up operation. Wherever they're working, responders will hear and be heard with the loudest and clearest audio possible.

The APX N70 works reliably across a variety of frequencies, modes and protocols. Communications are secure with hardware encryption algorithms and can be updated quickly with batch radio programming and management tools. Optional next generation features such as LTE and smart apps enhance in-field intelligence for improved situational awareness so first responders can respond with focus and efficiency.



FEATURES

OPERATION MODES

Digital Trunking: 9600 Baud APCO P25 phase 1
FDMA and phase 2 TDMA
Digital Conventional: APCO 25
Analog Conventional: 3600 Baud SmartNet®,
SmartZone®, Omnilink®
Analog Trunking: MDC 1200
ASTRO® 25 Integrated Voice and Data
SmartConnect Multi-net Connectivity¹

FREQUENCY BANDS

7/800 MHz
Up to 3000 Channels
Up to 200 Zones¹

ADDITIONAL CONNECTIVITY

Bluetooth (Version 5.0)
Wi-Fi 802.11 a/b/g/n/ac, 2.4 and 5 GHz Bands
LTE¹
NFC (Near-Field Communications)²

AUDIO FEATURES

3 W Speaker with Adaptive Equalization
2 Internal HDR Microphone
Adaptive Dual-sided Operation
Adaptive Noise Suppression Intensity¹
Adaptive Gain Control
Adaptive Windporting¹
IMPRES™ Audio Accessory Compatibility
Noise Sensing Volume Control¹
Receive Volume Leveling¹

MANAGEMENT

RadioCentral™
Radio Management (RM)
CPS (Customer Programming Software)
SmartProgramming¹

LOCATION-TRACKING

Built-in GNSS (GPS, Galileo and GLONASS)
SmartLocate and Indoor Positioning¹
SmartMapping¹

SECURITY

256-bit AES¹
Single-key ADP Encryption
Software Key
P25 Authentication¹
Multikey for up to 128 Keys and Multi-algorithm¹
Touchless Key Provisioning³
Over-The-Air Rekeying (OTAR)¹

HAZLOC

Class I, Division 1, Groups C, D
Class II, Division 1, Groups E, F, G
Class III, Hazardous Locations
Class I, Division 2, Groups A, B, C, D when used with 3650
mAh Div 1 Battery

MESSAGING

Canned Messages
SmartMessaging¹

VOICE INTERACTION

Customizable Voice Announcements
ViQi Voice Control: Radio Actions with Intuitive Commands¹
ViQi Virtual Partner Service¹

ENERGY

Standard 3200 mAh Battery
Optional High-cap 4400 mAh Battery
Optional UL Div 1 3650 mAh Battery
IMPRES 2 Smart Battery Technology

SENSORS

Ambient Light (Intelligent lighting)
Accelerometer x2 (Display Orientation, Man Down)

OTHER FEATURES

Radio Profiles
Enhanced Data¹
Multicast Voting Scan¹
Man Down/Fall Alert¹
DVRs PSU¹
Digital Tone Signaling¹
APX Personnel Accountability¹
Instant Recall

INGRESS PROTECTION

IP6x Dust
IPx8 submersion (2 m, 4 hr)
MIL-STD Delta-T, 512.X Procedure 1

USER INTERFACE

3.0" Mission-critical Touchscreen: 360x600 TFT 24-bit Full
Color Transflective Display
Capacitive Touch Technology: Usable with Gloves Up to
4 mm Thick, Resistant to False Actuation from Fresh or
Saltwater, Snow, Ice, Dirt or Grease
High Velocity User Interface: Large Touch Targets, Shallow
Menu Hierarchy, Home Screen Information at a Glance,
Integrated Applications
1.2" Top Display: 200x112 TFT 18-bit Color Transflective
Screen, 1 Line of Icons, 2 Lines of Text, 14 Characters per
Line, 2 mm Toughened Glass Lens
PTT Button: 1.26 x 0.55 in (32 x 14 mm)
16-position Channel Selector
Angled Power/Volume Knob
Orange Emergency Button
3 Programmable Side Buttons (1-dot, 2-dot, purple)
Concentric 2-position Switch
ABC Zone Switch
ViQi Button (3-dot)
Display On/Off/Home Button
6 Programmable Buttons Under Display

DIMENSIONS

Radio with Standard Battery, no Antenna

Height: 5.4 in (136 mm)
Width: 2.4 in (60 mm)
Depth: 1.7 in (44 mm)
Weight: 17.4 oz (493 g)

Footnotes

¹ Optional Feature

² Hardware-ready

³ Included with use of OTAR combined with RadioCentral
Feature list subject to change without notice



PERFORMANCE

TRANSMITTER

	Note	700 MHz	800 MHz
Frequency Range / Bandsplits	-	762-776, 792-806 MHz	806-825, 851-870 MHz
Channel Spacing	-	12.5 / 20 / 25 kHz	12.5 / 20 / 25 kHz
Maximum Frequency Separation	-	Full Bandsplit	Full Bandsplit
Rated RF Output Power (Adjustable)	1	1-2.5 W	1-3 W
Frequency Stability (-30 °C to +60 °C; +25 °C Ref.)	1	±1.0 ppm	±1.0 ppm
Modulation Limiting (12.5 / 20 / 25 kHz Channel)	1	±2.5 / ±4 / ±5 kHz	±2.5 / ±4 / ±5 kHz
Emissions (Conducted and Radiated)	1	-75 dBc	-75 dBc
Audio Response	1	+1, -3 dB	+1, -3 dB
FM Hum and Noise (12.5 / 25 kHz Channel)	-	-47 / -52 dB	-47 / -52 dB
Audio Distortion (12.5 / 25 kHz Channel)	1	1.00%	1.00%

RECEIVER

	Note	700 MHz	800 MHz
Frequency Range / Bandsplits	-	762-776, 799-806 MHz	851-870 MHz
Channel Spacing	-	12.5 / 20 / 25 kHz	12.5 / 20 / 25 kHz
Maximum Frequency Separation	-	Full Bandsplit	Full Bandsplit
Frequency Stability (-30 °C to +60 °C; +25 °C Ref.)	1	1 W / 3 W	1 W / 3 W
Analog Sensitivity (12 dB SINAD)	2	0.25 µV	0.25 µV
Digital Sensitivity (1% BER)	3	0.375 µV	0.375 µV
Digital Sensitivity (5% BER)	3	0.24 µV	0.24 µV
Selectivity (12.5 / 25 kHz Channel)	1	-61.3 / -75.2 dB	-61.3 / -75.2 dB
Intermodulation Rejection	-	80/78 dB	80 dB
Spurious Rejection	-	76.6 dB	76.6 dB
FM Hum and Noise (12.5 / 25 kHz Channel)	-	-47 / -53 dB	-47 / -53 dB
Audio Distortion	-	1.00%	1.00%

IMPRES™ 2 BATTERIES

	Footnote	Part No	Capacity	Availability
Standard	-	PMNN4816	3200mAh	Included
HAZLOC	4	PMNN4818	3650mAh	Optional
High Capacity	-	PMNN4817	4400mAh	Optional

ENCRYPTION

Supported Encryption Algorithms	ADP, AES-256, DES, DES-XL, DES-OFB, DVP-XL, Localized Algorithm
Encryption Algorithm Capacity	8
Encryption Keys per Radio	1024 Keys, Programmable for 64 Common Key References (CKR) , upgradable to 128 CKRs, or 16 Physical Identifiers (PID)
Encryption Keying	Local Key Loader and Over-the-Air Rekeying (OTAR)
Synchronization	XL - Counter Addressing OFB - Output Feedback
Vector Generator	NIST-Approved Random Number Generator
Encryption Type	Digital and SecureNet, TLS1.2, SRTP
Key Storage	Tamper-protected Volatile or Non-volatile Memory
Key Erasure	Keyboard Command and Tamper Detection
Standards	FIPS 140-3 Level 1 and Level 3, FIPS 197
Device Certificates	x.509v3 ECC-P384, x.509v3 RSA-2048
Cipher Suites FIPS 140-2 Level 1	ECDHE_ECDSA_WITH_AES256_GCM_SHA384 TLS_ECDHE_RSA_WITH_AES_256_GCM_SHA384 TLS_ECDHE_RSA_WITH_AES_256_CBC_SHA TLS_RSA_WITH_AES_256_GCM_SHA384 SRTP_AEAD_AES_256_GCM1

LOCATION TRACKING

	Footnote	
Constellations	-	GPS, GLONASS and Galileo
Tracking Sensitivity	-	-159 dBm
Accuracy	5	<5m (95%)
Cold Start	5	<60 Seconds (95%)
Hot Start	5	<5 Seconds (95%)
Mode	-	Autonomous (Assisted Only)

WIRELESS

LTE	Footnote	
Bands Supported	-	2, 4, 12, 13, 14
Bands (Hardware Ready)	-	17
Device Category	-	4
Certifications	6	FirstNet®, Verizon®, Bell Mobility
WiFi		
Standards Supported	-	802.11a/ b/g/n/ac
Frequency Range	-	2400-2472, 5180-5825 MHz
Security	-	Supports WPA-2, WPA, WEP
Capacity	-	Up to 20 SSIDs
Bluetooth		
Version	-	5.0
Frequency Range	-	2402 - 2480 MHz
Security	-	128-bit AES-CCM Encryption

AUDIO

	Standard	Upgrade
Audio Output Power at Rated	1 W	3 W
Audio Output Power at Max	3 W	5 W
Audio Response (EIA)	+1, -3 dB	+1, -3 dB
Speech Loudness at 12 in (300 mm)	102 phon	105 Phon
Audio Features	Adaptive Dual-sided Operation Adaptive Equalization Adaptive Gain Control IMPRES Audio	Adaptive Noise Suppression Intensity Adaptive Windporting Noise Sensing Volume Control Receiving Volume Leveling

ENVIRONMENTAL AND REGULATORY

MIL-STD 810

MIL-STD 810C			MIL-STD 810D		MIL-STD 810E		MIL-STD 810F		MIL-STD 810G/H	
	Method	Proc./Cat.	Method	Proc./Cat.	Method	Proc./Cat.	Method	Proc./Cat.	Method	Proc./Cat.
Low Pressure	500.1	I	500.2	II	500.3	II	500.4	II	500.5	II
High Temperature	501.1	I, II	501.2	I/A1, II/A1	501.3	I/A1, II/A1	501.4	I/Hot, II/Hot	501.5	I/A1, II/A1
Low Temperature	502.1	I	502.2	I/C3, II/C1	502.3	I/C3, II/C1	502.4	I/C3, II/C1	502.5	I/C3, II/C1
Temperature Shock	503.1	I	503.2	I/A1, C3	503.3	I/A1, C3	503.4	I	503.5	I/C
Solar Radiation	505.1	II	505.2	I	505.3	I	505.4	I	505.5	I/A1
Rain	506.1	I, II	506.2	I, II	506.3	I, II	506.4	I, III	506.5	I, III
Humidity	507.1	II	507.2	II	507.3	II	507.4	1 Proc	507.5	II/Aggravated
Salt Fog	509.1	I	509.2	I	509.3	I	509.4	1 Proc	509.5	1 Proc
Blowing Dust	510.1	I	510.2	I	510.3	I	510.4	I	510.5	I
Blowing Sand	1 Proc	1 Proc	510.2	II	510.3	II	510.4	II	510.5	II
Submersion	512.1	I	512.2	I	512.3	I	512.4	I	512.5	I
Vibration	514.2	VIII/F, Curve-W	514.3	I/10, II/3	514.4	I/10, II/3	514.5	I/24	514.6	I/24
Shock	516.2	I, III, V	516.3	I, V, VI	516.4	I, V, VI	516.5	I, V, VI	516.6	I, V, VI
Shock (Drop)	516.2	II	516.3	IV	516.4	IV	516.5	IV	516.6	IV

ENVIRONMENTAL

Footnote		
Operating Temperature	7	-30 to +60 °C (-22 to +140 °F)
Storage Temperature	7	-40 to +85 °C (-40 to +185 °F)
Humidity	-	Per MIL-STD 810
ESD	-	IEC 801 - 2 kV
Dust Resistance	-	IP6X
Water Resistance (Submersion)	-	IPX8 (2 meters, 4 hours) MIL-STD Delta-T, 512.X Procedure 1

REGULATORY

FCC ID	AZ489FT7147
IC ID	109U-89FT7147
LMR	8K10F1D, 8K10F1E, 8K10F1W, 11K0F3E, 16K0F3E, 20K0F1E
Bluetooth	1M18G1D, 1M1F1D, 2M1F1D
WiFi	12M9G1D, 16M7D1D, 17M9D1D, 36M2D1D, 17M5D1D, 18M4D1D, 36M8D1D, 76M1D1D
LTE	Band 2 (1850.7 - 1910 MHz), Modulation: *G7D, *D7W Band 4 (1710.7 - 1755 MHz), Modulation: *G7D, *D7W Band 12 (699.7 - 716 MHz), Modulation: *G7D, *D7W Band 13: (777-787 MHz), Modulation *G7D, D7W Band 14 (788 - 798 MHz), Modulation: *G7D, *D7W
Single-band Model Number	H35UCT9PW8AN

1. Measured in the analog mode per TIA / EIA 603 under nominal conditions. Selectivity reflects newer 2-tone test method as defined in revision D TIA603-D issued in 2010

2. Measured conductively in analog mode per TIA / EIA 603 under nominal conditions.

3. Measured conductively in digital mode per TIA / EIA IS 102.CAAA under nominal conditions.

4. Listed by UL to the standards ANSI/TIA 4950-A and CAN/CSA C22.2 NO. 157-92 Classification Rating: Class I, Division 1, Groups C, D; Class II, Division 1, Group E, F, G; Class III, Hazardous (Classified) Locations. ANSI/ISA 12.12.01-2015 and CAN/CSA C22.2 No. 213-15; Class I, Division 2, Groups A, B, C, D; T3C

5. Measured conductively with >6 satellites visible at a nominal -130 dBm signal strength. Specs provided are 95th percentile values.

6. SIM cards for the listed carriers can be pre-installed at Motorola Solutions factory or supplied by the end user via Bring Your Own SIM (BYOS) for certified carriers.

7. LMR only. Front display, LTE, Wi-Fi, Bluetooth and GPS not available when radio internal temperature is below -20 °C (-4 °F). Batteries should be charged at 0 to +45 °C (+32 to +113 °F) and stored at +20 to +25 °C (+68 to +77 °F) . Reference motorolasolutions.com/batterycare

All specifications are subject to change without notice.



For more information on APX N70, please visit: motorolasolutions.com/APXN70



Motorola Solutions, Inc. 500 West Monroe Street, Chicago, IL 60661 U.S.A. 800-367-2346 motorolasolutions.com

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13891 Jetport Loop Road, 9
Fort Myers, FL 33913
Office: (863) 381-2211
Fax: (239) 236-0344

Town of Fort Myers Beach - Public Works

Qty.	Model	Description	Unit Price	Extended Price
<u>APX N70</u>				
10	H35UCT9PW8AN BD00001AA	APX N70 7/800 MODEL 4.5 PORTABLE CORE BUNDLE SMARTZONE P25 DIGITAL TRUNKING TDMA OPERATION AES & ADP ENCRYPTION WIFI CAPABILITY WIFI OUT OF THE BOX PROVISIONING ENHANCED DATA MULTICAST VOTING SCAN ViQi VOICE CONTROL SUBMERSIBLE DELTA-T	\$6,640.20	\$66,402.00
	BD00037AA	AUDIO BUNDLE ADAPTIVE NOISE SUPPRESSION ADAPTIVE SPEAKER VOLUME EXTREME 1-SIDED NOISE REDUCTION		
	QA09030AA	MOTOROLA HOSTED RADIO CENTRAL W/ CPS		
	QA09017AA	ADD: LTE WITH ACTIVE SERVICE AT&T US FIRST YEAR OF APPLICATION SERVICES		
	H638EB	SMART LOCATE MAPPING (YEAR 1 FREE PROMO)		
	SSV01P01685B	CC AWARE STARTER		
	H636AA	APPLICATION BUNDLE (YEAR 1 FREE PROMO)		
	SSV01P01407B	SMART PROGRAMMING		
	SSV01P01406A	SMART CONNECT		
	SSV01P01476A	SMART LOCATE		
	SSV01P01902A	SMART MAPPING		
	LSV01P03092A	DEVICE MANAGED SERVICES OPTIONS RADIO CENTRAL		
	H637AB	RADIO CENTRAL (YEAR 1 FREE PROMO)		
	LSV01S03061A	ESSENTIAL WITH ACCIDENTAL DAMAGE (3 YEARS)		
	LSV01S02014A	DEVICE PROGRAMMING		
		ONE-TIME APX N70 CODEPLUG CREATION	\$620.00	\$620.00
		ONE-TIME APX N70 INITIAL DEPLOYMENT	\$5,000.00	\$5,000.00
<u>APX N70 Accessories</u>				
1	PMPN4591A	CHGR DESKTOP MULTI UNIT IMPRES 2 6 DISPLAYS	\$1,313.48	\$1,313.48
10	PMPN4604A	N70 SINGLE UNIT DESKTOP CHARGER	\$151.21	\$1,512.10
5	PMNN4816A	N70 3200 MAH SPARE BATTERY	\$164.62	\$823.10

TOWN OF FORT MYERS BEACH - PUBLIC WORKS TOTAL	\$75,670.68
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13891 Jetport Loop Road, 9
Fort Myers, FL 33913
Office: (863) 381-2211
Fax: (239) 236-0344

SERVICE SUBSCRIPTIONS AFTER YEAR 1

Budgetary Yearly Subscription Costs

Device Managed Services - Years 1-3 already includes the 3 Years Essential Services w/ Accidental Damage with the radio purchase.
Years 4-7 includes DMS Essential Services with Accidental Damage

Radio Central - Cloud-based device management db - Years 1-3 already included with the radio purchase. Years 4-7 includes Radio Central.

Application Service Subscriptions - Year 1 already includes (4) Applications (promo) with the radio purchase - SmartConnect, SmartProgramming, SmartMapping and SmartLocate.
Years 2 - 7 includes a bundle of (4) applications.

Quantity (10) - APX N70	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
DMS Essential w/ Accidental Damage (mandatory)	\$ -	\$ -	\$ -	\$1,329.60	\$1,329.60	\$1,329.60	\$1,329.60
Radio Central (mandatory)	\$ -	\$ -	\$ -	\$320.40	\$320.40	\$320.40	\$320.40
Bundle (4) Application Services	\$ -	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00
CommandCentral AWARE Patrol Starter with APX NEXT Device Location	\$ -	\$3,400	\$3,400	\$3,400	\$3,400	\$3,400	\$3,400
Subscription Total	\$ -	\$6,400.00	\$6,400.00	\$8,050.00	\$8,050.00	\$8,050.00	\$8,050.00

NOTE: Projection based on current prices of outyears.



**Alternate Contract Source (ACS)
No. 43190000-22-NASPO-ACS**

**For
Public Safety Communications Products, Services, and Solutions**

This Alternate Contract Source No. 43190000-22-NASPO-ACS, Public Safety Communications Products, Services, and Solutions (Contract), is between the Department of Management Services (Department), an agency of the State of Florida (State), located at 4050 Esplanade Way, Tallahassee, FL 32399 and Motorola Solutions, Inc. (Contractor), located at 500 W Monroe Street Suite 4400, Chicago, IL 6661-3781 collectively referred to herein as the "Parties."

WHEREAS, the Department is authorized by section 287.042(16), Florida Statutes:

To evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services, and, if it is determined by the Secretary of Management Services in writing to be cost-effective and the best value to the state, to enter into a written agreement authorizing an agency to make purchases under such contract.

WHEREAS, the State of Washington, competitively procured public safety communication products, services, and solutions and executed Master Agreement 00318, (Master Agreement), with the Contractor;

WHEREAS, the Secretary of Management Services has evaluated the Master Agreement and determined that use of the Master Agreement is cost-effective and the best value to the state.

NOW THEREFORE, in consideration of the mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Term and Effective Date.

The Master Agreement became effective January 1, 2022, and its term currently ends on December 31, 2026. The Master Agreement has two years of renewals available. The Contract will become effective on the date signed by all Parties. The Contract will expire on December 31, 2026, unless terminated earlier or renewed in accordance with Exhibit A or Exhibit B, Special Contract Conditions, as applicable.

2. Order of Precedence.

This Contract document and the attached exhibits constitute the Contract and the entire understanding of the Parties. Exhibits A, B, C, and this Contract document constitute the Participating Addendum to the Master Agreement and modify or supplement the terms and conditions of the Master Agreement. All exhibits listed below are incorporated by reference

**Alternate Contract Source (ACS)
No. 43190000-22-NASPO-ACS
For
Public Safety Communications Products, Services, and Solutions**

into, and form part of, this Contract. In the event of a conflict, the following order of precedence shall apply:

- a) This Contract document
- b) Exhibit A: Additional Special Contract Conditions
- c) Exhibit B: Special Contract Conditions
- d) Exhibit C: Price Sheet
- e) Exhibit D: Master Agreement (including any amendments made prior to the effective date of this Contract and any subsequent amendments added to this Contract in accordance with the Modifications Section listed below)

Where the laws and regulations of a state other than the State of Florida are cited or referenced in the Master Agreement, such citation or reference shall be replaced by the comparable Florida law or regulation. The lack of a comparable Florida law does not limit the effectiveness of any provision in the Master Agreement except to the extent the provision conflicts with this Contract.

3. Purchases off this Contract.

Upon execution of this Contract, agencies, as defined in section 287.012, Florida Statutes, may purchase products and services under this Contract. Any entity making a purchase off of this Contract acknowledges and agrees to be bound by the terms and conditions of this Contract. The Contractor shall adhere to the terms included in any contract or purchase orders issued pursuant to this Contract.

4. Primary Contacts.

Department's Contract Manager:

Christopher McMullen
Division of State Purchasing
Florida Department of Management Services
4050 Esplanade Way, Suite 360
Tallahassee, Florida 32399-0950
Telephone: (850) 922-9867
Email: christopher.mcmullen@dms.fl.gov

Contractor's Contract Manager:

Andrew Chyterbok
Motorola Solutions, Inc.
500 W Monroe Street
Suite 4400
Chicago, IL 6661-3781
Tel: (360) 409-3223
andrew.chyterbok@motorolasolutions.com

Alternate Contract Source (ACS)
No. 43190000-22-NASPO-ACS
For
Public Safety Communications Products, Services, and Solutions

5. Modifications.

Any amendments to this Contract must be in writing and signed by the Parties. If amendments are made to the Master Agreement after the effective date of this Contract, the Contractor shall: 1) notify the Department of such amendments; and 2) provided the Department is amenable to incorporating the amendments into this Contract, enter into a written amendment with the Department reflecting the addition of such amendments to this Contract.

IN WITNESS THEREOF, the Parties hereto have caused this Contract to be executed by their duly authorized undersigned officials.

MOTOROLA SOLUTIONS, INC.

DocuSigned by:



Name: Danny Sanchez

Title: Territory Vice President

2/28/2022 | 5:03 PM EST

Date:

DEPARTMENT OF MANAGEMENT SERVICES



J. Todd Inman, Secretary

3/8/2022

Date:

1. **Requested Motion:**

Meeting Date: November 6, 2023

Authorize Temporary LeeTran Parking on property located at 2545 Estero Blvd for up to six months.

Why the action is necessary:

The previous LeeTran storage areas are no longer available. The proposed property will allow LeeTran to store the trams overnight in a secure location and provide their services to the public.

LDC Sec. 34-1352.(e), areas used for the commercial storage of motor vehicles, trailers, recreational vehicles, and construction equipment which is not being displayed for sale or rent shall be enclosed, unless storage, open is permitted through the approval of a suitable planned development zoning district.

What the action accomplishes:

Approval will allow LeeTran to keep their trams overnight on the property located at 2545 Estero Blvd.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

5. **Background:**

Due to TPI (Margaritaville) completing construction, the area used by LeeTran for storing the trams overnight has to be relocated. An agreement between LeeTran and the FMB Fire Control District was executed in 2021 to temporarily install a fence around the FMB fire district property located at 2545 Estero Blvd (Topps) and store the trams on the property from 11/01/2023 to 5/1/2024, 24 hrs a day.

LeeTran is anticipating resuming this tram service for residents and visitors of Fort Myers Beach, and is requesting the use of the front of the property to store the trams as done in the past.

Attachments:

1. LeeTran FMB Temporary Use Agreement (2)

Financial Impact:

None

6. **Alternative Action**

Deny the request.

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Public Works Director
Steve Poposki, Town Engineer
Gretchen R.H. Vose, Town Attorney

Created/Initiated - 10/26/2023
Approved - 10/26/2023
Approved - 10/26/2023

Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Approved - 10/26/2023
Final Approval - 10/26/2023



TEMPORARY USE APPLICATION

Property Address: 2545 & 2555 Estero Blvd Fort Myers Beach, FL 33931
Property Owner's Name: Fort Myers Beach Fire Control Strap Number: 19-46-24-W3-00458.000 & 0010
Applicant: Lee County BoCC/LeeTran Contact Person: Dawn Huff
Phone Number: 239-533-0233 Email: dhuff3@leegov.com
Description of Temporary Use (please be specific): LeeTran tram vehicle parking/storage area

Date(s) Requested: 11/1/2023 thru 5/1/2024 Hours 24 hours to 24 hours
Number of Tents: N/A Sq. Ft. Per Tent: N/A Tent Side Walls: Yes ☐ No ☐
Temporary Lighting: Yes ☐ No ☐ Temporary Electric: Yes ☐ No ☐ Amps

ADDITIONAL INFORMATION / SUBMITTAL REQUIREMENTS

- A. Application fee per fee schedule.
- B. Notarized letter from property owner giving permission for use of property (not required for construction Office/Shed).
- C. Two site plans indicating available parking, loading space, existing structures and location of equipment, restroom facilities, etc.
- D. Evidence that adequate sanitary facilities meeting the requirements of Lee County Health Department are provided (Port-o-let contract or letter from neighboring business stating that restroom facilities are for their use and that hours of operation are compatible).
- E. Evidence that sounds emanating from the temporary use shall not adversely affect any surrounding property, per Noise Control Ordinance No. 15-01.
- F. Evidence of public liability insurance and property damage insurance.
- G. Where applicable, evidence that the applicant for a proposed use has complied with Town ordinances pertaining to Special Events LDC Section 22, Ordinance No.12-04.
- H. Evidence that the appropriate law enforcement and fire agencies that will be coordinating traffic control or emergency services have been advised of the plans for the temporary use and are satisfied with all aspects under their jurisdiction.
- I. If tent is 2,500 sq. ft. and over, plans will need to be reviewed by Plan Review (\$50 review fee).
- J. Two copies of the flame retardant certificates are required for each tent (if applicable).
- K. Temporary use applications for events between May 1st and October 31st will need to be reviewed by Environmental Sciences for compliance with LDC Section 14-11. (\$25 review fee).
- L. Temporary electric and lighting requires separate electrical trade permit application and inspection. (\$104 fee)

The undersigned applicant agrees to comply with the Town of Fort Myers Beach Land Development Code and any other applicable codes and certifies that to the best of his/her knowledge, the information submitted for the temporary permit is true and correct.

Signature (owner/authorized agent) _____

Typed or printed name Dominic Gemelli, LeeTran Director

Date 9/3/23

AFFIDAVIT FOR OVER THE COUNTER TENT PERMITS

I hereby affirm that the following criteria will be met for the tents to be erected at:

N/A

(Address)

For _____ for the purpose of _____
(Business Name) (Event)

- Tent is under 2,500 square feet and does not have side walls
- Tents will not be used for a place of assembly (more than fifty people), kitchen or mess hall
- Tents will not block any driveway, fire hydrant or fire access to any building
- Tents will be at least twelve feet from all property lines and have an unobstructed passage-way or fire road not less than twelve feet wide and free from guy ropes or other obstructions on all sides of tent
- "NO SMOKING" signs will be placed approximately every twenty feet around perimeter of tent
- One classification type 2A fire extinguisher will be provided in every tent having a floor area of more than five hundred square feet but less than one thousand square feet, and also one in each auxiliary tent adjacent thereto. Two classification type 2A fire extinguishers will be provided for each tent from 1,000 to 2,500 square feet.
- NOTE: At a minimum, all tents displaying or selling any sparklers shall have at least on 10 LB 4A-60BC Fire Extinguisher per NFPA-a Chapter 16.
- Tents that will be occupied after sunset will have lights and emergency lighting.
- Flame resistance certificates will be on the job site for inspection.
- All other applicable requirements of N.F.P.A. 102 will be complied with.

I understand that it is the responsibility of the permit holder to call the Inspections Office for inspection request and the Fort Myers Fire Prevention Department to receive final fire inspection prior to using the tent.

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

Signature (owner/authorized agent) _____

Typed or printed name _____ Date _____

BUILDING AND FIRE MARSHALL CODES FOR TEMPORARY PERMIT

Permit Required

No person may erect, operate, or maintain a tent or air supported structure covering an area in excess of one hundred twenty (120) square feet without a permit. Tents used exclusively for camping are exempt from the above requirement.

Place of Assemblage

A place of assemblage includes any circus, carnival, tent show, theater, skating rink, dance hall or other place of assemblage in or under which persons may gather for any purpose.

Location of Tents and Air Supported Structures

1. A tent or air supported structure must be located from any property line or permanent structure so as to be readily accessible by fire equipment.
2. Tents or air supported structures having an area of fifteen thousand (15,000) sq. ft. or more must be located not less than fifty (50) feet from any other tent or structure as measured from the side wall of the tent unless joined together by a corridor.
3. Tents and air supported structures may be joined together by means of corridors, but such corridors must be open to the sky. On each side of such corridor and approximately opposite each other, there must be provided openings not less than twelve (12) feet in width. These openings must be equipped with sliding curtains.
4. An unobstructed passageway or fire road not less than twelve (12) feet in width and free from guy ropes or other obstructions must be maintained on all sides of all tents or air supported structures unless otherwise approved by the fire authority having jurisdiction.

Structural Stability

Tents or air supported structures and their appurtenances must be adequately roped, braced and anchored to withstand the elements of weather against collapsing.

Flame-Retardant Treatment

The side wall, drops and top of all tents and air supported structures and all decorations must be of flame-retardant material or must be made fire retardant.

An affidavit or affirmation must be retained on the premises at which the tent or air supported structure is located, attesting to the following information relative to the flame retardant treatment of the fabrics:

1. Date the fabric was last treated with flame-retardant solution.
2. Trade name or kind of chemical used in treatment.
3. The name or person or firm treating the material.
4. The name and address of the owners of the tent.

Fire-Safety Standards

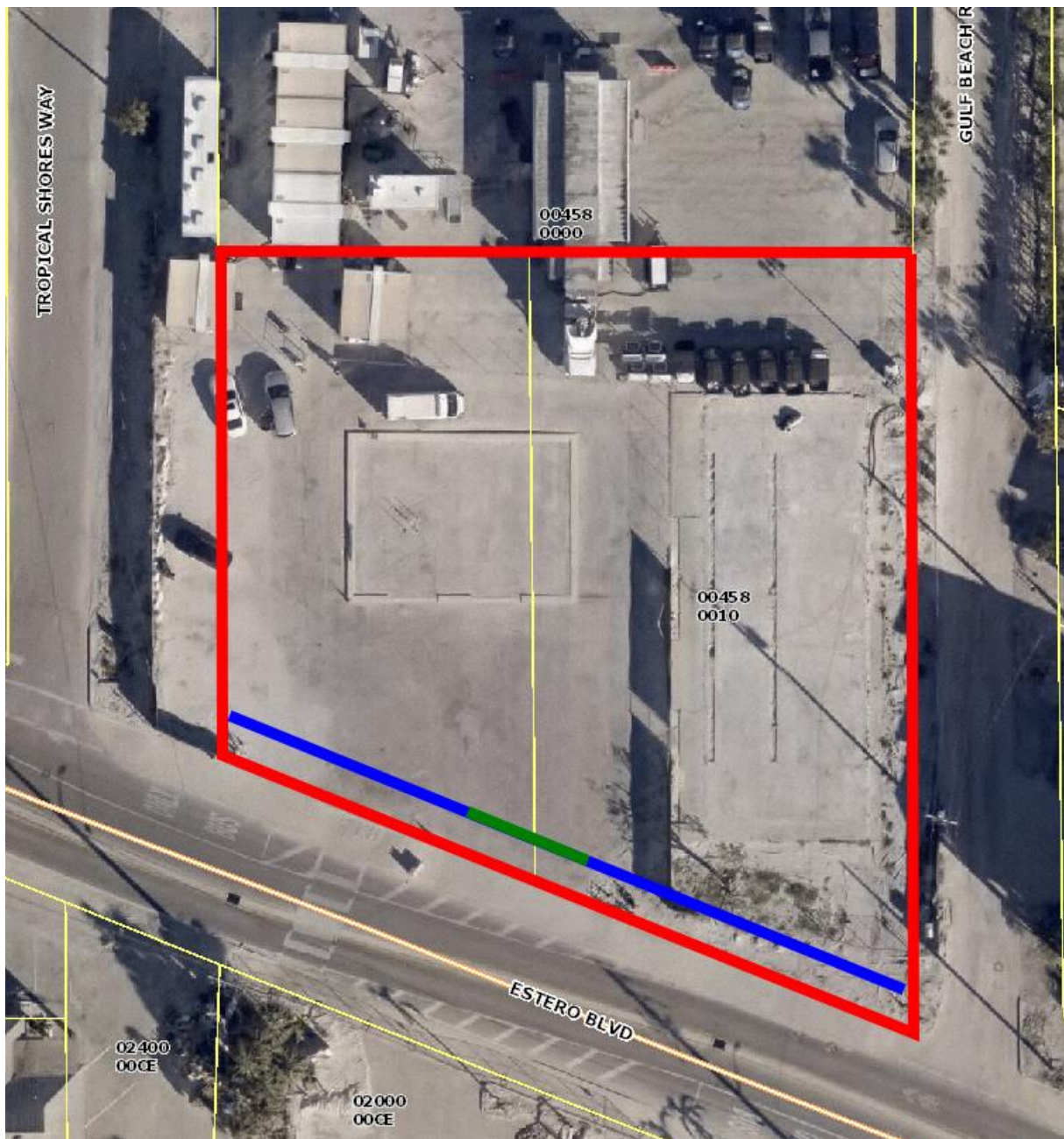
1. Smoking must not be permitted in any tent or air supported structure. Approved "NO SMOKING" signs must be conspicuously posted.
2. No fireworks, open flame or other device emitting flame or fire may be used in or immediately adjacent to any tent or air supported structure while open to the public.

Fire Extinguishers and Other Fire Protection Equipment

Fire extinguishers and other fire protection equipment must be provided in every tent or air supported structure as follows:

1. One 2-A type extinguisher must be provided in every tent or air supported structure having a floor area of more than five hundred (500) square feet but less than one thousand (1000) square feet and also one in each auxiliary tent or air supported structure adjacent thereto.
2. One additional 2-A type extinguisher must be provided for each additional two thousand (2000) square feet or fraction thereof.

LeeTran Tram Parking - Fort Myers Beach Property Fence and Gate Area



-  Fire Department Property Line – Existing Fence on North, East & West Side
-  Proposed Additional Temporary Fence
-  Proposed 2 – 10' Wide Double Role Gates

1. **Requested Motion:**

Meeting Date: November 6, 2023

Approve the request for the Bayside Concert Series on Sundays from 4-7pm in Bayside Park with the approval of waiver for open container for the permit.

Why the action is necessary:

To allow our Bayside Park to be utilized and make it a gathering place and entertainment for the residents and guests.

What the action accomplishes:

It is the Park and Recreation Departments goal to provide community events for the Town. This will also a great partnership with the local Chamber and businesses.

2.
Agenda:

3. **Requireme**

CONSENT
AGENDA

Sec. 22-7. - General criteria and limitations.

The following general criteria and limitations apply to special event permits:

The following types of special events must be approved by the town council:

Recurring special events (see [section 22-6](#));

Any special event that includes a waiver of the town's open container regulations (see Code [chap](#)

Sec. 22-8. - Recurring special events.

To qualify as a recurring event, the event must be the same type of event and must be held in the same location, "celebrations," and music or art themed events. Recurring special events are subject to the following requirements:

Each event must be held at the same location at the same time of day.

All dates for the recurring event must be listed on the original application.

Each individual event must be of the same genre with similar anticipated attendance.

A recurring special event may not occur more often than weekly over a period of one year based upon a

Sec. 4-67. - Exemptions.

This article shall not apply to:

Any person, while in a designated area, attending a town-sponsored or town-permitted event.

5. Background:

Bayside Park has hosted concerts recently, with much success. We are partnering with the Chamber, Snug Harbor and Wahoo Willies to put on The Bayside Concert Series. The waiver of the open container portion would only pertain to the boundaries of Bayside Park. We are requesting that coolers not be allowed during the concert. The Town is looking forward to more activity and concerts for the residents and guests of Fort Myers Beach.

Attachments:

1. Bayside Park COncert Series - Reoccurring 1

Financial Impact:

6. Alternative Action

7. Management Recommendations:

Approve the Request for Concert Series with the waiver of open container

8. Recommended Approval:

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

Created/Initiated - 10/31/2023
Approved - 10/31/2023
Approved - 10/31/2023
Approved - 10/31/2023
Final Approval - 10/31/2023



Town of Fort Myers Beach

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

Name of event Bayside Concert Series

Attach separate sheet of paper with detailed description of event

Date(s) and times of event: Sunday, November 12, 19, 26, 2023 December 3, 10, 17 2023

Address of event Corner of Old St Carlos and 1st Street, Fort Myers Beach, FL 33931

Expected # of participants/attendees 100

Sponsoring Organization Town of Fort Myers Beach

Organization address 2525 Estero Blvd, Fort Myers Beach, FL 33931

Contact Person/Phone# Jeff Hauge

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

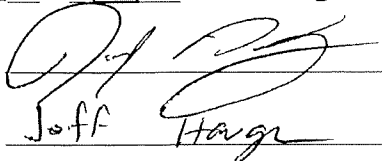
Site Plan attached Insurance (Naming Town of FMB as Certificate Holder)

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 Hauge

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.

1. **Requested Motion:**

Meeting Date: November 6, 2023

First Reading and Public Hearing on Proposed Ordinance 23-16 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR A PORTION OF THE PROPERTY LOCATED AT 21471 WIDGEON TERRACE AND PART OF THE ADJACENT COMMON ELEMENT PROPERTY OF FLAMINGO HARBOR CONDOMINIUM, FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on November 20, 2023 at 9:00 AM

Why the action is necessary:

Two hearings are needed for ordinance approval. The Town Council decides Small Scale Map Amendment requests.

What the action accomplishes:

If approved, the small scale map amendment will allow the applicant to add a pool in the rear yard of the existing single-family residence.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance 23-16

4. **Submitter of Information:**

5. **Background:**

The applicant for 21471 Widgeon Terrace and Flamingo Harbor Condo Association, is requesting a small-scale Future Land Use Map Amendment for a part of the subject property from Wetland to Mixed Residential to allow a new pool for the existing single-family residence.

In 2001, a similar case was approved in the same neighborhood, for the property located at 21491 Widgeon Terrace (Resolution number: 01-06a, ADD2000-00152) where the Applicant was requesting an administrative interpretation to relocate the boundary for Wetland Future Land Use designation to the existing riprap line and designate mixed residential future land use to the remainder of the land.

The Applicant originally applied for an Administrative Interpretation to relocate the wetland line on the subject property. The Applicant did not meet the time requirement to rectify the factual error in the wetland boundary and FLUM amendments cannot be approved administratively. Therefore, the Applicant was required to apply for a small-scale map amendment.

Attachments:

1. Ordinance 23-16, Small Scale Map Amendment
2. Staff Report CPA 20220084- Widgeon terrace
3. Exhibit A - Application package
4. Exhibit B - TC postcard 21471 Widgeon Terr

Financial Impact:

Unknown

6. **Alternative Action**

Schedule a second hearing for approval with conditions/ or denial of small scale map amendment.

7. **Management Recommendations:**

Schedule a second hearing on November 20th, 2023 at 9 AM.

8. **Recommended Approval:**

Sarah Propst, Planning & Zoning
Frankie Kropacek, Operations & Compliance Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director

Created/Initiated - 10/13/2023
Approved - 10/24/2023
Approved - 10/24/2023
Approved - 10/25/2023
Final Approval - 10/26/2023

ORDINANCE 23-16

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR A PORTION OF THE PROPERTY LOCATED AT 21471 WIDGEON TERRACE AND PART OF THE ADJACENT COMMON ELEMENT PROPERTY OF FLAMINGO HARBOR CONDOMINIUM, FORT MYERS BEACH; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, Beverly Grady ("Applicant"), on behalf of owners, John A. Didier and Lisa A. Didier, of the property generally located at 21471 Widgeon Terrace and Flamingo Harbor Condo Association, owners for part of the adjacent common element property of Flamingo Harbor Condominium identified by STRAP number 34-46-24-W1-0220E.0000 ("Property"), filed an application for a small scale future land use map amendment from Wetlands to Mixed Residential future land use to support a new pool for the existing single-family residence; and

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

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on October 10, 2023, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted unanimously to recommend approval to the small scale map amendment request, and

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

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

Applicant, the recommendation of the LPA, the recommendation of staff, including the consideration and findings in the staff report, the documents in the record, and the testimony of all interested persons, as required by Section 34-92 of the LDC and Policy 4-C-10 of the 1999 Comprehensive Plan (1999); and

WHEREAS, the Town Council finds the proposed small-scale map amendment request is **consistent/not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **approve/approve with conditions/deny** the Application.

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

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

Section 2. The Town Council determines the Applicant **did/did not** meet its burden of proof that the requested small scale map amendment request **does/does not** meet the requirements of the Town Comprehensive Plan and LDC and approving the request for a small-scale Future Land Use Map Amendment from Wetland to Mixed Residential to support a new pool for the existing single-family residence **is/is not** in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES/DENIES** the requested small scale future land use map amendment of the Property.

Section 3. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance, or statute, the most restrictive shall apply.

Section 4. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the Town Manager without further process.

Section 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. The proposed action does not result in a more restrictive or burdensome amendment to the Town's Comprehensive Plan or Land Development Code.

Section 7. **Disclaimer:** Issuance of a development permit by the Town does not create any right to obtain a permit from a State or Federal agency and does not create any liability on the part of the Town for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a State or Federal agency or undertakes actions that result in a violation of State or Federal law. **Permit Condition:** All other State or Federal permits must be obtained before commencement of the project.

Section 8. The effective date of this plan amendment shall be the earliest date permitted under Section 163. 3187, Florida Statutes.

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

DULY PASSED AND ADOPTED on this ____ day of November 2023.

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

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Gretchen R. H. Vose., Town Attorney

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

Exhibits

Exhibit A Existing Future Land Use Map

Exhibit B Proposed Future Land Use Map



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Small scale map Amendment

CASE NUMBER: CPA-20220084

CASE NAME: Request for a small scale Future Land Use Map Amendment from Wetland to Mixed Residential for part of the property located at 21471 Widgeon Terrace and a portion of the land between 21471 and the Bay.

LPA

HEARING DATE: October 10, 2023, at 9:00 AM

TOWN COUNCIL

HEARING DATE: November 6, 2023, at 9:00 AM (First Reading)

November 20, 2023, at 9:00 AM (Second Reading)

STAFF

RECOMMENDATION: Approve

**PREPARED/
SUBMITTED BY:** Sakshi/ Jason Green AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: Beverly Grady, Roetzel and Andress LPA/ John A. and Lisa A. Didier

Request: The applicant is requesting a small-scale Future Land Use Map Amendment for a part of the property located at 21471 Widgeon Terrace and a portion of the land between 21471 and the Bay from Wetland to Mixed Residential to support a new pool for the existing single-family residence.

Physical Address: 21471 Widgeon Terrace and a portion of the land between 21471 and the riprap line along the Bay.

STRAP #: 34-46-24-W1-0220E.0000

FLU: MIXED RESIDENTIAL and WETLANDS

Zoning: RC, Residential Conservation

Adjacent zoning and land uses:

North: MIXED RESIDENTIAL
RC, Residential conservation

South: MIXED RESIDENTIAL
RC, Residential conservation

East: WETLANDS
EC, Environmental Conservation

West: WETLANDS
EC, Environmental Conservation

II. BACKGROUND

Beverly Grady, the applicant for 21471 Widgeon Terrace and Flamingo Harbor Condo Association, is requesting a small-scale Future Land Use Map Amendment for a part of the subject property from Wetland to Mixed Residential to support a new pool for the existing single-family residence.

The subject property is Unit E of the Flamingo Harbor subdivision, recorded in Lee County's official Records Book in 1979. The property currently supports a single-family residence built in 1999. In 2001, a similar case was approved in the same neighborhood, for the property located at 21491 Widgeon Terrace (Resolution number: 01-06a, ADD2000-00152) where the Applicant was requesting an administrative interpretation to relocate the boundary for Wetland Future Land Use designation to the existing riprap line and designate mixed residential future land use to the remainder of the land.

The Applicant originally applied for an Administrative Interpretation for relocating of the wetland line on the subject property. As per Policy 6-D-2 of the Town's Comprehensive Plan, If the Future Land Use Map is incorrect due to a clear factual error, an administrative process is contained in Chapter 15 to establish the precise boundary of any wetland. The Applicant did not meet the time requirement to rectify the factual error in wetland boundary and FLUM amendments cannot be approved administratively. Therefore, the Applicant was required to apply for a small-scale map amendment.

III. ANALYSIS

The subject property currently supports a single-family residence situated in Flamingo Harbor Subdivision. It is a 90 feet wide and 100 feet deep, oddly shaped lot with

approximately 81 feet of street frontage and 104 feet wide waterbody frontage, respectively. The Applicant is proposing to change the Future Land Use designation from Wetland to Mixed Residential for a part of the property located at 21471 Widgeon Terrace and a portion of the land between 21471 and the Bay. This request pertains to a specific site to support a new pool with the existing Single-Family residence. The subject property is also not located within an area of critical state concern. As a result, the proposed land use change is consistent with the criteria and process for adoption of small-scale comprehensive plan amendments set forth in F.S. 163.3187.

COMPREHENSIVE PLAN COMPATIBILITY:

The Applicant is proposing a Future Land Use Amendment for part of the subject property from Wetlands to Mixed Residential. Wetland future land use is a conservation district applied to all remaining wetlands at the time of adoption of the Town's Comprehensive Plan. The maximum density of residential development here is 1 dwelling unit per 20 acres. Unlike the Wetlands Future Land Use designation, the Mixed Residential Future Land Use designation permits mixed housing types with low impact uses like offices and motels. The proposed amendment, if approved, will also make the subject property consistent with the underlying Residential Conservation zoning district and allow the Applicant to add a pool in the rear yard of the existing single-family residence. Mixed Residential future land use allows a density of 6 dwelling units per acre.

As per the existing conditions mapped on site through the environmental study, the wetlands are not present or have shifted further towards the Bay. The proposed development of a new pool is an accessory use to the existing single-family residential and will not place any undue burden upon the Town's existing transportation or other services and facilities.

Staff found that the proposed small scale Future Land Use Map Amendment is consistent with the following goal, objective, and policies of the Town's Comprehensive Plan.

FLUE Policy 4-A-5

The town contains many important natural resources despite its urbanized character. Preservation of those resources is of the highest importance and is a frequent theme throughout this plan.

Staff Finding #1: The subject property is not a critical state concern. The Applicant is proposing a small-scale map amendment for that part of the subject property where the wetlands are not present or have relocated further towards the Bay. The property currently supports a single-family residence and this application, if approved, will allow them to add a pool in their rear yard. To ensure preservation of the Wetlands to the East of the property, any proposed development will be required to maintain appropriate buffers from the existing wetlands during the permit process.

FLUE Policy 4-C-10: Map Amendments

The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendment to this plan if such increases are clearly in the public interest,

not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.

CE OBJECTIVE 6-D Wetlands –

Preserve all remaining wetlands; protect them from further degradation; and improve their condition and natural functions.

CE POLICY 6-D-2

The Future Land Use Map provides a close approximation of wetland boundaries. Wetland regulations in this plan and in the land development regulations include all wetlands, even in not specifically shown on the Future Land Use Map, that are identified as wetlands in accordance with F.S. 373.019 (17) through the use of the unified state delineation methodology described in FAC Chapter 62-340, as ratified and amended by F.S. 373 4211. If the Future Land Use Map is incorrect due to a clear factual error, an administrative process is contained in Chapter 15 to establish the precise boundary of any wetland.

Staff CE Finding #2: The conditions on the subject property have changed since the adoption of the Town's Comprehensive Plan. The original intent of Wetland future land use designation was to conserve existing wetlands in the Town and since the wetlands are not present or have shifted further towards the Bay, it is in public interest to eliminate factual error and amend the Future Land Use to depict more current circumstances.

The Applicant did not meet the time frame set forth in Chapter 15 to rectify the factual erroring wetland boundary and FLUM amendments cannot be approved administratively. As a result, the Applicant has applied for this small-scale Future Land Use map amendment.

IV. RECOMMENDATION

Staff finds that the request does meet the required findings and conclusions for the approval of a small-scale Amendment by Town and State regulations. In addition, the subject parcel is compatible with adjacent future land uses and meets all applicable policies of the Comprehensive Plan. Therefore, staff recommends **APPROVAL** of CPA20220084 to allow a small-scale Future Land Use Amendment for the property located at 21471 Widgeon Terrace from Wetlands to Mixed Residential to support a new pool for the existing single-family residence.

At the October 10, 2023, LPA Hearing, the LPA unanimously recommended approval for the small-scale Future Land Use Map Amendment request.

Staff Report Exhibits:

A – Complete Application

B – Letter to Adjacent Property Owners



March 17, 2021

Ms. Amy Baker, Town Clerk
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL 33931

VIA E-MAIL ONLY (Amy@fmbgov.com) and
FEDERAL EXPRESS

RE: Relocation of Future Land Use Map Wetland Line to correct error

Dear Ms. Baker:

This is an administrative application for approval of Administrative Interpretation for relocation of the Wetland Line as depicted on the Future Land Use Map of the Town of Fort Myers Beach and to replace that designation with Mixed Residential. The Application is to be filed with the Town Clerk pursuant to the Comprehensive Plan. The Comprehensive Plan Chapter 15, Administrative Interpretation, A. 1. and 2. authorizes the Town Attorney to approve a revision in the Wetland Line on the Future Land Use Map.

Enclosed is our application supporting that change in designation to Mixed Residential.

In addition, we have cited a prior case where the Town concurred and approved a parcel two (2) lots from this Subject Property had the Wetland Line demarcation in error and redesignated as Mixed Residential. Flamingo Harbour which is located along Widgeon Terrace is a man-made peninsula and therefore the land requested for redesignation is not and never has been wetlands.

We look forward to hearing from you with regard to this process and relocation of the Wetland Line due to a clear factual error.

Very truly yours,

ROETZEL & ANDRESS, LPA


Beverly Grady

BG/ro

Enclosure:

-Application for Administrative Action (original and 2 copies)

cc: Jason Green (via e-mail only w/enc.)
John R. Herin, Jr., Esquire (via e-mail only w/enc.)



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for ADMINISTRATIVE ACTION

This is 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 *two paper copies* and *one digital/electronic copy* of all required applications, supplemental information, exhibits and documents.

PROJECT NUMBER: _____ DATE: _____

Site Address: 21471 WIDGEON TERRACE, FORT MYERS BEACH, FL

STRAP Number: 34-46-24-W1-0220E.0000

Applicant: ROETZEL & ANDRESS Phone: (239) 338-4207

Contact Name: BEVERLY GRADY Phone: _____

Email: bgrady@ralaw.com Fax: (239) 337-0970

Current Zoning District: RC

Future Land Use Map (FLUM) Category: Wetlands and Mixed Residential

FLUM Density Range: 6 dupa Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- | | |
|---|--------------------------|
| ☐ Amendment to Planned Development | AA-A |
| ☐ Commercial Antenna | AA-B |
| ☐ Consumption on Premises (COP) | AA-C |
| ☐ Forced Relocation of Business | AA-D |
| ☐ Interpretation of Land Development Code | AA-E |
| ☐ Minimum Use Determination | AA-F |
| ☐ Setback Variance | AA-G |
| ☐ Accessory Apartment Determination | AA-H |
| ☒ Other – cite LDC Section: <u>see attached Exhibit 1</u> | attach on separate sheet |

PART I – General Information

A. Applicant*: ROETZEL & ANDRESS (Contact: Beverly Grady) Phone: (239) 338-4207

**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: 2320 FIRST ST, FORT MYERS, FL 33901

Email: bgrady@ralaw.com

Fax: (239) 337-0970

Contact Name: BEVERLY GRADY

Phone: (239) 338-4207

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 names of all Authorized Agents (attach extra sheets if necessary)

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

D. Nature of Request: Request to revise location of wetland line on Unit E and limited common element to

Mixed Residential for land landward of riprap line. Exhibit D depicts location of existing
wetland line. Exhibit E depicts location of riprap. Request designation of all land landward
of riprap to be designated Mixed Residential.

E. Is this request specific to a particular tract of land?

☒ YES*

☐ NO

**If yes, complete PART II of this form*

PART II – Property Information

A. Is the action requested a result of a Code Violation or Notice of Violation?

☐ YES ☒ NO If yes, please provide the date of notice: _____

Specific nature of the Violation: _____

B. Property Owner(s): John A. and Lisa A. Didier Phone: (260) 438-2806 cell

Property Owner Mailing Address: 2010 Timberale Court, Fort Wayne, IN 46845

Email: john.a.didier@gmail.com Fax: n/a

C. Legal Description:

STRAP: 34-46-24-W1-0220E.0000

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.

☒ Yes. Property identified in subdivision: Unit E, Flamingo Harbour Condominium

Book: 7 (condo) Page: 104 Unit: _____ Block: _____ Lot(s): _____

D. Subject Property Dimensions:

Width (please provide an average width if irregular in shape) 90 _____ feet

Depth (please provide an average width if irregular in shape) 100 _____ feet

Frontage on street: 80.65 _____ feet. Frontage on waterbody: over 104 _____ feet

Total land area: appx. 8500 SF plus LCE _____ ☐ acres ☒ square feet
assigned to Unit E

E. 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.

F. Property Restrictions (check applicable):

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

☒ There are deed restrictions and/or covenants on the subject property. Please attach a separate document listing the restrictions and/or covenants and including a narrative statement detailing how the restrictions/covenants may affect the request.

PART III
AFFIDAVIT
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, BEVERLY GRADY, ROETZEL & ANDRESS LPA 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;

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

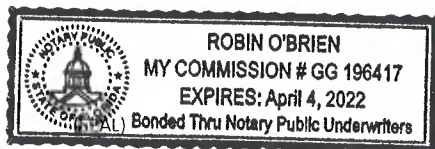
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Signature of owner or authorized agent

BEVERLY GRADY, ROETZEL & ANDRESS LPA
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 17 day of MARCH,
20 21, by BEVERLY GRADY.



Notary Public Signature

ROBIN O'BRIEN
Notary Printed Name

Personally Known X or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

EXPLANATORY NOTES

General – Page One

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.

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.

Any oversized site plans, drawings, pictures, and similar materials (larger than 11 x 17) should be submitted in both paper and electronic format.

Place a check mark next to the type of action being requested.

1. Applications for an administrative amendment to a Commercial Planned Development (CPD) or Residential Planned Development (RPD) must include this form and Supplemental form AA-A.
2. Applications for administrative approval of Commercial Antenna placement must include this form and Supplemental form AA-B.
3. Applications for administrative approval of alcoholic beverage Consumption on Premises (COP) must include this form and Supplemental form AA-C. (Contact Staff at 239-765-0202 to determine whether your request can be processed administratively or if it requires a Special Exception application).
4. Applications for an administrative approval of a Forced Relocation of a Business must include this form and Supplemental form AA-D.
5. Applications for an Administrative Interpretation of the Land Development Code must include this form and Supplemental form AA-E.
6. Applications for a Minimum Use Determination must include this form and Supplemental form AA-F.
7. Applications for an administrative Setback Variance must include this form and Supplemental form AA-G. (Contact Staff at 239-765-0202 to determine whether your request can be processed administratively or if it requires a public hearing variance application).
8. Applications for an Accessory Apartment Determination must fill out this form and Supplemental form AA-H.
9. Applications for a Vacation of Right-of-Way and/or Easement must include this form and Supplemental form AA-I.
- x 10. Other administrative applications, such as for deviations from LDC Chapter 10 or LDC Chapter 26, may require additional information. Relocation FLUM wetland line to Mixed Residential - Chapter 15, Comprehensive Plan

Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to owner: If the applicant is not the owner of the property state the relationship of the applicant to the owner (option holder, contract purchaser, lessee, trustee, agent, etc.) and submit a notarized authorization from the owner(s) to the applicant.
- C. Authorized Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Nature of request: State, in general terms, the purpose of the request.
- E. Specific property: If the request is specific to a particular tract of land, complete Part II of the form.

Part II

Part II must be completed for all applications in which a particular tract or parcel of land is involved. Applications for administrative interpretations of ordinances that do not affect only a particular parcel do not need to complete this part.

- A. If the request is due to a notice of violation, please indicate the date it was issued, the type of notice (building code, zoning, etc.) and what the violation was.
- B. If the owner is the applicant, write "same as applicant."
- C. 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. The initial point in the description must be related to an established identifiable real property corner, such as a government corner or a recorded corner. The bearings in the description must be referenced to a well- established and monumented line.
- D. Provide the dimensions of the subject property, including frontage on streets and/or waterways. Also include total land area in square feet or acres.
- E. 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, locations of wetlands, etc) that are relevant to your request.
- F. If there are any deed restrictions or covenants that might affect the requested action, provide the information.

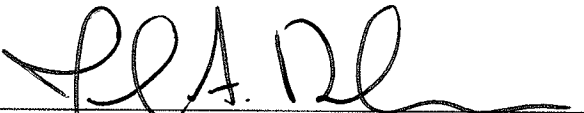
LETTER OF AUTHORIZATION

TO TOWN OF FORT MYERS BEACH COMMUNITY DEVELOPMENT

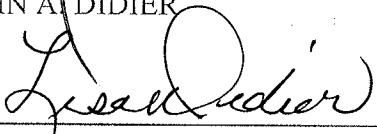
The undersigned do hereby swear or affirm that they are the owners of the property known as Unit E, Flamingo Harbour Condominium, STRAP No. 34-46-24-W1-0220E.0000 located at 21471 Widgeon Terrace, Fort Myers Beach, Florida 33931, and that they have exclusive use of the Limited Common Element adjacent to Unit E.

The undersigned hereby designate the firm of ROETZEL & ANDRESS, LPA, including BEVERLY GRADY, to execute the application to relocate the FLUM wetland line and to see approval for pool / pool deck and to represent them with the Town of Fort Myers Beach regarding the above-referenced property.

Dated this 10 day of Feb, 2021.



JOHN A. DIDIER



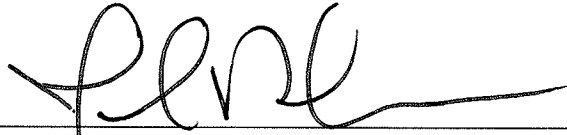
LISA A. DIDIER

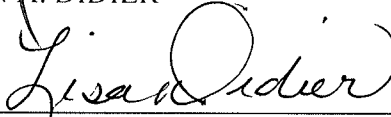
LETTER OF AUTHORIZATION

TO TOWN OF FORT MYERS BEACH COMMUNITY DEVELOPMENT

We, JOHN A. DIDIER and LISA A. DIDIER, swear or affirm that we are the owners of 21471 Widgeon Terrace, Fort Myers Beach, Florida, Unit E of Condominium Plat Book 5, Page 372, STRAP No. 34-46-24-W1-0220E.0000, and have exclusive use of that portion of Limited Common Element adjacent to Unit E (Subject Property) and we hereby authorize ROETZEL & ANDRESS, LPA, including BEVERLY GRADY, to be the Applicant for a revision in the designation of Wetland to Mixed Residential Future Land Use designation and any other land use applications necessary for approval of a pool/pool deck on the Subject Property and authorize the staff of the Town of Fort Myers Beach Community Development to enter upon the Subject Property normal working hours for the purpose of investigating and evaluating the request made through 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.

Dated this 1st day of March, 2021.



JOHN A. DIDIER


LISA A. DIDIER

EXHIBIT 1 TO
APPLICATION FOR ADMINISTRATIVE ACTION

Page 1 of 7: ACTION REQUESTED

Other - cite LDC Section:

Administrative action request. Request for administrative approval to revise location of Town of Fort Myers Beach Future Land Use Map Wetland line designation on Unit E and limited common element in Flamingo Harbour Condominium Subdivision from its current location to the existing riprap line. The area landward of the riprap line will be designated Mixed Residential Future Land Use Map designation pursuant to Chapter 15, Town of Fort Myers Beach Comprehensive Plan.

NARRATIVE IN SUPPORT OF ADMINISTRATIVE INTERPRETATION TO CHANGE LAND USE DESIGNATION FROM WETLAND TO MIXED USE

This is a request pertaining to Unit E and the Limited Common Element of Flamingo Harbour Condominium Subdivision (Subject Property) to change that portion land landward of the riprap from Wetland Future Land Use Map (FLUM) designation to Mixed-Residential Future Land Use designation pursuant to Chapter 15 of the Comprehensive Plan.

This determination for a change to the FLUM on the landward side of the riprap has already been determined and approved in Case ADD2000-00152. It was recognized that the Flamingo Harbour Condominium Subdivision exists on a peninsula of land that was filled from adjacent dredging to create home sites. The owner of Unit C, Charles F. Lieske, requested a change in the Future Land Use Map designation from Wetland to Mixed Residential due to clear factual error. Mr. Lieski wanted to place a pool in the area that had been incorrectly designated as Wetland. Unit C's address is 21491 Widgeon Terrace. In ADD2000-00152, Community Development recommended approval of changing the designation of the land west of the riprap to Mixed-Residential Future Land Use category, with the portion east (waterward) of the riprap remaining in the Wetlands category. Attached as Exhibit A is the Staff Report dated February 5, 2001 prepared for the LPA hearing on February 13, 2001. Some of the attachments to the Staff Report according to the Town of Fort Myers Beach were not retained with the original file. Also included is a memorandum prepared by Division of Planning, Department of Community Development Deputy Director Rick Joyce to Town of Fort Myers Beach Planner Dan Faulk in support of correcting the designation (which has an incorrect date of January 13, 2017) but was part of ADD2000-00152. Attached as Exhibit B are the minutes of the February 13, 2001 LPA meeting and LPA Resolution 2001-04. Exhibit C is the minutes and Resolution No. 01-06a of Town Council approving the change in the designation from Wetland to Mixed Residential.

The owner of the Subject Property retained Affordable Surveys to locate the Wetland line on the Future Land Use Map of the Town of Fort Myers Beach, which area is designated in a light gray on Exhibit D. Exhibit E is a survey by Affordable Surveys which depicts the mean high water line and location of the 7-foot wide riprap. The request is to designate everything west (landward) of the riprap line (area marked "x" to show approximate location) to Mixed Residential and retain everything east of the riprap line to remain Wetland.

The owner desires to add a pool to the single-family residence and the proposed site plan is attached as Exhibit F. The request to modify Wetlands to Mixed Residential and the site plan depicting the proposed pool has been submitted to the Flamingo Harbour Condominium Association. The condominium plat for Flamingo Harbour is attached as Exhibit G and depicts Unit E and its Limited Common Element, the Subject Property. The proposed pool is partially located in Unit E's Limited Common Element. Enclosed is the pertinent portion of the Declaration of Condominium, Section 4.H. which defines Limited Common Element - to include those portions of the common elements which are reserved for the use of a certain unit or units to the exclusion of other units (emphasis added) (Exhibit H). Only Unit E has the right to use and improve the Limited Common Element for Unit E, which use has been approved by the Condominium Association.

Included as Exhibit I are several pictures of the existing backyard. Also included is an aerial view of the Subject Property and surrounding neighborhood.

Attached as Exhibit K is the Condominium Association authorization and approval of relocation of FLUM designation and approval of the pool and pool deck and related permits.

The current house was constructed in 1999 and the Didiers purchased the Subject Property in March 2020. In the same manner as Unit C, two lots to the south, Subject Property is a man-made filled area which is not now and has not been wetlands. The area requesting the change to Mixed Residential is a typical backyard as the wetlands designation is an error. The official zoning map zones the entire Subject Property as RC and does not designate any portion of the Subject Property in the zoning category of EC.

The Administrative Interpretation procedures as set forth in Section B, Procedures for Administrative Interpretation, authorize the LPA attorney to review the application and issue a written administrative interpretation to change the Wetland designation to Mixed Residential, or may refer the request to the Local Planning Agency. We believe the Town's decision and history established in ADD2000-00152 for Unit C provides an established basis for an administrative approval of the request to designate the land landward of the riprap line as Mixed Residential.

We request that an interpretation be approved that the land west of the riprap as depicted in Exhibits E and F be designated Mixed Residential.

Attachments:

- Exhibit A: 02/05/2001 ADD2000-00152 staff report
- Exhibit B: 02/13/2001 ADD2000-00152 LPA meeting minutes and resolution
- Exhibit C: Council Minutes and Resolution approving ADD2000-00152
- Exhibit D: Survey w/proposed location of existing Wetland line
- Exhibit E: Survey depicting area to be designated Mixed Residential on FLUM (see "xxx")
(west of riprap location)
- Exhibit F: Proposed site plan with improvements
- Exhibit G: Condominium plat for Flamingo Harbour
- Exhibit H: Portion of Flamingo Harbour Declaration of Condominium regarding LCE
- Exhibit I: Pictures of existing backyard
- Exhibit J: Aerial
- Exhibit K: Condominium Association authorization and approval



FT. MYERS BEACH, FLORIDA
DEVELOPMENT SERVICES DIVISION
STAFF REPORT

TYPE OF CASE: Administrative Interpretation

CASE NUMBER: ADD2000-00152

FORT MYERS BEACH LPA DATE: February 13, 2001

TIME: 12:00 Noon

I. APPLICATION SUMMARY:

- A. Applicant:** Charles F. Lieske Residential Pool Construction
- B. Request:** An Administrative Interpretation of the Town of Fort Myers Beach Comprehensive Plan whether a portion of the subject property has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, page 3, Section A-1.
- C. Location:** The subject property is located at 21491 Widgeon Terrace (Estero Blvd. turn East on Mound Street, turn left on Widgeon Terr.), Ft. Myers Beach, in S34-T46S-R24E, Lee County, FL. (District #3)
- D. Land Use Plan Designation:** Mixed Residential
- E. Surrounding Land Use:**

<u>Existing Use & Zoning</u>	<u>Future Land Use Map</u>
North: Single family & duplex zoned RM-2	Mixed Residential
East: Estero Bay	
South: Single family & duplex zoned RM-2 & TFC-2	Mixed Residential
West: Mangrove, then Bay Village condominiums zoned RM-2	Wetlands Mixed Residential

II. BACKGROUND INFORMATION AND RECOMMENDATION:

- A. Recommendation:** The property west of the Rip Rap should be placed within the Mixed Residential future land use category, and the portion east of the Rip Rap should remain in the Wetlands category.
1. Prior to construction of any accessory structures, an Opinion of Title confirming the legal authority to build within the "Limited Common

Element" of Flamingo Harbour Condominium must be reviewed and accepted by the Town of Fort Myers Beach.

Findings & Conclusions

Based upon an analysis of the application and the standards for approval of an administrative interpretation, staff makes the following findings and conclusions:

1. A change to Mixed Residential is consistent with background data, other policies, and objectives of the plan as a whole.
2. The interpretation is the first requested within Flamingo Harbour Condominium and therefore cannot be compared with prior interpretations.

B. Rationale:

Introduction/Synopsis

The request is for an interpretation of whether an area has been designated "Wetlands" on the Future Land Use Map on the basis of a clear factual error. The subject lot is Unit C of the Flamingo Harbour land condominium, recorded in the Official Records Book in 1979. The property has an existing single family residence built in 1983 and has 100 feet of depth. A "Limited Common Element" was also created directly adjacent, along the east side of the 13 units of Flamingo Harbour to extend from the lot line to the mean high tide line. The applicant wishes to construct a swimming pool on the rear of the subject lot which would encroach into the limited common element. The applicant has provided an opinion from Richard T. Cotter, Attorney at Law, stating the property owner of Unit C, Flamingo Harbour Condominium has the right to the exclusive use to the adjacent common element and can make improvements on the property. Approval of the land use amendment would enable the applicant to pursue a pool permit on the portion of the lot in question.

Land Use Designation

The adoption of the Town's Comprehensive Plan in 1999 changed the property's designation from Suburban to Mixed Residential and Wetlands. Staff has attempted to show the approximate boundary between the Mixed Residential and Wetlands category on the attached survey (Attachment B). Staff measured the location of the boundary on the adopted future land use map and then scaled the same location onto the survey. There is a clear discrepancy in the location of Widgeon Terrace as shown on the Future Land Use Map (Attachment C) and the Zoning Map (Attachment A) maintained by the Property Appraiser's Office. The Zoning Map and property survey show the 25-foot wide Widgeon Terrace located within a 25-foot roadway easement across the subject property, while the land use map shows 60± foot road located adjacent to the subject lot.

Policy 6-D-2 and Chapter 15 of the Town's Plan provides an administrative process for correction of the Future Land Use Map based on a clear factual error.

Section 15.A.1 requires a field check to be made prior to issuance of the interpretation. A field check was performed by Rick Joyce, Deputy Director of the Lee County Division of Planning. The field check confirmed that the portion of the lot west of the rip rap is filled upland and should be designated Mixed Residential, while the portion east of the rip rap is Mangroves and should remain in the Wetlands land use category.

Conclusion

Based on the field check, it is clear that the portion of the subject property which lies west of the top of the rip rap has been incorrectly designated Wetlands based on a clear factual error. Staff recommends this portion of the subject property be reclassified as Mixed Residential. The subject lot is a lot of record created prior to the adoption of the Lee County comprehensive plan and the Town of Fort Myers Beach comprehensive plan. Approval of the land use amendment will not allow additional dwelling units and will therefore have no impact on the existing permitted density of the Flamingo Harbour subdivision. It appears that the width and location of Widgeon Terrace on the Land Use Map are not consistent with that shown on the Property Appraiser's records. This condition is not unique to the subject property but all of the lots within Flamingo Harbour subdivision.

III. SUBJECT PROPERTY

- A. STRAP:** The applicant indicates the STRAP number is: 34-46-24-W1-0220C.0000.
- B. LEGAL DESCRIPTION:** Unit C, FLAMINGO HARBOUR CONDOMINIUM SUBDIVISION, as recorded in Plat Book 1357, Page 1122, of the Public Records of Lee County, Florida, lying in Section 34, Township 46 South, Range 24 East, Lee County, FL.

IV. ATTACHMENTS

- A. Map of Surrounding Zoning
- B. Survey with Land Use Designation
- C. Town's Future Land Use Map

cc: Applicant
Town of Fort Myers Beach LPA
Zoning File



SCALE
1" = 30'

ADD 2000-00152

RECEIVED
JAN 16 2001

PERMIT COUNTER

LEGAL DESCRIPTION

(AS FURNISHED)

1/4 ROD & CAP
SS # 6386

UNIT "C", FLAMINGO HARBOUR CONDOMINIUM, 1/4 ROD
TO THE DECLARATION OF CONDOMINIUM, AS
OFFICIAL RECORDS BOOK 1357, PAGE 1122, (1/4)
RECORDS OF LEE COUNTY, FLORIDA.

CURVE # 1

RADIUS = 180.00'
ARC = 43.33'
CENTRAL ANGLE = 13°47'33"
CHORD BEARING = N 15°13'42" E
CHORD DISTANCE = 43.23'

CURVE # 2

RADIUS = 80.00'
ARC = 19.26'
CENTRAL ANGLE = 13°47'33"
CHORD BEARING = S 15°13'42" W
CHORD DISTANCE = 19.21'

THIS BOUNDARY SURVEY PREPARED FOR:

CHARLES F. LIESKI

NOTES:

1. BEARINGS ARE
UNIT C, BEIN
2. UNDERGROUND
3. SUBJECT TO
4. PARCEL LIES
125124 044
5. THIS CERTIFICATE
IT IS NOT A
ENCUMBRANCE
6. NOT VALID WITHOUT
SEAL OF A LICENSED
SURVEYOR
7. ADDITIONS OR
OTHER THAN
WITHOUT WRITTEN
LANE, SUITE 218
FLORIDA 33907
8. ALL BEARINGS
OTHERWISE

SELPH & ASSOCIATES, INC.

SURVEYORS and MAPPERS

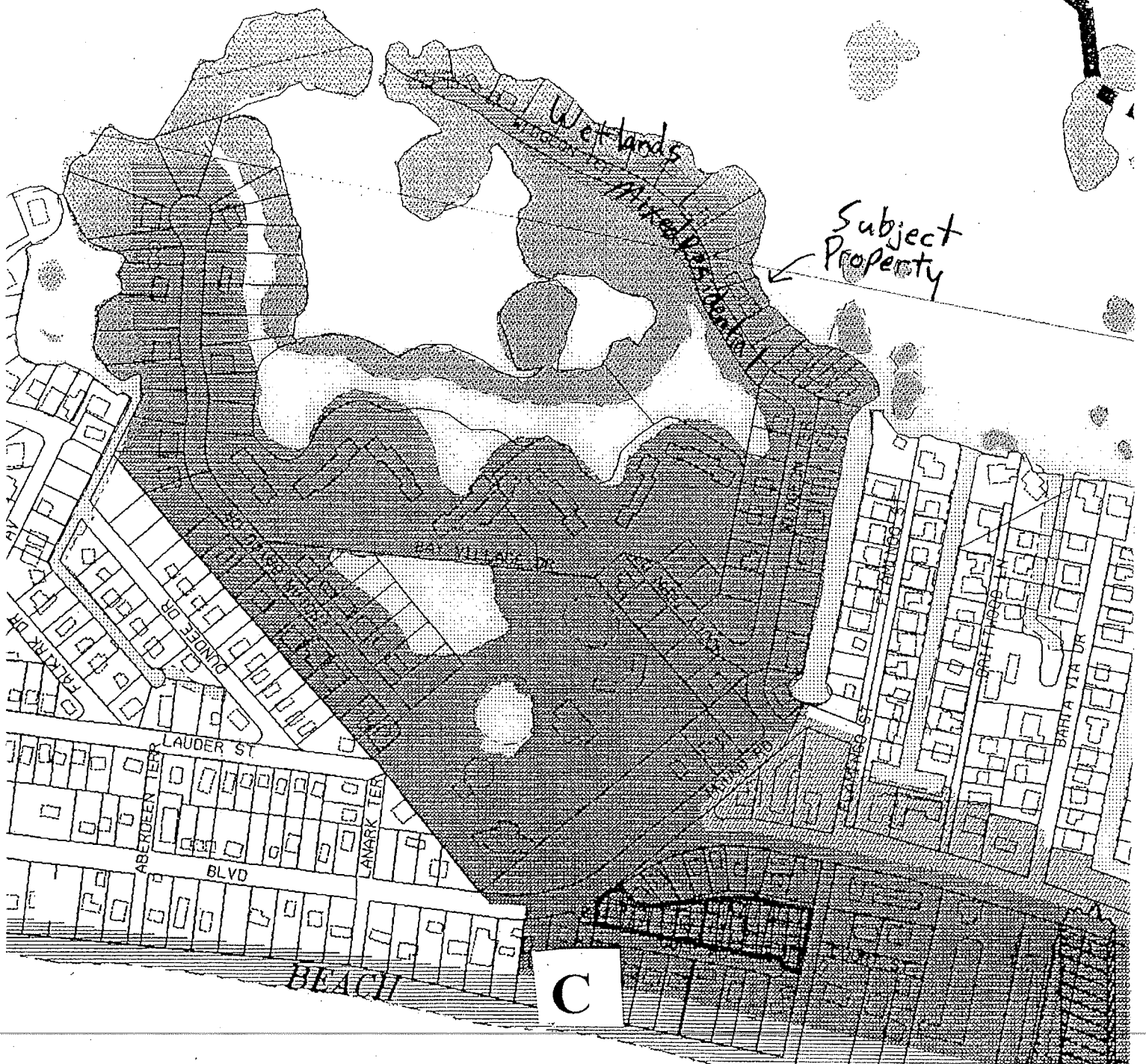
BUSINESS No. 8427

MICHAEL C. SELPH
PROFESSIONAL LAND SURVEYOR
LICENSE NO. 5067

FAX (941) 278-4799

PROJECT NO. 00-1496			
SURVEY DATE: NOVEMBER 30, 2000			
STREET ADDRESS			
21491 WIDGEON TERRACE FORT MYERS BEACH, FLORIDA			
REVISIONS:			
NO.	DATE	DESCRIPTION	BY
1.	1-2-00	ADD DIMENSION TO MEAN HIGH TIDE LINE	R.J.O.

Future Land Use Map



**MEMORANDUM
FROM THE
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF PLANNING**

DATE: January 13, 2017

TO: Dan Folke, Planner
Division of Development Services

FROM: Rick K. Joyce, Deputy Director

RE: **Charles F. Lieske and Candi L. Gullinger
Comprehensive Plan Amendment, Case # ADD2000-00152
21491 Widgeon Terrace, Town Fort Myers Beach
Strap # 34-46-24-W1-0220C-0000**

In response to your request, Division of Planning, Environmental Sciences (ES) Program staff have reviewed and inspected the above referenced site. ES staff confirmed that the mangrove wetland boundary extends landward to the existing riprap rock revetment along the Estero Bay shoreline. The upland/wetland line is clearly defined by the top of rock revetment.

The Flamingo Harbour Condominium subdivision exists on a peninsula of land that was filled from adjacent dredging to create home sites. A mangrove tree wetland fringe was retained along the shoreline of Estero Bay. ES staff has been involved in the permitting of many single-family docks and a few shoreline structures along this area of Estero Bay. The uplands that are rear of the house on the site are typical of backyards in much of South Florida. Citrus trees, palms, a few ornamental plants and mowed turfgrass are the primary vegetation. A wooden walkway traverses the uplands to the reach the access walkway of the existing dock.

The mangrove tree dominated wetland fringe has been severely pruned over the years. The mangrove trees appear to be maintained at approximately 6 feet in height. A few remnant larger sized mangrove trees exist near the property boundaries along the fringe that have been pruned by lifting up from the bottom of the tree crown. The dock access walkway traverses through the mangrove tree fringe.

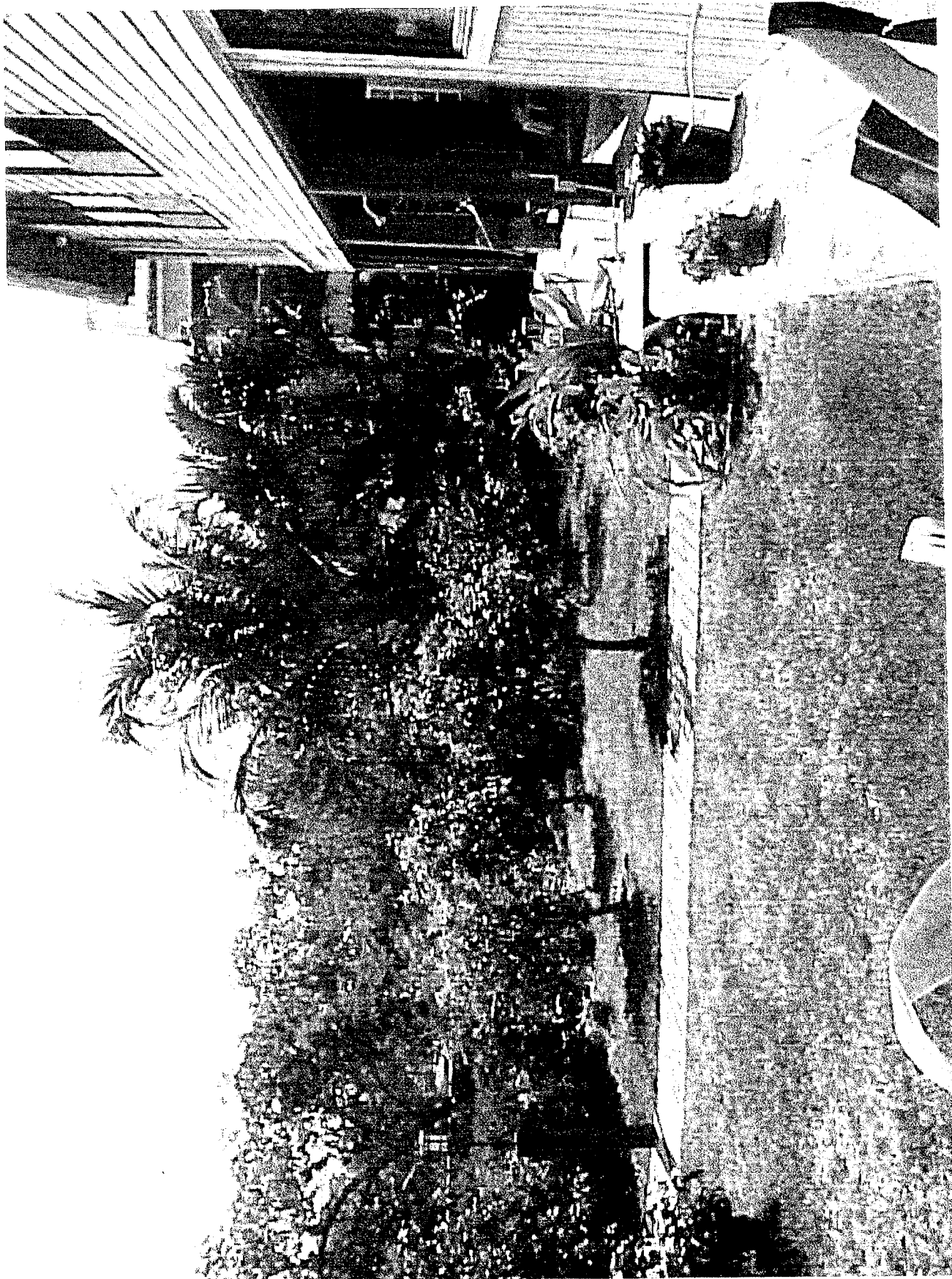
ES staff recommends the following conditions for this amendment:

1. During the proposed pool construction that a turbidity (silt) screen be properly installed and maintained along the top of the existing rock revetment to insure that soil is not washed into Estero Bay.
2. Once the pool and decking construction is completed, any fill slopes must be stabilized with vegetation to eliminate future soil erosion.

Thank you for the opportunity to review this submittal. If you any further questions, please call me at 479-8182.

Copy: Pam Houck, Service Delivery Coordinator/Town of Fort Myers Beach







**FORT MYERS BEACH
LOCAL PLANNING AGENCY MEETING
FEBRUARY 13, 2001
NationsBank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The meeting of the LPA was opened by Chairman Roxie Smith on Tuesday, February 13, 2000, at 12:00 noon with eight members present.

Present at the meeting were: LPA members Linda Beasley, Jodi Hester, Harold Huber, Jennifer Kaestner, Jane Plummer, Betty Simpson, and Dave Smith and Roxie Smith.

Excused absence from meeting: Bill Van Duzer

Staff present at meeting: Town Manager Marsha Segal-George, Pam Houck.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Roxie Smith gave the invocation. All assembled recited the Pledge of Allegiance.

III. PUBLIC COMMENT ON AGENDA ITEMS

None.

Announced was that today was Betty Simpson's birthday, which was greeted with a round of applause.

IV. APPROVAL OF MINUTES: SEPTEMBER 12, 2000 (partial minutes, tape malfunction); NOVEMBER 28, 2000

MOTION: Moved by Betty Simpson and seconded by Jane Plummer to approve minutes of September 12, 2000 with corrections.

Corrections and changes to minutes:

1. On page 4 the time of adjournment was 2:25 p.m.

Motion passed unanimously.

MOTION: Moved by Linda Beasley and seconded by Harold Huber to approve minutes of November 28, 2000. Passed unanimously.

V. CASE #ADD2000-00152 CHARLES F. LIESKE RESIDENTIAL POOL CONSTRUCTION.

A request for an administrative interpretation of the Town of Fort Myers Beach Comprehensive Plan whether a portion of the subject property has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, Page 1 Section A-1. The subject property is located at 211491 Widgeon Terrace. A Staff Report on this case is available for review at Town Hall.

Jeff Mangum, representing the applicant, said the applicant would like to change zoning to mixed-residential so that he could install a pool in his back yard.

Dan Faulk, Planner with Lee County Department of Community Development, prepared the staff report in our packets. Staff has recommended approval to the amendment of the future Land Use Map.

The recommended condition is that prior to construction of any accessory structures in the opinion of title confirming the legal authority to build within the limited common element of Flamingo Harbor, Condominium must be reviewed and accepted by the Town of Fort Myers Beach.

He has provided an environmental sciences memorandum from Rick Joyce, deputy director of the Planning Division, that confirms what was stated in the staff report as far as the findings. He has added two recommended conditions which again relate to any eventual construction on the property: 1) that a turbidity silk screen be properly installed and maintained along the top of the existing rock (?) to ensure that soil is not washed into Estero Bay. 2) Once the pool and deck construction is completed, any fill slopes must be stabilized with vegetation to eliminate future soil erosion.

Attachment B of the staff report is a survey that was submitted. He included Attachment C as an official land use map. He scaled off the measurement from the future land use map then measured onto the survey and added a line to show how it divides the property between mixed residential and (?). A portion of what's designated wetlands is actually where the house sits today. So clearly there was an error in the establishment of the wetlands line.

The parcel itself is a 100-ft. parcel with 100 feet of depth. Beyond the actual platted parcel is a limited common element which was included in the condominium plat. From the rear of the house to the edge of the riff raff has obviously been filled and there are no mangroves located on that portion. Mr. Mangum said he had photographs for us to look at in our packets. Approval has been recommended with the conditions.

The common element goes from the lot line to the mean high tide line and it varies from lot to lot.

Any accessory structure closer than five feet to the top of the riff raff would require a variance.

When building the pool, there has to be a legal determination as to the opinion (?) of the building within that limited common element.

MOTION: Moved by Jane Plummer and seconded by Dave Smith to approve the changing of the wetlands to mixed-residential with the three conditions that the staff has recommended.

Discussion:

Stated was that what Dan requested was it said from the top of the riff raff and this should be added to the motion. Jane Plummer said this was included in the three conditions.

Motion passes unanimously.

~~VI. CASE #DC12000-00059 EDWARD F. STREIT, TR., IN REF. TO DOCKSIDE INN. A request to Rezone from Commercial (C-1) to Commercial Planned Development (CPD) to permit a maximum of 34 hotel units, 2,600 square feet of retail, 2,510 square feet of restaurant, 250 square feet of bar/cocktail lounge, consumption on premises and a caretaker's residence not to exceed 35 feet in height above base flood elevation, on 0.57 +/- total acres of land. The subject property is located at 1130 First Street (Corners of First St., Second St., and Old San Carlos Blvd.). A Staff Report on this case is available for review at Town Hall.~~

~~Dave Smith, the applicant, was asked to come forward. Mr. Smith stated that he was going to briefly discuss what he was going to do. We are proposing a re-development of the existing Dockside Sports Pub. We would like to add a second floor to the existing building that sits on the site and then add a new building on Old San Carlos Blvd., which would be a three-story building. The new development on the site would be a combination of two and three story buildings. The ground floor in the new section would be mostly parking, except for the corner of~~

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2001- 04

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH

WHEREAS, Chares F. Lieske has made a requests for Administrative Interpretation of the Town of Fort Myers Beach Comprehensive Plan of whether a portion of the subject property has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, page 3, Section A.1.and

WHEREAS, the subject property is located at 21491 Widgeon Terrace, Ft. Myers Beach, in S34-T26S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 34-26-24-W1-0220C.0000; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on February 13, 2001; and

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

The LPA based upon an analysis of the application and the standards for approval of an administrative interpretation makes the following findings and conclusions:

- 1] A change to Mixed Residential is consistent with background data, other policies, and objectives of the plan as a whole.
- 2] The interpretation is the first requested within Flamingo Harbor Condominium and therefore cannot be compared with prior interpretations.

Based upon these findings and conclusions, the LPA recommends the property west of the top of the Rip Rap should be placed within the Mixed Residential future land use category, and the portion east of the top of the Rip Rap should remain in the Wetlands category subject to the following conditions:

1. Prior to construction of any accessory structures, an Opinion of Title confirming the legal authority to building within the "Limited Common Element" of Flamingo Harbor Condominium must be reviewed and accepted by the Town of Fort Myers Beach.
2. During the proposed pool construction that a turbidity (silt) screen be properly installed and maintained along the top of the existing rock revetment to insure that soil is not washed into Estero Bay.

3. Once the pool and decking construction is completed, any fill slopes must be stabilized with vegetation to eliminate future soil erosion.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Plummer and seconded by LPA Member D. Smith, and upon being put to a vote, the result was as follows:

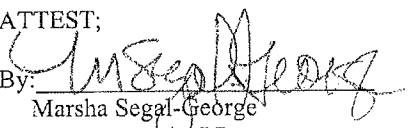
Jennifer Kaestner	yes
Dave Smith	yes
Betty Simpson	yes
Roxie Smith	yes
Bill Van Duzer	absent
Jodi Hester	yes
Linda Beasley	yes
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 13th day of February, 2001.

DULY PASSED AND ADOPTED THIS 13th day of February 2001.

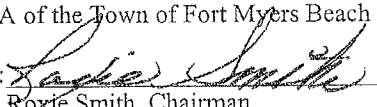
ATTEST;

By:


Marsha Segal-George
Secretary to the LPA

LPA of the Town of Fort Myers Beach

By:


Roxie Smith, Chairman



FORT MYERS BEACH TOWN COUNCIL

ZONING HEARING

Monday, March 12, 2001

Page

ADD2000-00152 Charles F. Lieske Residential Pool Construction

2

**FORT MYERS BEACH
TOWN COUNCIL MEETING
MARCH 12, 2001
LAND USE HEARING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The Land Use Hearing of March 12, 2001 was opened by Mayor Daniel Hughes on Monday, March 12, 2001, at 9:00 a.m.

Council members present at the meeting: Mayor Daniel Hughes, Howard Rynearson - Council, Garr Reynolds - Council, Terry Cain - Councilwoman. A quorum is present.

Excused absence from meeting: Vice Mayor Ray Murphy

Staff present at meeting: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Pam Houck, Dick Roosa (Town Attorney) and Dan Folke (Lee County Planner)

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. PUBLIC COMMENT

None.

IV. DISCUSSION: BAY BEACH - WATERSIDE GUEST SUITES

Attorney Ciccarone is representing the Town of Fort Myers Beach regarding the case of Stardial vs. Town of Fort Myers Beach. It was to their understanding the case was settled. The development order for the construction of Waterside was issued. A dispute arose when it came time to issue the building permit, as to whether Waterside IV as designed had 58 or 60 dwelling units. There are two areas within Waterside IV, as there are in the first three buildings, which consist of two rooms approximately 12x12 with an adjoining bath. It appears that these are treated as common area amenities and are available to the guests of condominium owners. These must be reserved in advance and are charged a \$45.00 a day housekeeping fee. The question is whether the two guest suites are dwelling units or not dwelling units. The settlement allows Stardial to have up to 58 dwelling units. The plans that were on file for Waterside IV were to be approved as part of the settlement. As far as he is aware the building plans were the plans on file. The County, as the Town's staff in this case, has issued instructions to Stardial's architect to designate these two units as something else or the permit cannot be issued. Stardial takes the position that this sort of conditional approval of its building permit is not consistent with the settlement, and therefore the case is not settled.

MOTION: Made by Mayor Daniel Hughes and seconded by Councilman Howard Rynearson to direct the staff to refer to the LPA the issue of treatment of guest suites and similar type of rooms that Town Manager Segal-George referred to earlier for purposes of considering amendment to the Land Development Code. This would be to determine the difference between a residential unit, hotel unit or a dwelling unit. They are evoking Smith vs. Clearwater. **Mayor Daniel Hughes withdrew this motion.**

MOTION: Made by Mayor Daniel Hughes and seconded by Councilman Howard Rynearson to direct staff to consider guest rooms and similar type of units as a dwelling unit pending a reference of this matter to the LPA in a public hearing thereon and a reference back to the Town Council, so that the doctrine of Smith vs. Clearwater will be in effect during this interim period. Motion passes unanimously.

V. PUBLIC HEARING: CASE NUMBER ADD2000-00152. Charles F. Lieske Residential Pool Construction. An Administrative Interpretation of the Comprehensive Plan whether a portion of the subject property has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, page 3, Section A-1. This property is located at 21491 Widgeon Terrace.

Mayor Hughes reviewed that the issue is whether or not a portion of this property has been or should have been designated a "Wetlands" on a basis of a clear factual error. He asked if any of the Council members had any ex parte communications on this matter. No Council members indicating ex parte communications.

Mayor Hughes asked for the applicant or representative of the applicant to come forward. No one was present. Mayor Hughes asked for the staff to make their presentation.

Dan Folke, Planner with Lee County Community Development, came forward and stated that he had reviewed the request before Council. Staff has recommended approval of amending the Town's future Land Use Map. Three conditions were recommended. One is contained in the staff report and the others were recommended in the memorandum from Rick Joyce regarding his review of the property. All three conditions were included in the recommendation from the LPA, and are listed in the resolution provided in their packet.

Attachment B of the staff report clearly summarizes the issue. This is a survey of the property. The designation is incorrect. Staff has recommended that the line between the mixed residential and the wetlands portion be defined as the portion west of the top of the rip wrap and the portion east of the rip wrap should remain in the "Wetlands". He provided some photographs that were taken. This request is simply to change the Land Use Category. The three conditions pertain to the anticipated permit for the pool. They are recommending approval.

MOTION: Made by Mayor Daniel Hughes and seconded by Councilwoman Terry Cain to adopt the resolution as set forth in the package to approve the interpretation as recommended by staff. On the second page of the resolution, strike the words modified or reversed, and it would then read " the interpretation of the Local Planning is affirmed". **(Side A of Tape 1 ends)** which included the conditions as set forth by the staff that prior to construction the opinion of title on building within the limited common area, and the LPA added that the silk screen be installed during the pool construction to ensure that soil will not be washed into Estero Bay, and on completion any fill slopes must be stabilized with vegetation to eliminate soil erosion. Motion passes unanimously.

~~VI. BEACH RENOURISHMENT PROJECT WORKSHOP~~

~~Steve Keen with Coastal Planning and Engineering came forward to state that they are putting together the permit and the design of the Estero and Lover's Key Beach Restoration Project. He referred to some pictures and slides that were before the Council for review.~~

~~There are five components to the project. The Core of Engineers, when they had designed the project, had come up with a sand source 15 miles away. They were able to do an investigation and found two other nearby areas. They are designing and trying to get permits for three segments of the project. The main segment is the almost 5 mile stretch along north Estero Island. The other segments would be south Estero Island and another is Lover's Key. They have extended the project by approximately 1 ½ miles, added 500,000 cubic yards and the cost has been decreased approximately 2 million dollars. The total project cost is about 8.1 million at the present time. The renourishment interval has been increased from 3 years to 8 years. If the project performs as design there will be 8 years on average between the time that more sand will need to be added to the project. This means less disruption in the long run.~~

~~He indicated that their design for the project is 40 feet. This means if they continue to erode at 3 feet per year for 8 years they will be back to the 40-foot design width at the 8-year point. When the project is initially built it will be over 100 feet wide, in some cases 150 feet. Some of the sand must slip offshore to build the foundation. They will end up with about 64 feet. This will be 40 foot for the design width plus 24 feet of sacrificial sand for erosion over the next 8 years. All of the beach will not uniformly erode at 3 feet a year. There will be several areas that will erode faster and many areas will stay very healthy throughout the time. If a renourishment is needed in 8 years it will probably be just the areas that erode at the faster rate.~~

~~They have found two new borrow areas or sand sources closer to the project. They are less than 2 miles away. They have looked into whether there is good sand at these sand sources and if there will be any effect on the shoreline. The sand is very similar to the sand on the beach today and the color is roughly the same color. Their research shows that no impact will effect the shoreline for either of the borrow areas.~~

~~He referred to the Great Lakes Dredge and Dock/ Dredge Alaska. He stated that they hope this is the type of dredge they would like to attract to the project. If this~~

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 01-06a

WHEREAS, Chares F. Lieske has made a requests for Administrative Interpretation of the Town of Fort Myers Beach Comprehensive Plan of whether a portion of the subject property has been (or should have been) designated "Wetlands" on the basis of a clear factual error as set forth in Chapter 15, page 3, Section A.1.; and,

WHEREAS, the subject property is located at 21491 Widgeon Terrace, Ft. Myers Beach, and the applicant has indicated the property's current STRAP number is: 34-26-24-W1-0220C.0000; and,

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency on February 13, 2001, after which they issued an administrative interpretation; and,

WHEREAS, the applicant has appealed that decision to the Town Council; and,

WHEREAS, the Town Council in reviewing such an appeal shall consider only information submitted in the administrative interpretation process and shall review only whether the proper standards set forth in this plan have been applied to the facts presented with no additional evidence to be considered by the Town Council; and,

WHEREAS, the Council may adopt the administrative interpretation being appealed, or may overrule it, with a written decisions to be rendered by the Town Clerk in writing within thirty days after the date of the hearing.

NOW THEREFORE BE IT RESOLVED THAT:

IT IS THE FINDING of this council that this appeal is of a nature properly brought to the Council for decision and considering the intent of the ordinance being interpreted and the effect the ruling will have when applied generally, the Council in reviewing the interpretation of the Local Planning Agency finds:

The administrative interpretation was/ ~~was not~~ determined under the following standards:

1. Interpretations which would be confiscatory, arbitrary, capricious, unreasonable, or which would deny all economically viable use of property shall be avoided;
2. Interpretations should be consistent with background data, other policies, and objectives of the plan as a whole; and
3. Interpretations should, to the extent practical, be consistent with comparable prior interpretations.

THE INTERPRETATION of the Local Planning Agency is affirmed/~~modified~~/~~reversed~~.

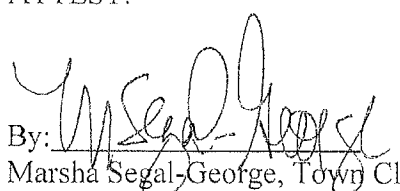
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Daniel Hughes	aye
Garr Reynolds	aye
Ray Murphy	absent
Terry Cain	aye
Howard Rynearson	aye

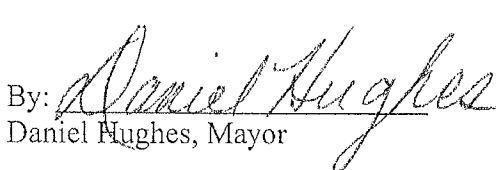
APPROVED this 12th day of March, 2001.

ATTEST:

TOWN OF FORT MYERS BEACH

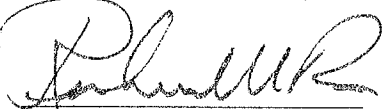
By: 

Marsha Segal-George, Town Clerk

By: 

Daniel Hughes, Mayor

Approved as to form by:



Richard V.S. Roosa, Town Attorney

BOUNDARY AND LOCATION SURVEY OF
21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931
LEGAL DESCRIPTION:

UNIT E OF FLAMINGO HARBOUR CONDOMINIUM, A
CONDOMINIUM ACCORDING TO THE DECLARATION OF
CONDOMINIUM THEREOF, RECORDED IN OFFICIAL RECORDS
BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE
COUNTY, FLORIDA, AND ANY AMENDMENTS THERETO,
TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON
ELEMENTS.

A/C
B.M.
(C)
CLB
CLF
CONC
CSW
(D)
DE
DRIVE
EB
EOW
EPC
FCM
FIR
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FND
FXC
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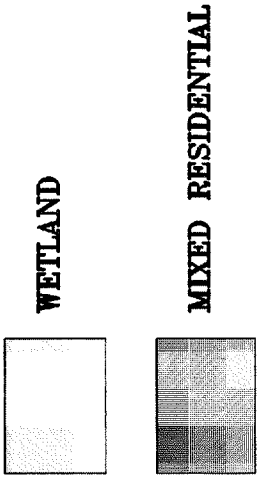
AIR CONDITIONER
BENCHMARK
CALCULATED
CABLE BOX
CHAIN LINK FENCE
CONCRETE
CONCRETE SIDEWALK
DEED
DRAINAGE EASEMENT
DRAINAGE/PUBLIC UTILITY EASEMENT
ELECTRIC BOX
EDGE OF PAVEMENT
EDGE OF WATER
FIR CAPPED
FOUND CONC MONUMENT
FOUND IRON PIPE
FOUND IRON ROD
FOUND NAIL
FOUND NAIL AND DISK
FOUND X CUT
LIGHT POLE
MEASURED
MANHOLE

NCF
OHV
O/A
P.C.P.
(P)
PB
POB
POC
R/W
SIR
SND
TOB
TOS
TP
UE
WM
WV
WDF

NO CORNER FOUND
OVERHEAD WIRES
PERMANENT CONTROL POINT
PLAT
POOL EQUIPMENT
POWER POLE
POINT OF BEGINNING
POINT OF COMMENCEMENT
RIGHT OF WAY
SET 1/2" IRON ROD WITH CAP-
LB 6912
SET NAIL AND DISK LB 6912
TOP OF BANK
TOP OF SLOPE
TELEPHONE PEDESTAL
UTILITY EASEMENT
WATER METER
WATER VALVE
WOOD FENCE



LAND USE LEGEND:



FEMA MAP - 120673 / 12071C0567F
FLOOD ZONE - AE
BASE ELEV. - 10' NAVD88



(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
ST JAMES CIT, FL 33956

CERTIFIED EXCLUSIVELY TO:
JOHN A & LISA A DIDIER

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT
USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS
NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE
AND SEAL, OR A RAISED EMBOSSED SEAL AND SIGNATURE.

DATE OF FIELD SURVEY
BILL HYATT
Surveyor & Mapper Number 4636
LB 6912

FLORIDASURVEYOR@AOL.COM
727-415-8305

BOUNDARY AND LOCATION SURVEY OF
21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931

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FIP

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FN

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FXC

(M)

MANHOLE

NOF

NOF

OHV

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P.C.P.

(P)

PE

PP

POB

POC

R/W

SIR

SND

TOB

TOP

TP

UE

WM

WV

WDF
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CABLE BOX

CHAIN LINK FENCE

CONC

CONCRETE

CONCRETE SIDEWALK

DEED

DRAINAGE EASEMENT

DRAINAGE/PUBLIC UTILITY EASEMENT

ELECTRIC BOX

EDGE OF WATER

EDGE OF PAVEMENT

FIR CAPPED

FOUND CONC MONUMENT

FOUND IRON PIPE

FOUND IRON ROD

FOUND NAIL

FOUND NAIL AND DISK

FOUND X CUT

LIGHT POLE

MANHOLE

NO CORNER FOUND

OVERHEAD WIRES

OVER-ALL

PERMANENT CONTROL POINT

PLAT

POL EQUIPMENT

POWER POLE

POINT OF BEGINNING

POINT OF COMMENCEMENT

RIGHT OF WAY

SET 1/2" IRON ROD WITH CAP—

SET NAIL AND DISK LB 6912

TOP OF BANK

TOP OF SLOPE

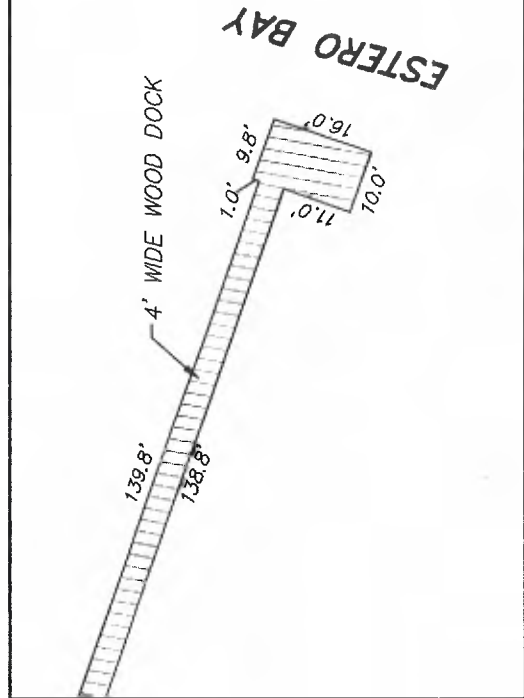
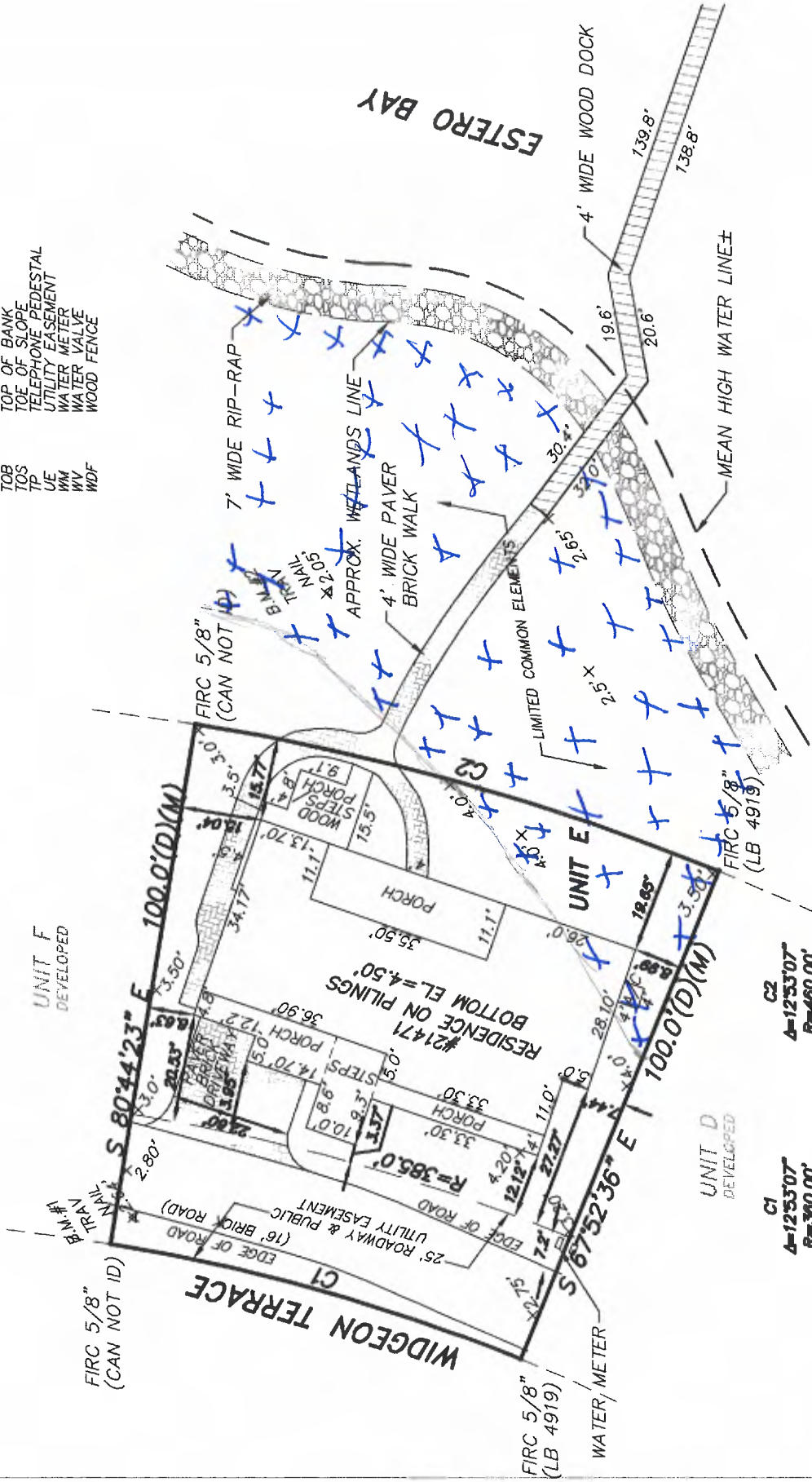
TELEPHONE PEDESTAL

UTILITY EASEMENT

WATER METER

WATER VALVE

WOOD FENCE



FEMA MAP - 120673 / 12071C0567F
FLOOD ZONE - AE
BASE ELEV. - 10' NAVD88

- COVERED ENTRANCE

SCREEN ENCLOSED AREA

SCREEN ENCLOSED WITH POOL

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DATE OF FIELD SURVEY
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Surveyor & Mapper Number 4636
LB 6912

FLORIDASURVEYOR@AOL.COM
727-415-8305

EXHIBIT E

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FORT MYERS BEACH, FLORIDA 33931

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NO CORNER FOUND

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RIGHT OF WAY

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SET NAIL AND DISK LB 6912

TOE OF BANK

TOE OF SLOPE

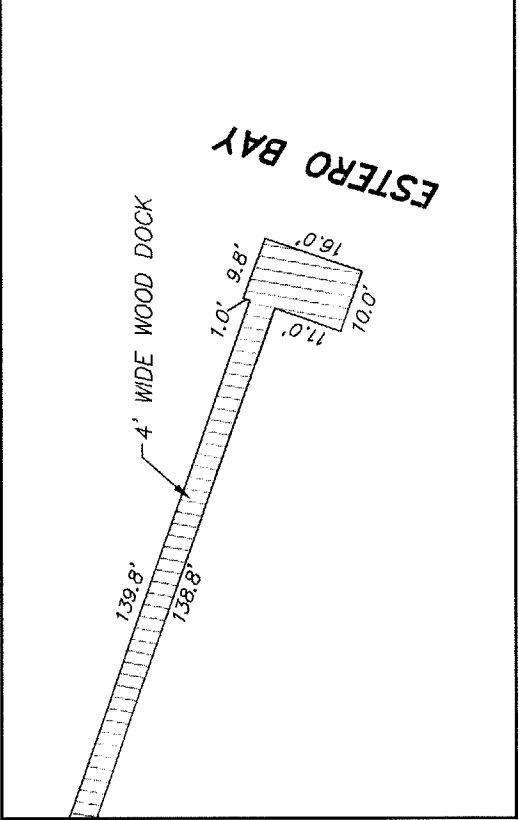
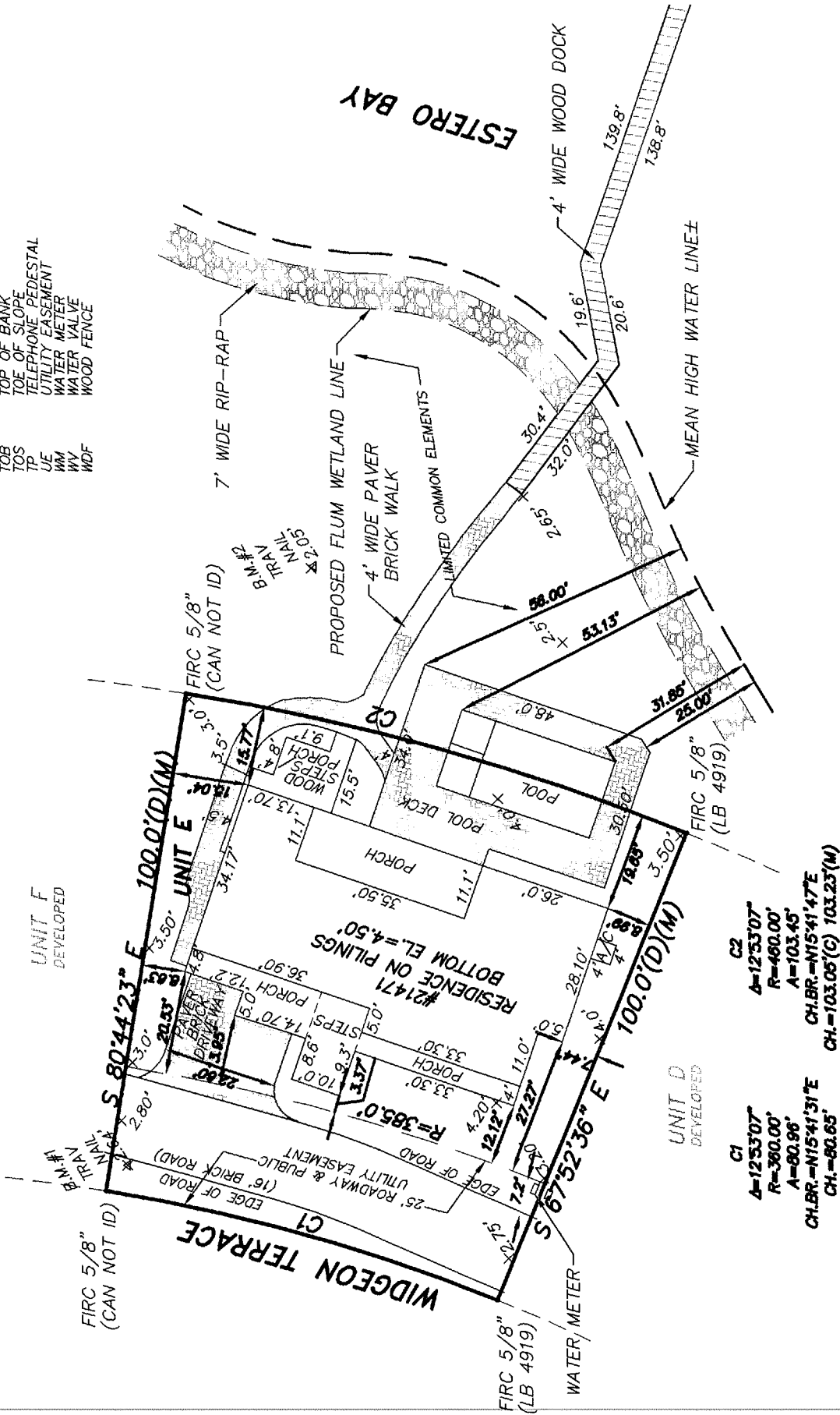
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SCREEN ENCLOSED WITH POOL

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3366 STRINGFELLOW ROAD
ST JAMES CIT, FL 33956

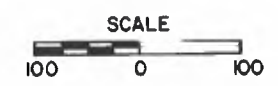
CERTIFIED EXCLUSIVELY TO:
JOHN A & LISA A DIDIER

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT
USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS
NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE
AND SEAL, OR A RAISED EMBOSSED SEAL AND SIGNATURE.

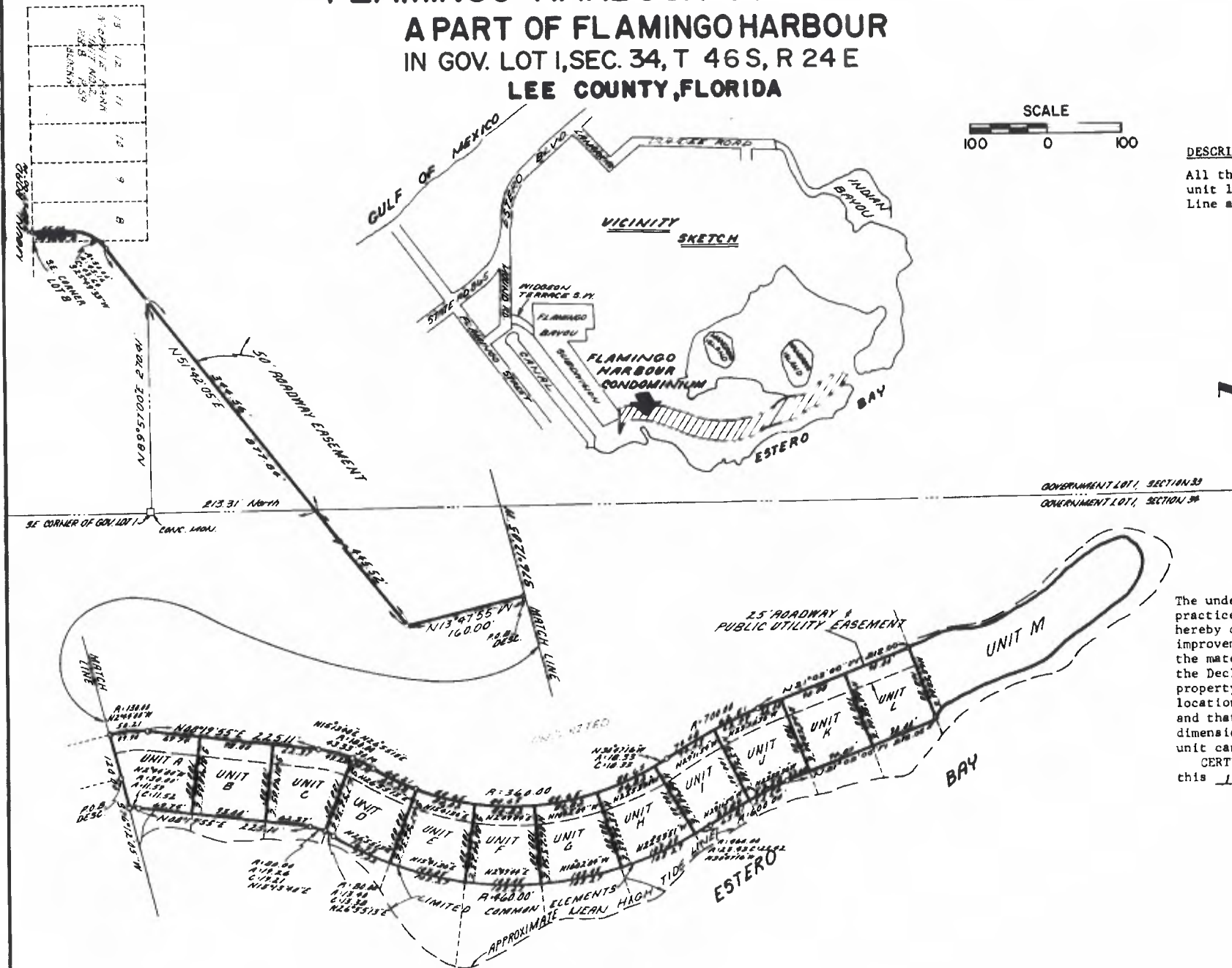
DATE OF FIELD SURVEY
BILL HYATT
Surveyor & Mapper Number 4636
LB 6912

FLORIDASURVEYOR@AOL.COM
727-415-8305

FLAMINGO HARBOUR CONDOMINIUM
A PART OF FLAMINGO HARBOUR
IN GOV. LOT 1, SEC. 34, T 46 S, R 24 E
LEE COUNTY, FLORIDA



DESCRIPTION OF LIMITED COMMON ELEMENTS
All those lands lying East of the platted unit line and West of the Mean High Tide Line along Estero Bay.



SURVEYOR'S CERTIFICATE

The undersigned, a surveyor duly authorized to practice under the laws of the State of Florida, hereby certifies that the construction of the improvements is substantially complete so that the material, together with the provisions of the Declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements, and that the identification, location, and dimensions of the common elements and of each unit can be determined from these materials.
CERTIFIED TO FLAMINGO BAYOU, INC., dated this 12 day of June, 1979.

Duane Hall
Duane Hall
Registered Land Surveyor
Florida Certificate #1415

DESCRIPTION: A tract of land lying in Government Lot 1, Section 34, Township 46 South, Range 24 East, Estero Island, Florida, which tract is described as follows: From the southeast corner of Lot 8, Block H., Unit 2, McPhie Park, according to the plat recorded in Plat Book 8 at page 59 of the public records of Lee County, Florida, run westerly along the south line of said Lot 8 for 10 feet; thence run northerly perpendicular to said south line and along the east line of a roadway easement 50 feet wide for 55.54 feet to a point of curvature; thence run northeasterly along the southeasterly line of said roadway easement along the arc of a curve to the right with a radius of 50 feet (said curve having a central angle of 51°45'05") for 45.16 feet to a point of tangency; thence run N 51°42'05" E along said southeasterly line of said roadway easement along a line 295 feet (as measured on a perpendicular) northwesterly of and parallel with the northwesterly line of Block C of Flamingo Park (now the centerline of Flamingo Street) as shown on the plat recorded in Plat Book 9 at page 66 of said public records for 877.84 feet; thence run N 13°47'55" W along the northeasterly line of said roadway easement for 160 feet to the point of beginning of the lands herein

described. From said point of beginning run S 76°12'05" W for 60 feet; thence run northwesterly, northerly and northeasterly along the westerly line of a roadway easement 25 feet wide along the arc of a curve to the right having a radius of 130 feet (chord bearing N 2°44'00" W - chord distance 49.90 feet) for 50.21 feet to a point of tangency; thence run N 8°19'55" E along said westerly line of said roadway easement for 225.11 feet to a point of curvature; thence run northeasterly along said westerly line of said roadway easement along the arc of a curve to the right having a radius of 180.00 feet (chord bearing N 20°01'28" E - chord distance 72.96 feet) for 73.47 feet to a point of reverse curvature; thence run northeasterly, northerly and northwesterly along said westerly line of said roadway easement along the arc of a curve to the left having a radius of 360.00 feet (chord bearing N 0°15'53" E - chord distance 381.35 feet) for 401.89 feet to a point of reverse curvature; thence

run northwesterly along the arc of a curve to the right having a radius of 700.00 feet (chord bearing N 26°28'24" W - chord distance 136.78 feet) for 137.00 feet to a point of tangency; thence run N 21°02'00" W along said westerly line of said roadway easement for 212.00 feet; thence run S 0°68'58" W for 10 feet more or less to the waters of Flamingo Harbor; thence run northwesterly, northerly and northeasterly along said waters to the waters of Estero Bay; thence run in a southerly direction along said waters to an intersection with a line bearing N 76°12'05" E passing through the point of beginning; thence run S 76°12'05" W along said line to the point of beginning. TOGETHER WITH the hereinabove described roadway easement 50 feet wide extending from Mound Road to the southerly line of the hereinabove described parcel.

DUANE HALL & ASSOCIATES, INC.
CIVIL ENGINEERS - LAND SURVEYORS - LAND PLANNERS
PO BOX 8790 FORT MYERS FLORIDA 33901
Date: 6-13-79 Drawn by: A.O. Checked by: _____
Proj. No. 722265 File No. _____

H

1212327

THIS INSTRUMENT PREPARED
 RICHARD D. DEBOEST
 ATTORNEY AT LAW
 P. O. BOX 1450
 FORT MYERS, FLORIDA 33902

DECLARATION OF CONDOMINIUM

OF

AC 1357 AC1089

FLAMINGO HARBOUR CONDOMINIUM

Flamingo Bayou, Inc., a Florida corporation, herein called "developer" on behalf of itself, its successors, grantees and assigns, to its grantees and assigns and their heirs, successors and assigns hereby make this Declaration of Condominium:

1. SUBMISSION TO CONDOMINIUM - The lands located in Lee County, Florida, owned by Developer and described in attached Exhibit "D", are submitted to the condominium form of ownership.

2. NAME AND SCOPE - The name of the condominium is FLAMINGO HARBOUR CONDOMINIUM, and will consist of 13 residential units consisting of land only (a Land Condominium).

3. NAME - ASSOCIATION - The name of the condominium association is FLAMINGO HARBOUR CONDOMINIUM ASSOCIATION, INC. This association shall be incorporated as a non-profit Florida corporation.

4. DEFINITIONS - The terms used herein shall have the meanings stated in the Condominium Act (Florida Statutes, Chapter 718) and as follows unless the context otherwise requires:

A. UNIT - A part of the condominium property which is subject to exclusive ownership.

B. UNIT OWNER - The owner of a Condominium parcel.

C. UNIT NUMBER - The letter, number, or combination thereof which is designated upon the surveyor plans, and which is used as the identification of a unit.

D. ASSESSMENT - Means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner.

E. ASSOCIATION - The corporation responsible for the operation of the condominium.

ALLEN, KNUDSEN,
 SWARTZ,
 DEBOEST, RHOADS,
 & EDWARDS, P. A.
 ATTORNEYS AT LAW
 P. O. BOX 1450
 COLLIER ARCADE
 FORT MYERS, FLORIDA

-1-

RECORD VERIFIED - SAE GRACE CLARK
 BY G. WORKMAN P.C.

F. BOARD OF ADMINISTRATION - means the Board of Directors responsible for administration of the association.

G. COMMON ELEMENTS - The portions of the condominium property not included in the units as defined in Florida Statute 718.108, including:

(.1) Those portions of the land that do not constitute the units.

(.2) Improvements which are not included within the units.

(.3) Easements.

(.4) Installations for the furnishing of services to more than one unit or to the common elements, such as electricity, gas, water and sewer.

(.5) Personal property - tangible personal property may be purchased, sold, leased, replaced and otherwise dealt with by the association, through its Board of Directors, on behalf of the members of the association, without the necessity of any joinder by the members.

H. LIMITED COMMON ELEMENTS - means and includes those portions of the common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

I. COMMON EXPENSES - All expenses and assessments properly incurred by the association for the condominium.

J. COMMON SURPLUS - means the excess of all receipts of the association including but not limited to assessments, rents, profits and revenues on account of the common elements over the amount of the common expenses.

K. PERSON - means an individual, corporation, trustee, or other legal entity capable of holding title to real property.

L. SINGULAR, PLURAL, GENDER - Whenever the context so permits, the use of the plural shall include the singular, the plural, and use of any gender shall be deemed to include all genders.

ALLEN, KNUDSEN,
SWARTZ,
DEBOEST, RHODES
& EDWARDS, P.A.
ATTORNEYS-AT-LAW
P.O. BOX 1480
COLLIER ARCADE
FORT MYERS, FLORIDA

Exhibit I

The vast majority of the backyard consists of mowed lawn. Manicured landscape beds with deliberately planted shrubbery and other typical landscape plantings surround the lawn at the periphery of the property.



Looking West, from LCE toward house. Proposed pool to be on the left side, against the house.



Looking North, down on the **proposed pool area**



Landscape beds along the South property line.



Looking South, down on the proposed pool area and beyond to neighbor's dock.



Looking Northeast across majority of backyard and LCE.



Looking South, at the proposed pool area.

[illegible]

Air Photos: 2020 Hi-Res (4 inch)

School Locations

US 41

Parcels Near

Parcels Near

School Location:

Major Roads Medium

Other Highways

1-75

Other Roads

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.



**FLAMINGO HARBOUR CONDOMINIUM
ASSOCIATION, LLC**
Widgeon Terrace, Fort Myers Beach, FL 33931

March 2, 2021

The Board of Directors of Flamingo Harbour Condominium Association, Inc. has reviewed, and does not object to, an application to correct the Town of Fort Myers Beach Future Land Use designation from Wetland to Mixed Residential for that portion of Unit E and the associated Limited Common Element that serves Unit E landward of the rip-rap line.

In addition, as currently submitted, the proposed improvements within the Limited Common Element and on Unit E were reviewed and the Board does not object to improvements if allowed and approved by the Town of Fort Myers Beach.

The Board supports any land use variances needed for approval of the attached site plan and the Association joins in the request to re-designate the Future Land Use designation landward of the rip-rap line.

FLAMINGO HARBOUR CONDOMINIUM, INC.

By: Bob Carlin

Print Name: Bob Carlin

Its: President

ATTEST:

By: David C. Roller

Print Name: David C. Roller

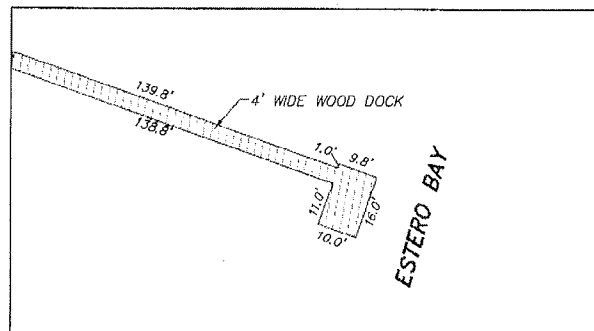
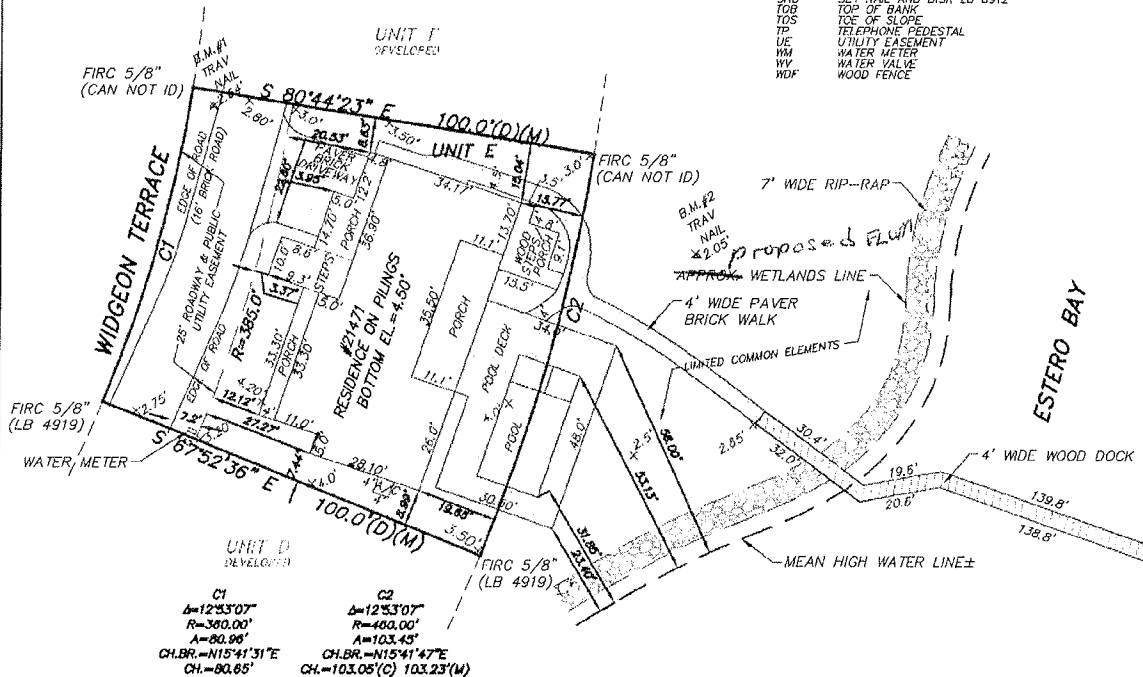
Its: Secretary

**BOUNDARY AND LOCATION SURVEY OF
21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931**

LEGAL DESCRIPTION:

UNIT E OF FLAMINGO HARBOUR CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF, RECORDED IN OFFICIAL RECORDS BOOK 1357, PAGE 1089, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND ANY AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

A/C AIR CONDITIONER
B.M. BENCHMARK
CB CALCULATED
CLF CABLE BOX
CLF CHAIN LINK FENCE
CONC CONCRETE
CSW CONCRETE SIDEWALK
D DEED
DE DRAINAGE EASEMENT
DPUE DRAINAGE/PUBLIC UTILITY EASEMENT
EB ELECTRIC BOX
EOW EDGE OF WATER
EP EDGE OF PAVEMENT
FCR FIRE CAPED
FCM FOUND CONC MONUMENT
FIP FOUND IRON PIPE
FIR FOUND IRON ROD
FN FOUND NAIL
FND FOUND NAIL AND DISK
FNC FOUND NAIL CUT
LP LIGHT POLE
(M) MEASURED
MH MANHOLE
NCF NO CORNER FOUND
OHW OVERHEAD WRES
O/A OVER-ALL
P.C.P. PERMANENT CONTROL POINT
PLAT PLAT
PE POOL EQUIPMENT
PP POWER POLE
POB POINT OF BEGINNING
POC POINT OF COMMENCEMENT
R/W RIGHT OF WAY
SIR SET 1/2" IRON ROD WITH CAP - LB 6912
SND SET NAIL AND DISK LB 6912
TOB TOP OF BANK
TOS TOE OF SLOPE
TP TELEPHONE PEDESTAL
UE UTILITY EASEMENT
WM WATER METER
WV WATER VALVE
WDF WOOD FENCE



FEMA MAP - 120673 / 12071C0567F
FLOOD ZONE - AE
BASE ELEV. - 10' NAVD88

COVERED ENTRANCE
SCREEN ENCLOSURE
SCREEN ENCLOSURE WITH POOL

(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
ST JAMES CIT, FL 33956

CERTIFIED EXCLUSIVELY TO:
JOHN A & LISA A DIDIER

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT
USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS
NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE
AND SEAL, OR A RAISED EMBOSSED SEAL AND SIGNATURE.

DATE OF FIELD SURVEY

BILL HYATT
Surveyor & Mapper Number 4636
LB 6912

FLORIDASURVEYOR@AOL.COM
727-415-8305

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN GOVERNMENT LOT 1, SECTION 34, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF UNIT E, FLAMINGO HARBOUR CONDOMINIUM, AS RECORDED IN CONDOMINIUM PLAT BOOK 5, PAGE 372, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTHERLY, ALONG THE EASTERLY LINE OF SAID UNIT E AND THE ARC OF A CURVE CONCAVE TO THE WEST (RADIUS = 460.00 FEET, INTERIOR ANGLE = 12°51'47", CHORD BEARING AND DISTANCE = N15°41'31"E, 103.05 FEET) FOR 103.27 FEET TO THE NORTHEAST CORNER OF AFORESAID UNIT E; THENCE S80°44'23"E, ALONG THE EASTERLY PROLONGATION OF THE NORTHERLY LINE OF SAID UNIT E FOR 81.02 FEET TO A NON-TANGENT POINT OF CURVATURE; THENCE SOUTHERLY, ALONG THE ARC OF A CURVE CONCAVE TO THE EAST (RADIUS = 99.03 FEET, INTERIOR ANGLE = 10°58'54", CHORD BEARING AND DISTANCE = S10°08'49"W, 18.95 FEET) FOR 18.98 FEET TO A NON-TANGENT POINT OF REVERSE CURVATURE; THENCE SOUTHWESTERLY, ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHWEST (RADIUS = 46.50 FEET, INTERIOR ANGLE = 65°48'43", CHORD BEARING AND DISTANCE = S29°08'53"W, 50.53 FEET) FOR 53.42 FEET TO A NON-TANGENT POINT OF COMPOUND CURVATURE; THENCE SOUTHWESTERLY, ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHWEST (RADIUS = 175.17 FEET, INTERIOR ANGLE = 6°55'36", CHORD BEARING AND DISTANCE = S65°31'51"W, 21.16 FEET) FOR 21.18 FEET TO A NON-TANGENT POINT OF REVERSE CURVATURE; THENCE SOUTHWESTERLY, ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST (RADIUS = 205.17 FEET, INTERIOR ANGLE = 7°57'39", CHORD BEARING AND DISTANCE = S64°10'21"W, 28.48 FEET) FOR 28.51 FEET TO A POINT OF NON-TANGENCY; THENCE S59°24'50"W FOR 19.14 FEET TO A POINT ON THE EASTERLY PROLONGATION OF THE SOUTHERLY LINE OF AFORESAID UNIT E; THENCE N67°52'36"W, ALONG SAID EASTERLY PROLONGATION FOR 19.98 FEET TO THE POINT OF BEGINNING. CONTAINING 6997 SQUARE FEET MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

BEARINGS ARE BASED ON THOSE SHOWN ON THE PLAT OF FLAMINGO HARBOUR CONDOMINIUM.

From: [Amy Baker](#)
To: [O'Brien, Robin](#)
Cc: [Jason Green](#); jherin@foxrothschild.com; [Grady, Beverly](#)
Subject: RE: 21471 Widgeon Terrace-Application for Administrative Action
Date: Wednesday, March 17, 2021 3:20:00 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Thank you Robin,

We are in receipt of your Application for Administrative Action for 21471 Widgeon Terrace.



Amy Baker

Town Clerk
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL. 33931
Phone: (239) 765-0202 ext.1400



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.

From: O'Brien, Robin <RObrien@ralaw.com>
Sent: Wednesday, March 17, 2021 3:18 PM
To: Amy Baker <Amy@fmbgov.com>
Cc: Jason Green <jasongreen@axiscompanies.com>; jherin@foxrothschild.com; Grady, Beverly <BGrady@ralaw.com>
Subject: 21471 Widgeon Terrace-Application for Administrative Action

Hi Amy.

On behalf of Beverly Grady, attached please find an Application for Administrative Action for 21471 Widgeon Terrace.

Please note the original Application, together with copies, will be forwarded to you via Federal Express.

Robin O'Brien

Assistant to Sean M. Ellis, Beverly Grady, and Ashley L. Suarez



2320 First Street, Suite 1000

Ft. Myers, FL 33901
Direct Phone No.: 239.338-4254
Main Phone No: 239.337.3850
Fax No.: 239.337.0970
Email: robrien@ralaw.com
www.ralaw.com
Roetzel & Andress, A Legal Professional Association

Both Robin O'Brien and Roetzel & Andress intend that this message be used exclusively by the addressee(s). This message may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unauthorized disclosure or use of this information is strictly prohibited. If you have received this communication in error, please permanently dispose of the original message and notify Robin O'Brien immediately at 239-338-4254. Thank you.

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.



June 29, 2022

VIA E-MAIL ONLY (Green@fmbgov.com)

Jason Green, Community Development Director
Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers, FL 33931

RE: Widgeon Terrace Map Amendment (FLUM)

Dear Mr. Green:

As requested, please find enclosed a copy of the current Future Land Use Map, (a) two copies in color and (b) one copy in black-and-white where we have located the Subject Property with an arrow. Also as requested please enclosed Exhibit 3 an 8.5x11 enlarged version of the Future Land Use Map. Also enclosed is the proposed map amendment Exhibit 4 showing the area that would become Mixed Residential and the new Wetlands Future Land Use Map designation.

Very truly yours,

ROETZEL & ANDRESS, LPA

Beverly Grady

BG

Enclosures:

- Exhibit 1: Color Future Land Use Map
- Exhibit 2: Black-and-white Future Land Use Map
- Exhibit 3: 8.5x11 current Land Use Map for Subject Property
- Exhibit 4: Proposed map amendment for Subject Property

Exhibit 3

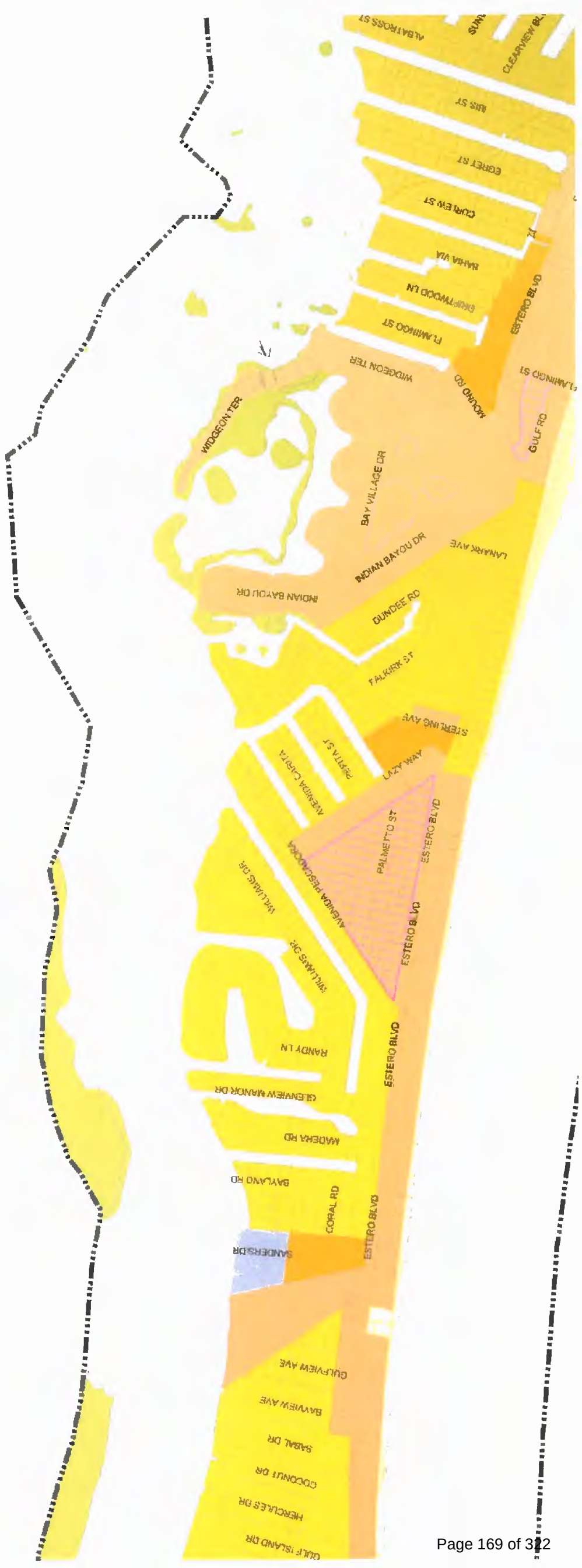
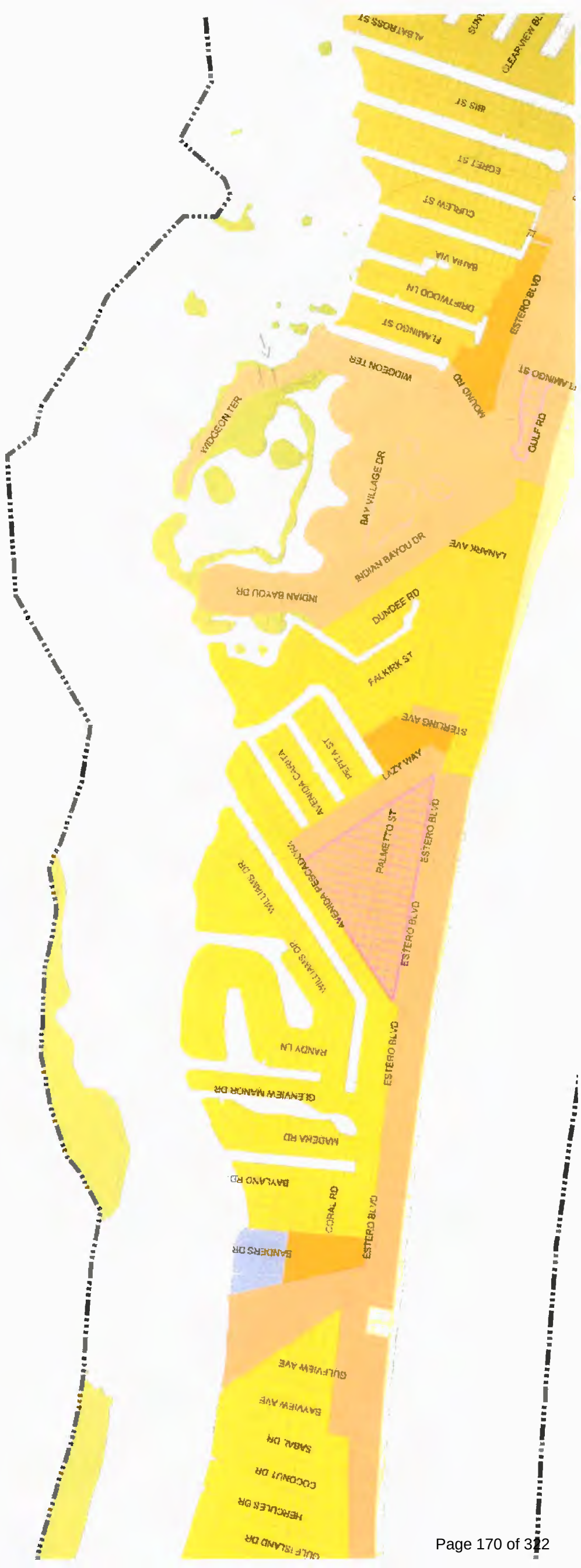
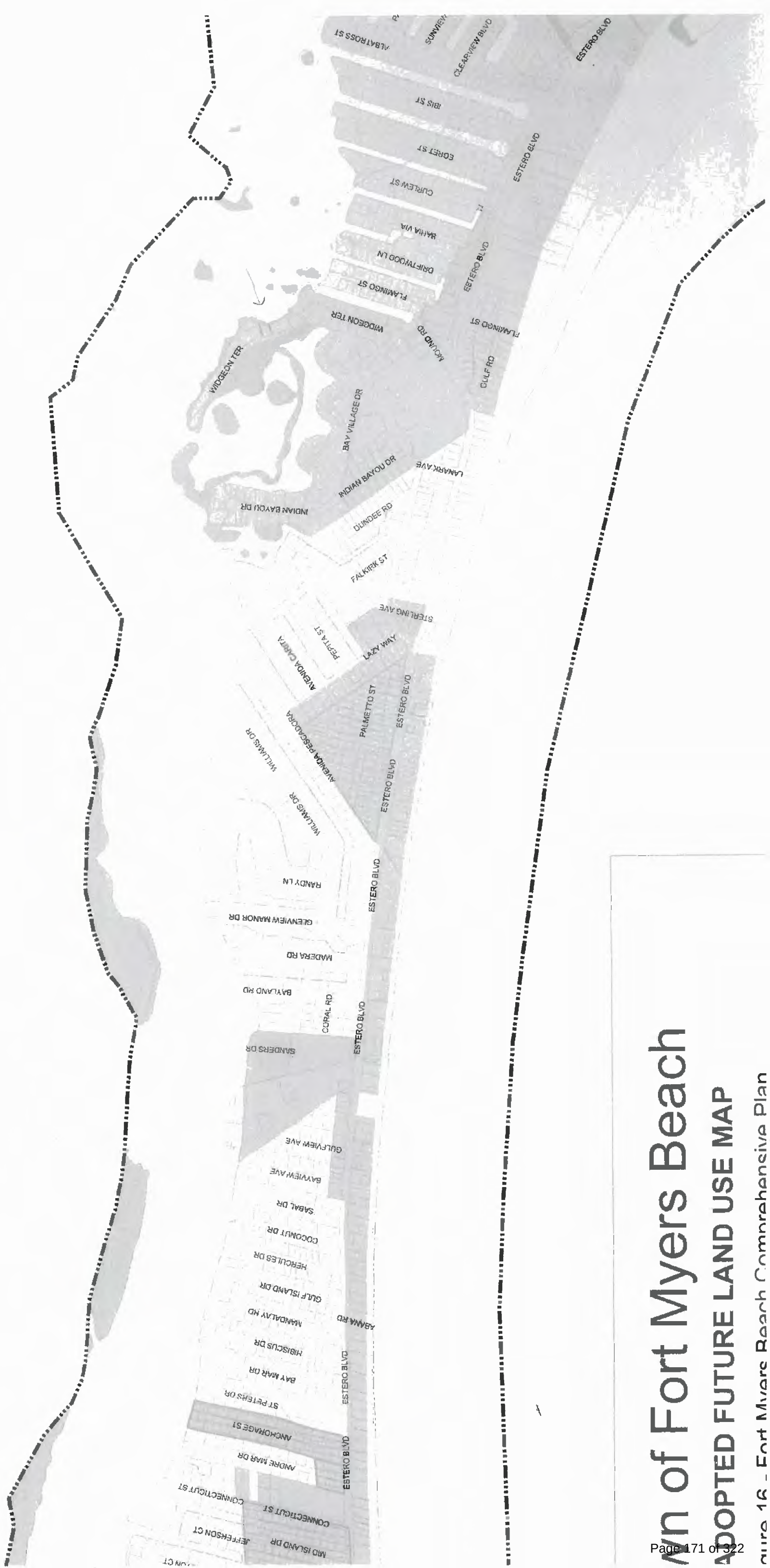


Exhibit 3





Town of Fort Myers Beach

ADOPTED FUTURE LAND USE MAP

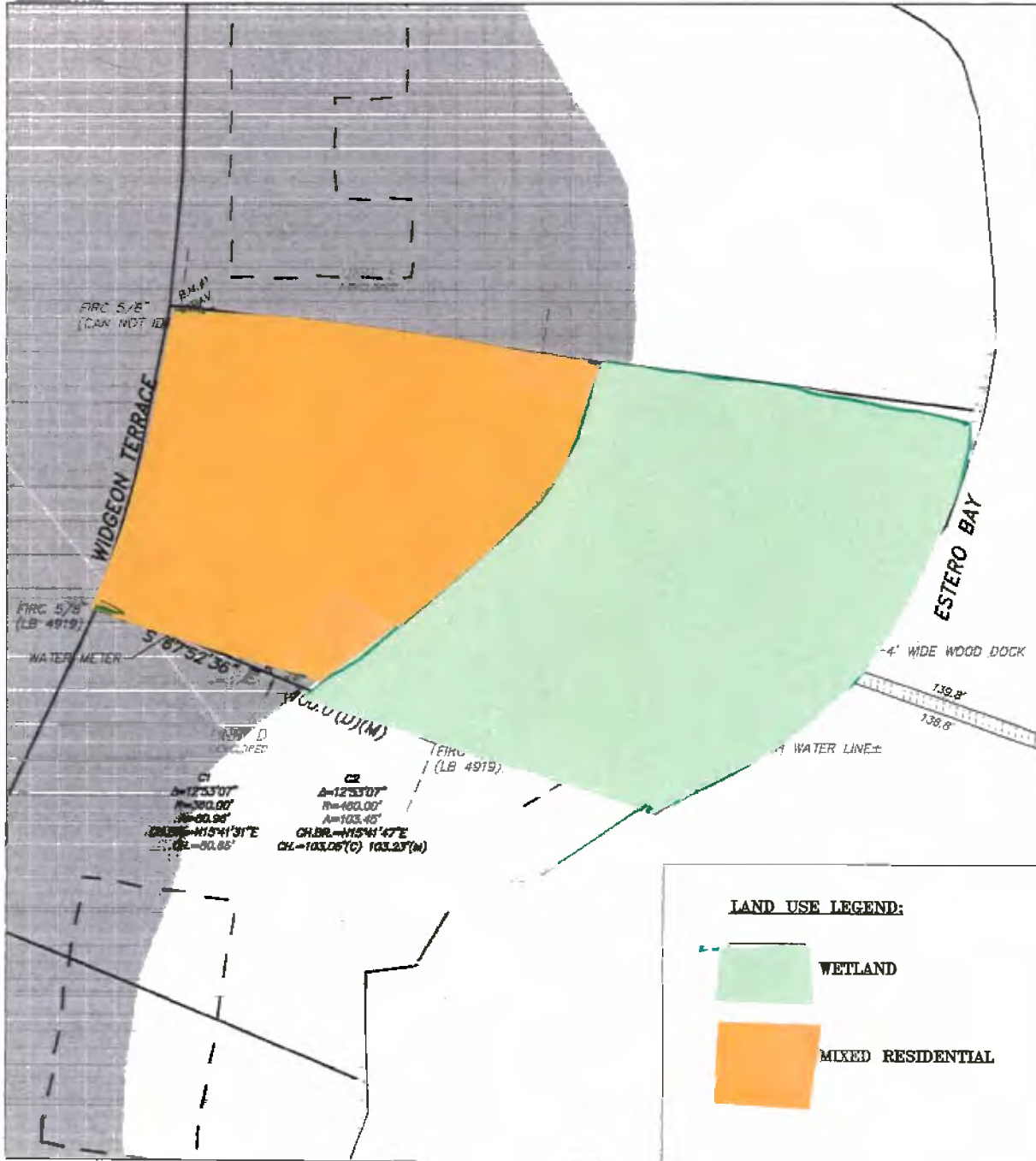
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21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931**

LEGAL DESCRIPTION:

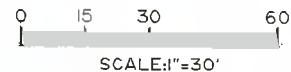
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A/C AIR CONDITIONER
B.M. BENCHMARK
(C) CALCULATED
CB CABLE BOX
CLF CHAIN LINK FENCE
CONC CONCRETE
CSW CONCRETE SIDEWALK
DEED
DE DRAINAGE EASEMENT
DPUE DRAINAGE/PUBLIC UTILITY EASEMENT
EBW ELECTRIC BOX
EDW EDGE OF WATER
EP EDGE OF PAVEMENT
FCH FCH CAPPED
FCM FOUND CONC MONUMENT
FIP FOUND IRON PIPE
FIR FOUND IRON ROD
FN FOUND NAIL
FND FOUND NAIL AND DISK
FSC FOUND 1/2 CUT
LP LIGHT POLE
(M) MEASURED
MH MANHOLE

NCF NO CORNER FOUND
O/W OVERHEAD WIRES
O/A OVER-ALL
P.C.P. PERMANENT CONTROL POINT
(P) PLAT
PE POOL EQUIPMENT
PP POWER POLE
PDB POINT OF BEGINNING
POC POINT OF COMMENCEMENT
R/W RIGHT OF WAY
SIR SET 1/2" IRON ROD WITH CAP - LB 6912
SND SET NAIL AND DISK LB 6912
TOB TOP OF BANK
TOS TOE OF SLOPE
TP TELEPHONE PEDESTAL
UE UTILITY EASEMENT
WM WATER METER
WV WATER VALVE
WDF WOOD FENCE



LAND USE LEGEND:



**FEMA MAP - 120673 / 12071C0567F
FLOOD ZONE - AE
BASE ELEV. - 10' NAVD88**

(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

THIS IS AN AS-BUILT SURVEY SHOWING VISIBLE IMPROVEMENTS IN RELATION TO SURVEY MARKERS FOUND

CERTIFIED EXCLUSIVELY TO:

JOHN A & LISA A DIDIER

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL OR A RAISED EMBOSSED SEAL AND SIGNATURE.

DATE OF FIELD SURVEY

BILL HYATT

Surveyor & Mapper Number 4636
LB 6912

FLORIDASURVEYOR@aol.com

727-415-8305

Existing
Ex 3

**BOUNDARY AND LOCATION SURVEY OF
21471 WIDGEON TERRACE
FORT MYERS BEACH, FLORIDA 33931**

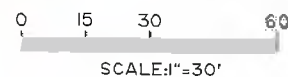
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A/C	AIR CONDITIONER	N/C	NO CORNER FOUND
B.M.	BENCHMARK	O/HW	OVERHEAD WIRES
C	CALCULATED	O/A	OVER-ALL
CB	CABLE BOX	P.C.P.	PERMANENT CONTROL POINT
CLF	CHAIN LINK FENCE	PLAT	PLAT
CONC	CONCRETE	PE	POOL EQUIPMENT
CSW	CONCRETE SIDEWALK	PP	POWER POLE
D	DEED	POB	POINT OF BEGINNING
DE	DRAINAGE EASEMENT	POC	POINT OF COMMENCEMENT
DRUE	DRAINAGE/PUBLIC UTILITY EASEMENT	R/W	RIGHT OF WAY
EB	ELECTRIC BOX	S/R	SET 3/4" IRON ROD WITH CAP
EOW	EDGE OF WATER	SND	SET NAIL AND DISK
EP	EDGE OF PAVEMENT	TDS	TOP OF BANK
FOR	FOR CAPPED	TDS	TOP OF DRAIN
FOF	FOUND CONC MONUMENT	TP	TELEPHONE TOWER
FIP	FOUND IRON PIPE	UE	UTILITY EASEMENT
FIR	FOUND IRON ROD	WM	WATER METER
FND	FOUND NAIL AND DISK	WV	WATER VALVE
FXC	FOUND X CUT	WDF	WOOD FENCE
LP	LIGHT POLE		
(M)	MEASURED		
MR	MANHOLE		



LAND USE LEGEND:



**FEMA MAP - 120673 / 12071C0567F
FLOOD ZONE - AE
BASE ELEV. - 10' NAVD88**

(C) 2020 BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE
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AN AS-BUILT SURVEY SHOWING VISIBLE IMPROVEMENTS IN RELATION TO SURVEY MARKERS FOUND

**PROPOSED
FLUM
EX 41**

**CERTIFIED EXCLUSIVELY TO:
IN A & LISA A DIDIER**

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL OR A RAISED EMBOSSED SEAL AND SIGNATURE.

DATE OF FIELD SURVEY

BILL HYATT
Surveyor & Mapper Number 4636
LB 6912

FLORIDASURVEYOR@AOL.COM
727-415-8305

September 14, 2021

John and Lisa Didier
2010 Timberale Court
Ft. Wayne, Indiana 46845

Subject: 21471 Widgeon Terrace – Wetland Line Evaluation

Dear Mr. & Mrs. Didier

During September of 2021, Hans Wilson & Associates (HWA) conducted an environmental assessment of the current wetlands at the subject site at 21471 Widgeon Terrace, Ft. Myers Beach, Florida 33931. The site is within Section 34, Township 46 South, Range 24 East, in Lee County, Florida. This environmental assessment includes the following elements:

- Review of soil types mapped within the site boundaries;
- Review of current & historical wetland lines

SOILS

According to the Soil Survey of Lee County, Florida, prepared by the U.S. Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), two (2) soil types exist within the subject site. These soil types include the following:

- **St. Augustine organic substratum-urban land complex, 0 to 2 percent slopes (#25)**
- **Wulfert muck, tidal-urban land complex, 0 to 1 percent slopes (#140)**

The Florida Association of Environmental Soil Scientists (FAESS) considers the main components of the Wulfert muck soil type associated with the property to be **hydric** in nature. Additionally, the FAESS considers inclusions existing within the St. Augustine soil type associated with the property to be **hydric** in nature. This information can be found in the Hydric Soils of Florida Handbook, Fourth Edition, March 2007.

Wetland Line Review:

While the soil map (**Figure 4**), shows the soil found on the eastern portion of the property to be a hydric, muck soil type, but this is no longer accurate. The last time the soils were mapped in Lee County Florida, was in 1981. Since then, development and infrastructure has taken over county wide. Refer to attached images one, two, and three to see the soil that was discovered in three different soil pit locations. Within the soil cores, no muck, mucky mineral, or organic material/soil types were discovered in any of the soil cores. The only location of muck was at the vegetation line where the mangroves are located, which is clear on the aerials.

The only location that matched soils, hydrology, and vegetation to consider it a wetland according to F.A.C. 62-340 was the far east boundary where the mangroves are located (**Figure 5**). In the subject area where the pool is being proposed, no soils, hydrology, or vegetation was present to be able to delineate it as a wetland.

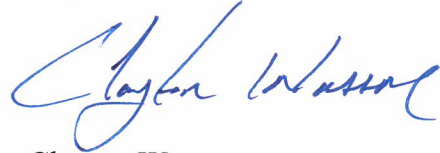
The 1999 Future Land Use Map (FLUM) wetland evaluation of the project site appears incorrect for its time, and not up to date for 2021. Referring to the 1990 historic aerial (**Figure 6**) one can see a clear vegetation break from the wetland mangroves to the uplands. This was before any development was on the subject site, and the clear vegetation break matches the 2021 delineation line almost exactly.

Looking at the 1999 Historic Aerial (**Figure 7**), it is clear the FLUM wetland line (is too high and incorrect not only for its time, but especially in 2021. Evaluating the historic aerial, and the 2021 wetland delineation, once again the vegetation break follows the 2021 delineation line. The subject site in 1999 already had the addition of a single-family structure, which cleared the lot up to the vegetation break, which in turn, matches the 2021 wetland delineation.

Considering the 2021 site evaluation, there are no wetlands where the owner is proposing the pool construction. No soils, vegetation or hydrology was present in that area and cannot be considered a wetland according to F.A.C. 62-340. Along with the 2021 evaluation, historic aerials show the wetland line consistent throughout the years matching what was recently delineated, and further showing that the FLUM is outdated and incorrect. The proposed pool construction is located completely in uplands and should have no environmental limitations regarding wetland impacts.

The environmental limitations described in this document are based on observations and technical information available on the date of the on-site evaluation. This report is for general planning purposes only. The limits of any on-site wetlands/surface waters can only be determined and verified through field delineation and/or on-site review by the associated regulatory agencies. Should you have any questions or require any additional information, please do not hesitate to contact our office at (239)-334-6870. Thank you.

Regards,



Clayton Wasson
Environmental Specialist



Hans Wilson
President & Principal Engineer

Enclosures: Standard Business Terms & Conditions, Method of Compensation

Legend

 Wetland Line Since 1990

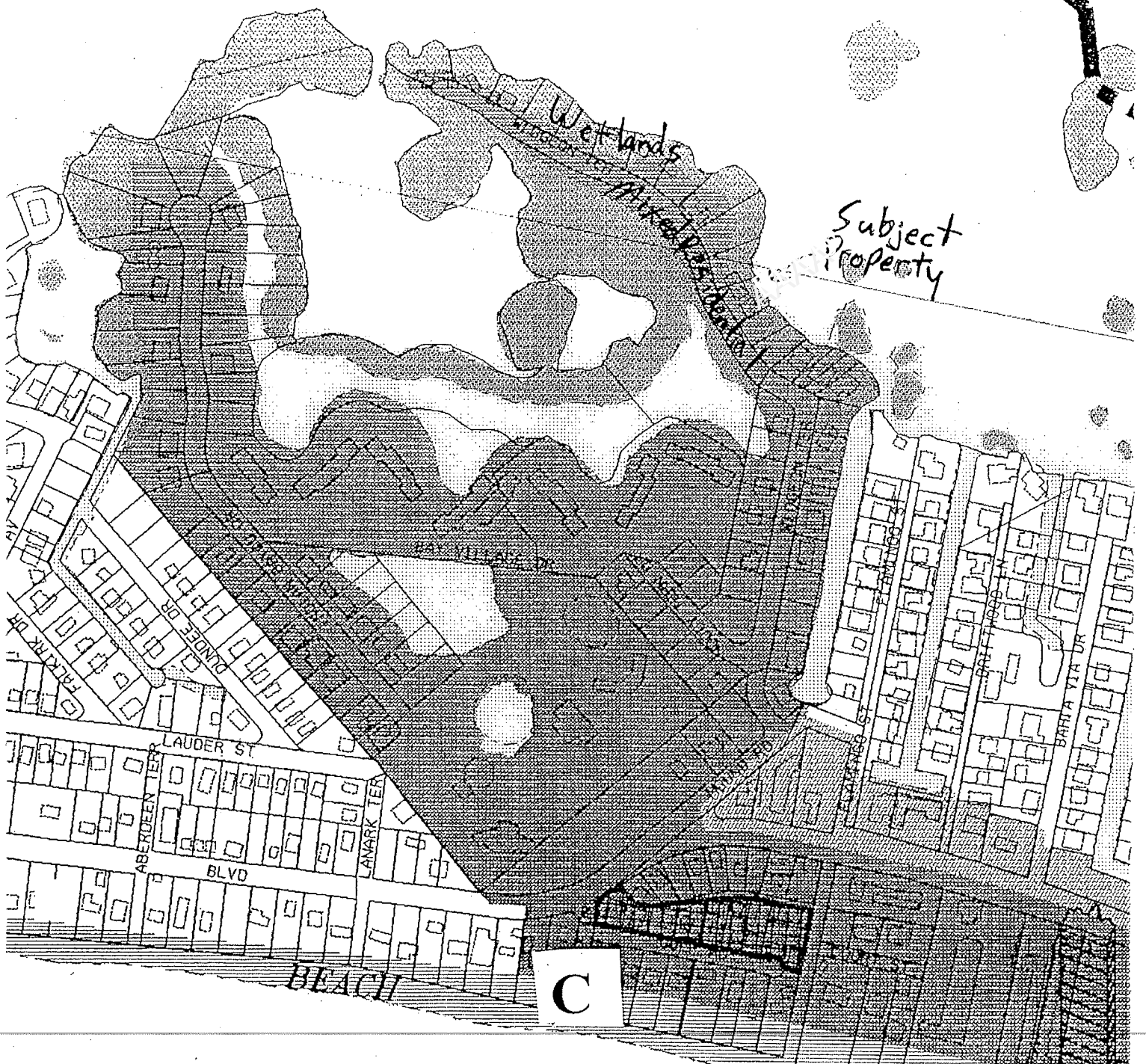


Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



FT. MYERS BEACH FUTURE LAND USE MAP

Future Land Use Map





FIGURES

Legend

 21417 Widgeon Terrace



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

21417 Widgeon Terrace
Lee County, Florida
Figure #1
Location Map



HWA

1938 Hill Avenue
Ft Myers, Florida 33901
info@hanswilson.com
239-334-6870



0 625 1,250 Feet

Project: Didier1
Produced By: CAW
Date: 9/27/2021

Legend

- 21417 Widgeon Terrace
- Lee County Parcel Boundary



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

21417 Widgeon Terrace
Lee County, Florida
Figure #2
2021 Aerial

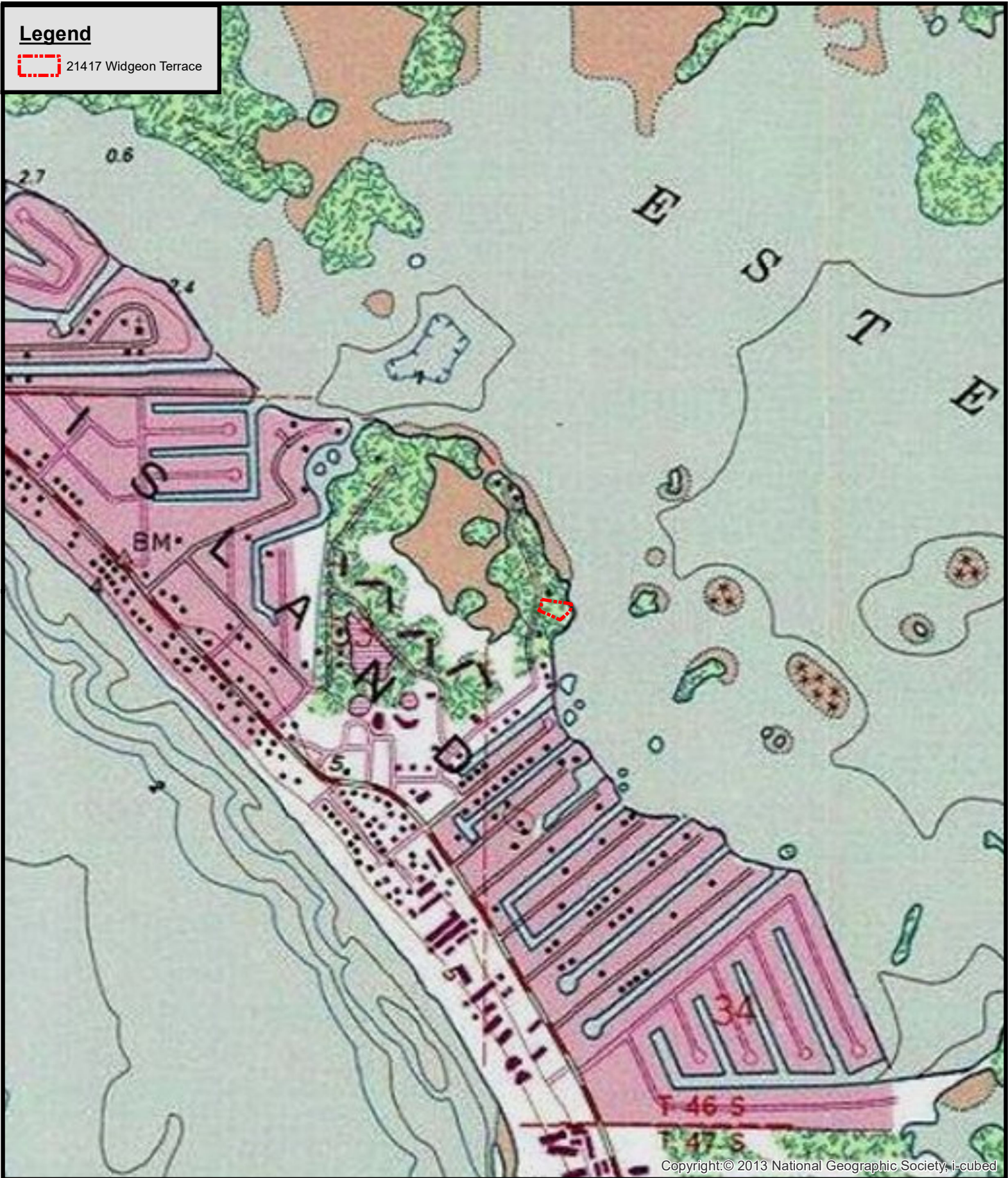


0 40 80 Feet

Project: Didier1
Produced By: CAW
Date: 9/27/2021

Legend

 21417 Widgeon Terrace



Copyright: © 2013 National Geographic Society, i-cubed



HWA

1938 Hill Avenue
Ft Myers, Florida 33901
info@hanswilson.com
239-334-6870

21417 Widgeon Terrace
Lee County, Florida
Figure #3
USGS Topographic Map



0 625 1,250 Feet

Project: Didier1
Produced By: CAW
Date: 9/27/2021
Page 184 of 322

Legend

- 21417 Widgeon Terrace
- Lee County Parcel Boundary

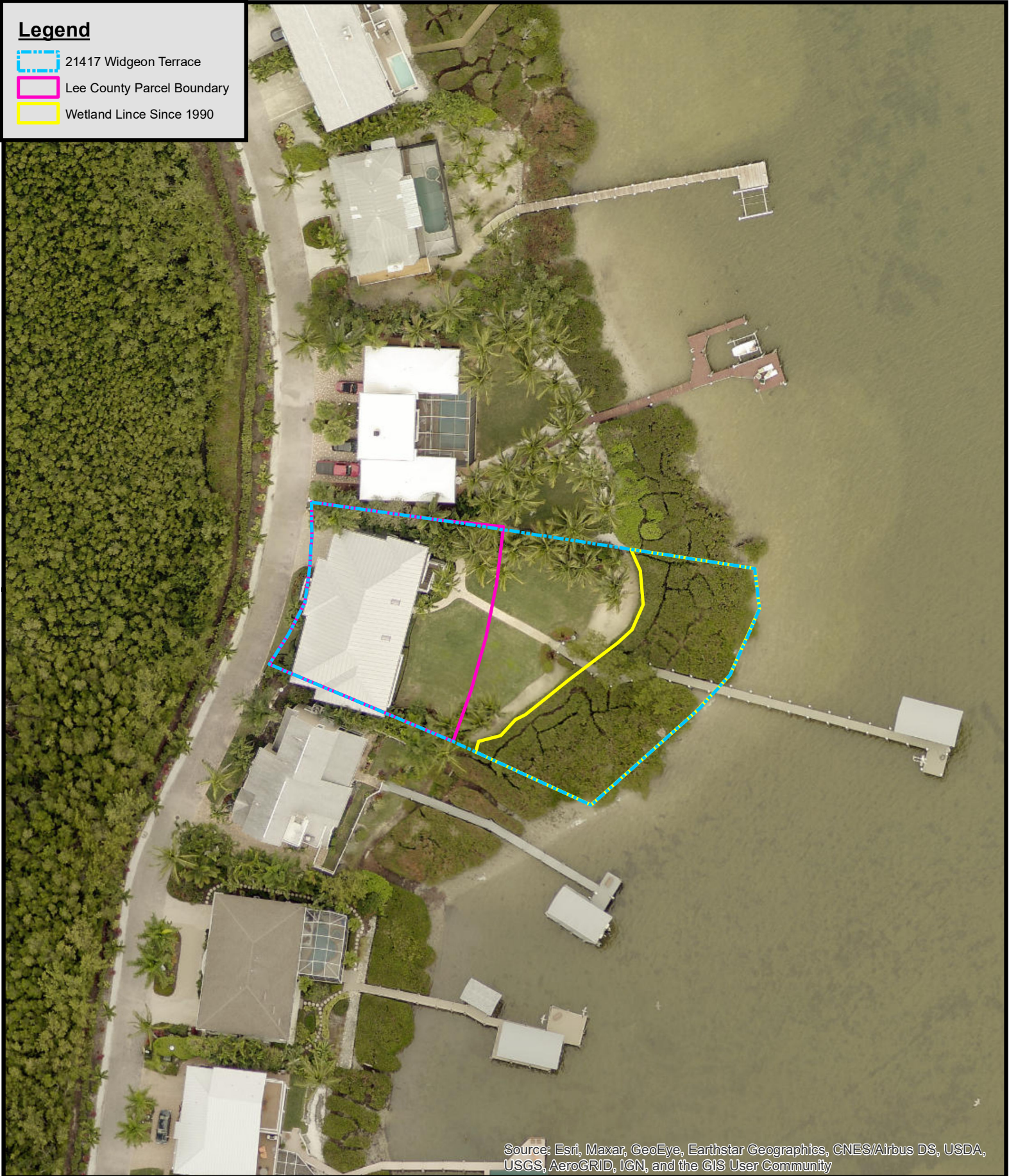
Lee County Soil Survey

- 25; St. Augustine Organic substratum-urban Land complex, 0 to 2 percent slopes
- 140; Wulfert muck, tidal-Urban land complex, 0 to 1 percent slopes



Legend

- 21417 Widgeon Terrace
- Lee County Parcel Boundary
- Wetland Lince Since 1990



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

21417 Widgeon Terrace Lee County, Florida Figure #5 Wetland Delineation



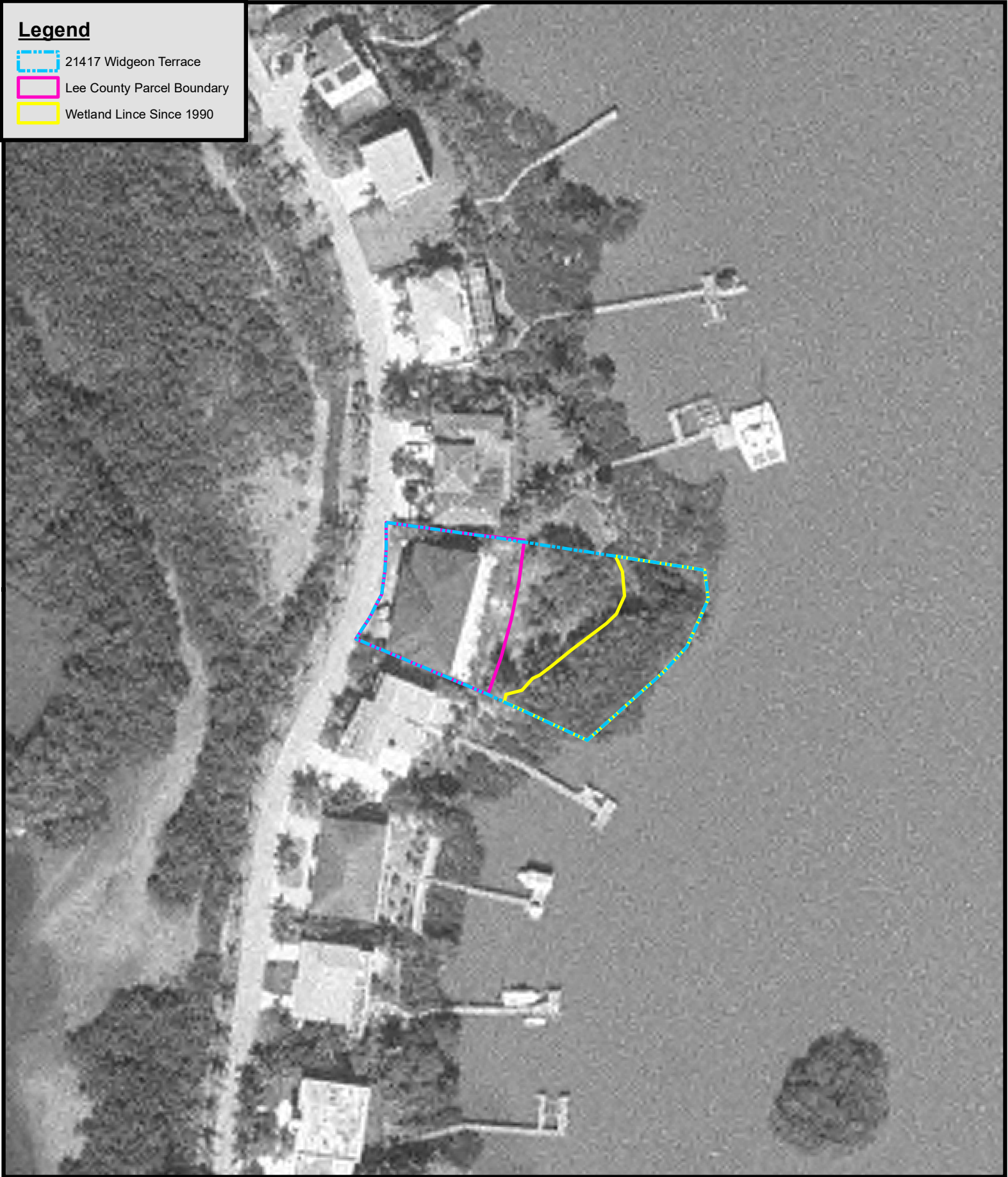
Legend

- 21417 Widgeon Terrace
- Lee County Parcel Boundary
- Wetland Lince Since 1990



Legend

- 21417 Widgeon Terrace
- Lee County Parcel Boundary
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IMAGES

SOIL CORE #1 SOIL RESULTS



SOIL CORE #2 SOIL RESULTS



SOIL CORE #3 SOIL RESULTS





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: November 6, 2023

CASE: CPA2020084

ADDRESS: 21471 Widgeon Ter

APPLICANT: Roetzel & Andress

REQUEST: The applicant is requesting a small scale future land use map amendment to change a Wetland district designation to Mixed Residential for a portion of the property located at 21471 Widgeon Terrace and part of the adjacent common element property of Flamingo Harbor Condominium.

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
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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: November 6, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230175 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 5137 ESTERO BLVD; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council decides Variances.

What the action accomplishes:

If approved, the variance will allow the construction of a single family residence further from the right of way than the existing garage.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Sarah Propst, Planning &
Zoning

5. **Background:**

The subject property is a 75 foot wide by 200 foot deep lot in the RS zoning district. The property contained a single-family residence with a garage, prior to Hurricane Ian. Hurricane Ian destroyed the house but the garage survived. The Applicant is requesting a variance from LDC 34-1174(b) to allow the construction of a new single-family residence further from the right of way than the existing garage.

Attachments:

1. Res 23-125- 5137 Estero Blvd
2. 23-135, 5137 Estero Blvd Variance
3. 5137 Estero Blvd variance Staff Report
4. Exhibit A- Application Package - 5137 Estero
5. Exhibit B- 5137 Engineer Letter for compliance agreement
6. Exhibit C- Compliance Agreement signed Loughery
7. Exhibit D -TC postcard 5137 Estero Blvd

Financial Impact:

Unknown

6. **Alternative Action**

Approval/approval with conditions

7. **Management Recommendations:**

Recommends Denial

8. **Recommended Approval:**

Sarah Propst, Planning & Zoning

Created/Initiated - 10/26/2023

Frankie Kropacek, Operations & Compliance Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Approved - 10/26/2023
Approved - 10/26/2023
Approved - 10/27/2023
Final Approval - 10/27/2023

RESOLUTION NUMBER 23-125

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230175 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 5137 ESTERO BLVD; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, owners Ricky Loughery and Amy Lefebvre, are requesting a variance from LDC 3434-1174(b) which prohibits location of accessory structures, including garages, closer to the street right-of-way line than the principal building; and

WHEREAS, the STRAP number for the subject property is 28-46-24-W4-0020A.0040; and

WHEREAS, the Property is located in the "Low Density Residential" category of the Future Land Use Map of the Comprehensive Plan and the "Residential Single-Family" 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 October 10, 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 unanimously to recommend approval of the variance with conditions; and

WHEREAS, on November 6, 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 does/ does 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. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, interested parties and public, the Town Council APPROVES/ APPROVES WITH CONDITIONS/ DENIES the variance from LDC 34-1174(b) which prohibits location of accessory structures, including garages, closer to the street right-of-way line than the principal building in RS zoning district.

Section 3. In approving/ approving with conditions/ denying 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/ is not 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.

Section 4. If the Town Council approves the requested variance, the following conditions of approval are imposed on the Applicant and the Property:

- A. 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.

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 ____ day of November 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:**

Gretchen R. H. Vose., Town Attorney

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

RESOLUTION NUMBER 23-135

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230175 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 5137 ESTERO BLVD; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, owners Ricky Loughery and Amy Lefebvre, are requesting a variance from LDC 3434-1174(b) which prohibits location of accessory structures, including garages, closer to the street right-of-way line than the principal building; and

WHEREAS, the STRAP number for the subject property is 28-46-24-W4-0020A.0040; and

WHEREAS, the Property is located in the "Low Density Residential" category of the Future Land Use Map of the Comprehensive Plan and the "Residential Single-Family" 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 October 10, 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 unanimously to recommend approval of the variance with conditions; and

WHEREAS, on November 6, 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 does/ does 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. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, interested parties and public, the Town Council APPROVES/ APPROVES WITH CONDITIONS/ DENIES the variance from LDC 34-1174(b) which prohibits location of accessory structures, including garages, closer to the street right-of-way line than the principal building in RS zoning district.

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- A. There are/ are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request is/ is not 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.
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Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R. King	_____
Bill Veach	_____
Karen Woodson	_____

ADOPTED this ____ day of November 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:**

Gretchen R. H. Vose., Town Attorney

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



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20230175

CASE NAME: 5137 Estero Blvd; requesting relief from LDC 34-1174(b) which prohibits location of accessory structures, including garages, closer to street right-of-way line than the principal building in RS zoning district.

LPA
HEARING DATE: October 10, 2023

TOWN COUNCIL
HEARING DATE: November 6, 2023, at 9:00 AM

LPA
RECOMMENDATION: APPROVAL WITH CONDITIONS

STAFF
RECOMMENDATION: DENIAL

**PREPARED/
SUBMITTED BY:** Sarah Propst, AICP, PMP / Jason Green AICP, CFM

I. APPLICATION SUMMARY

Applicant/Owner: Ricky Loughery and Amy Lefebvre (Owner)

Request: Relief from LDC 34-1174(b) which prohibits location of accessory structures, including garages, closer to street right-of-way line than the principal building in RS zoning district.

The lot is 75 feet wide by 200 feet deep. The property contained a single-family residence with a garage, prior to Hurricane Ian. Hurricane Ian destroyed the house but the garage survived and the Applicant is requesting a variance from LDC 34-1174(b) to allow the construction

of a new single-family residence further from Estero Blvd than the existing garage.

Subject property: See attached site plan

Physical Address: 5137 Estero Blvd

STRAP #: 28-46-24-W4-0020A.0040

FLU: Low Density Residential

Zoning: Residential Single-Family (RS)

Adjacent zoning and land uses:

North: LOW DENSITY RESIDENTIAL
Residential Single-Family (RS)

South: LOW DENSITY RESIDENTIAL
Residential Single-Family (RS)

East: Waterway/Canal

West: MIXED RESIDENTIAL
Residential Multi-Family (RM)

II. BACKGROUND AND ANALYSIS

Background:

Ricky Loughery and Amy Lefebvre, the applicant and owners of 5137 Estero Blvd, are requesting a variance from the Town's Land Development Code (LDC): Section 34-1174(b) prohibits location of accessory structures, including garages, closer to street right-of-way line than the principal building in RS zoning district.

Prior to Hurricane Ian, the property contained a single-family residence with a street setback of 86 feet and a garage with a street setback of 43 feet. No previous variances were found in the Town's record.

Analysis:

The purpose of the RS zoning district is to provide stable neighborhoods where single-family detached homes are the predominant land use. The subject property is 75 feet wide and 200 feet deep, it is a conforming lot. Prior to Hurricane Ian, the property contained a single-family residence with a garage 43 feet closer to the street right-of-way line than the main residence. Therefore, the garage was an existing non-

conformity. The residence was destroyed during Ian, but the garage remains in safe and usable condition. As per the Town's LDC Section 34-3238, Post Disaster build-back, if a residence has experienced more than 50 percent damage and requires substantial improvements, the building must comply with current building, life safety, and accessibility codes. The Applicant is proposing construction of a three-story single-family residence behind the existing garage which is possible only upon approval of a variance from LDC 34-1174(b).

LDC 34-1174 (b) states that accessory structures, including garages, shall not be closer to a street right-of-way line or street easement than the principal building.

The Town's LDC requires a minimum 25-foot street setback and 7.5-foot side setback on each side for this 75-foot-wide property in the RS zoning district. The existing garage has a street setback of 43 feet and side setbacks of 7.5 feet to the north property line and 38 feet to the south property line. The garage location leaves almost 30 feet of buildable space between the existing garage and the southern property line. The Applicant, therefore, has the choice to construct the residence parallel with or closer to the street than the existing garage, which will be consistent with the requirements of Town's LDC. The need for this variance is the result of a design choice.

Neighborhood Compatibility:

The subject property is part of an older residential neighborhood. Prior to hurricane Ian, few properties along Estero Blvd appear to have had accessory structures closer to the street right-of-way line than the residences. This year, the Town of Fort Myers Beach approved a request to allow a pool, closer to Tarpon Rd than the principal building (Resolution 23-20 for 8180 Lagoon Rd). However, most of the properties within a mile radius of the subject property appear to comply with LDC 34-1174.

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.*

There are no exceptional or extraordinary conditions inherent to the property. The Applicant has the choice to construct the residence parallel with or closer to the street than the existing garage, which will be consistent with the requirements of Town's LDC. The side setbacks of the existing garage are 7.5 feet and 38 feet, leaving almost 30 feet width of buildable space after subtracting the 7.5 feet LDC required side setback for this 75-foot-wide property in RS zoning district. The need for this variance is the result of a design choice.

- 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 large parcel has 30 feet of width beside the garage, the applicant has opted to design a home that is behind the garage and not compliant with Section 34-1174(b) of the Town's LDC.

- 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 need for this variance is a result of a design choice and is subjective in nature. No unreasonable burden is caused by the application of this regulation to the subject property.

- 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. Pre-Hurricane Ian, the subject property supported a single-family residence with a garage 43 feet closer to the street right-of-way line than the main residence. Using the aerial of that time, few properties in the area appear to have accessory structures closer to street right-of-way line than their respective residences. The Applicant is requesting this variance to construct a single family home in a similar location to Pre-Hurricane home.

- 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.

IV. RECOMMENDATION

Staff has reviewed the request for a variance from LDC 3434-1174(b) which prohibits location of accessory structures, such as garages, closer to street right-of-way line than the principal building in RS zoning district and found that the variance request does not meet the requirements set-forth in sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20230175, to allow the existing garage closer to the street right of way line than the proposed single-family residence.

At the October 10, 2023, LPA Hearing, the **LPA unanimously recommended approval with conditions** for the variance request.

IV. CONDITIONS FOR APPROVAL

The following conditions are recommended by the LPA and the Town's staff for approval of this variance:

- 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.

VI. EXHIBITS

Exhibit A: Complete Application Packet

Exhibit B: Preliminary Damage Assessment

Exhibit C: Compliance Agreement with the Town

Exhibit D: 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: 5137 Estero Blvd

STRAP Number: 28-46-24-W4-0020A.0040

Applicant: Ricky Frances Loughery & Amy Jo Lefebvre Phone: 239-980-4666

Contact Name: Amy Lefebvre Phone: 239-980-4666

Email: loughreyamy@aim.com Fax: _____

Current Zoning District: RS

Future Land Use Map (FLUM) Category: Low Density

FLUM Density Range: 4 du/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*: Amy Jo Lefebvre Phone: 239-980-4666

**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: 5137 Estero Blvd

Email: loughreyamy@aim.com Fax: _____

Contact Name: Amy Lefebvre Phone: _____



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: Kara Stewart Phone: 239-770-4198
Address: 13450 Electron Dr., FM
Email: stewart.karalyn@gmail.com 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 34 - 1174 (b)
- ☐ 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: Ricky Frances Loughery & Amy Jo Lefebvre Phone: _____

Mailing Address: 5137 Estero Blvd

Email: loughreyamy@aim.com Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Amy Jo Lefebvre 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.

Amy Jo Lefebvre
Signature

Amy Jo Lefebvre

Printed Name

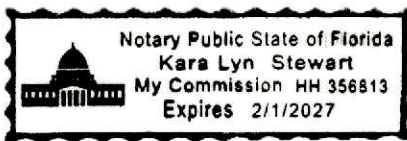
STATE OF FL COUNTY OF Lee

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

presence OR ☐ online notarization, this 10th day of Sept, 2023, by

Amy Jo Lefebvre ☒ who is personally known to me OR ☐ who has produced

_____ as identification.



Kara Lyn Stewart
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: 28-46-24-W4-0020A.0040

Property Address: 5137 Estero Blvd., FMB

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: Holiday Heights

Book: 9 Page: 58 Unit: _____ Block: _____ Lot(s): 4

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) 75 feet
Depth (please provide an average width if irregular in shape) 200 feet
Frontage on street: 75 feet. Frontage on waterbody: 75 feet
Total land area: 15000 ☐ acres ☒ square feet

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

Left over bridge

☐ 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 |



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

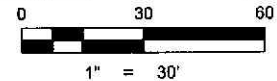
line. Exhibit 6-2

- 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

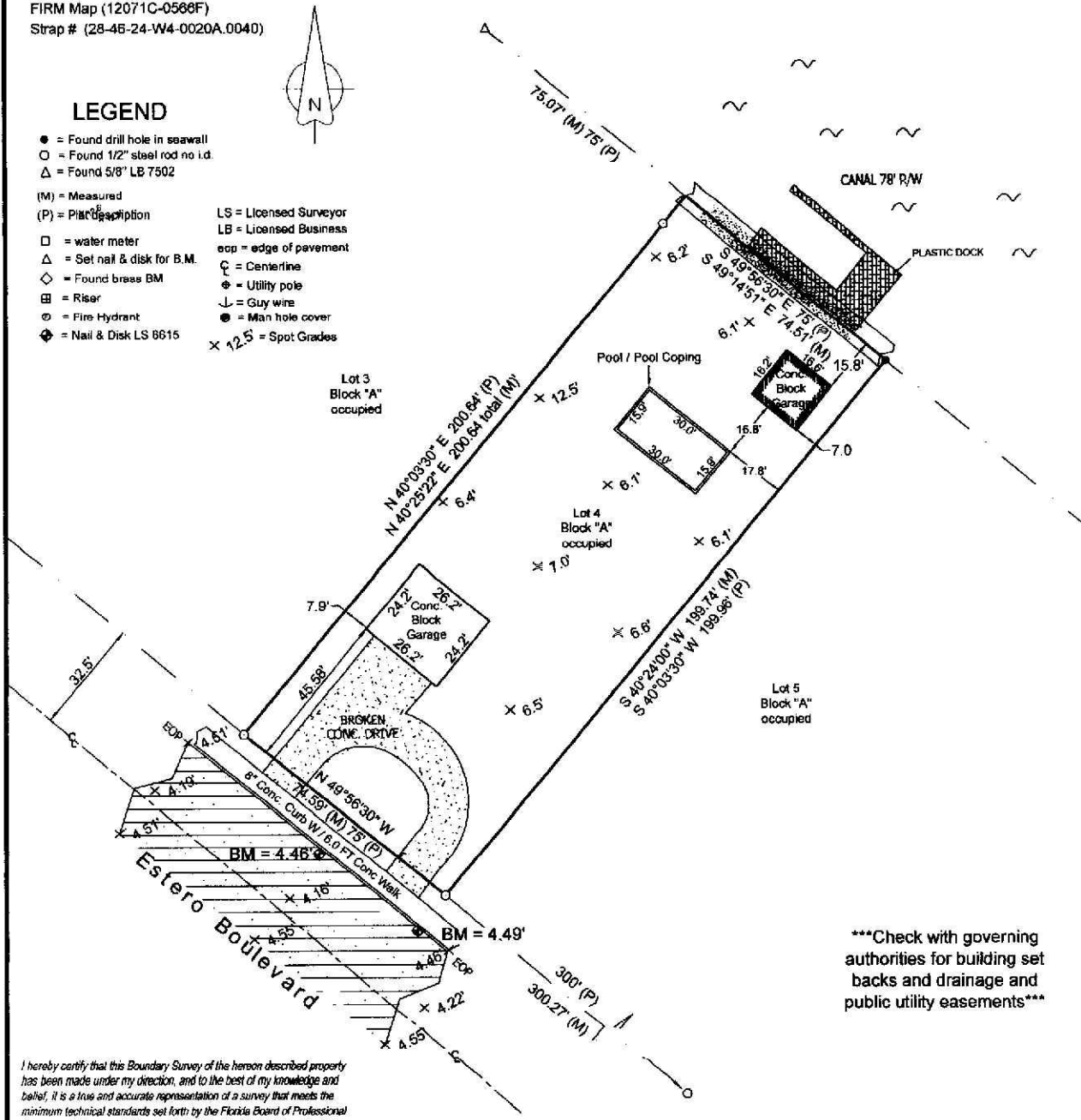
The applicant must sign and submit either of the affidavits in Part V & VI, as applicable.

Flood Zone (AE / VE)
Flood Elevation 13.0'
Vertical Datum (NAVD 88)
FIRM Map (12071C-0586F)
Strap # (28-46-24-W4-0020A.0040)



LEGEND

- = Found drill hole in seawall
- = Found 1/2" steel rod no i.d.
- △ = Found 5/8" LB 7502
- (M) = Measured
- (P) = Plat description
- = water meter
- △ = Set nail & disk for B.M.
- ◇ = Found brass BM
- ⊞ = Riser
- ⊞ = Fire Hydrant
- ⊞ = Nail & Disk LS 6615
- LS = Licensed Surveyor
- LB = Licensed Business
- cap = edge of pavement
- C = Centerline
- ⊞ = Utility pole
- ⊞ = Guy wire
- ⊞ = Man hole cover
- x 12.5 = Spot Grades



Check with governing authorities for building set backs and drainage and public utility easements

I hereby certify that this Boundary Survey of the herein described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey that meets the minimum technical standards set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5A-17 of the Florida Administrative Code.

BEARINGS BASED UPON THE Found monuments along th NE R/W of Estero Blvd BEING THE RECORDED PLAT BEARING OF N 49°58'30" W

REAL PROPERTY DESCRIPTION

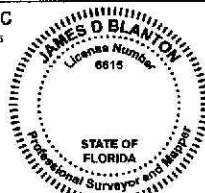
BOUNDARY SURVEY 04/03/2022 REVISION: 11/09/2022
LOTS 4 BLOCK "A" HOLIDAY HEIGHTS, AS RECORDED IN
PLAT BOOK 008 PAGES 058 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

CERTIFIED TO: Ricky Francis Loughrey
Amy Jo Lefebvre

SURVEYORS NOTES:

- * THIS PLAT OF THE HEREIN DESCRIBED PROPERTY IS A TRUE AND CORRECT REPRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECT SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 5A-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 47, FLORIDA STATUTES.
- * THIS SURVEY WAS PERFORMED BASED UPON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, RESTRICTIVE COVENANTS OR OTHER FACTS THAT MAY AFFECT TITLE.
- * NOTE: SUBJECT TO EASEMENTS OR RESTRICTIONS OF RECORD.
- * THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THOSE SHOWN.
- * THIS SURVEY IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE.
- * THIS SURVEY DOES NOT DETERMINE OR REFLECT OWNERSHIP, TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES AND IS ONLY FOR THE LANDS DESCRIBED ABOVE.
- * THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUALS AND/OR INSTITUTIONS LISTED ABOVE / UNDER COVENANTS IT.
- * COMMERCIAL HIGH RISK LINEAR: 1 FOOT IN 10,000 FEET / SUBURBAN LINEAR: 1 FOOT IN 7,500 FEET
RURAL LINEAR: 1 FOOT IN 5,000 FEET

J. Blanton Land Surveying, LLC
PROFESSIONAL SURVEYOR & MAPPER 6615
202 W 7th Street, Suite 113
London, Ky. 40741
FL. Office (239) 222 - 7315
KY. Office (606) 260 - 8169



James D Blanton
PSM 6615 State
of Florida

Digitally signed by
James D Blanton PSM
6615 State of Florida
Date: 2022.11.15
14:33:35 -05'00'

BENCHMARK DESCRIPTION IN REFERENCE TO FDOT RINEX

Project ID: EdisonAve5137



Case # _____

Date Received: _____

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: 5137 Estero Blvd Garage
Authorized Applicant: Amy Jo Lefebvre
LeePA STRAP Number: 28-46-24-W4-0020A.0040

Current Property Status: Accessory structures and pool; house under permitting	
Current Zoning: RS	
Future Land Use Map (FLUM) Category: Low Density	
Comp Plan Density: 4du/acre	Platted Overlay? ☐ Yes ☒ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

34-1174 (b)	Location and setbacks generally

Complete the narrative statements below for EACH variance requested.



Case # _____ Date Received: _____

PART I
Narrative Statements

Request for variance from 34-1174(b) (LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:

Setback from streets. No accessory use, building or structure shall be located closer to a street right-of-way line or street easment than the principle structure.

Reasons for request

Explain why the variance is needed:

The structure in question survived Hurricane Ian as an accessory structure; inclusive of independent foundation, four walls, roof structure and appropriate flood vents. (Constructed in 2019)

The principle structure did not survive Hurricane Ian.

Due to the location of the remaining accessory structure the new principle structure will need to be located behind the existing accessory structure.

Thus placing it between the street right of way and the principle structure The proposed primary structure will be located 4' from the existing accessory structure. Exhibit 6-8



Case # _____ Date Received: _____

Explain the possible effect the variance, if granted, would have on surrounding properties:

There will be no effect on the surrounding properties. The location of the accessory structure places it 7.9 to the sideyard (the required side yard setback is 7.5), the front street setback is 45.58 (the required front setback is 25) Visibility is not an issue the setbacks are greater than required. The property will be required to have an approved drainage plan under the principle structure review.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

The structure survived Hurricane Ian as an accessory structure; to demolish this structure would be a tremendous burden to place on the owner.



Case # _____

Date Received: _____

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

See attached addendum "A"

Addendum A - Criteria for Decision Making

1. Exceptional and extraordinary circumstances:

The remaining accessory structure is the result of Hurricane Ian removing the principle structure from the property. The location of the existing structure which remains today is such that the replacement of the principle structure can only be permitted and constructed behind it, placing it closer to the Street Right of way than the principle structure. The accessory structure has been looked at by Engineers and has been established to be structurally sound and does not require removal. Not allowing this structure to remain and requiring it to be demolished would create an extraordinary burden on the property owner.

2. The conditions justifying the variance are not the result of the applicant.

Hurricane Ian removed the principle structure. As long time homestead residents of Fort Myers Beach the owners would like to remain on Island. Constructing a replacement principle structure on the lot while leaving the existing accessory structure is the way to do this. The design of the new principle structure places the home detached behind the remaining structure.

3. Minimum variance needed by the applicant to relieve them from an unreasonable burden.

Allowing the accessory structure to remain so that it is closer to the street right of way than the principle structure is the minimum variance needed. LDC 34-1174 (d)(1)(d) requires waterfront lot side setbacks to be equal to principle structure setbacks. We are maintaining 7.9' to the side yard, requirement is 7.5'. Front setback requirement is 25', we are maintaining 45.48'. Sight visibility is in compliance as well.

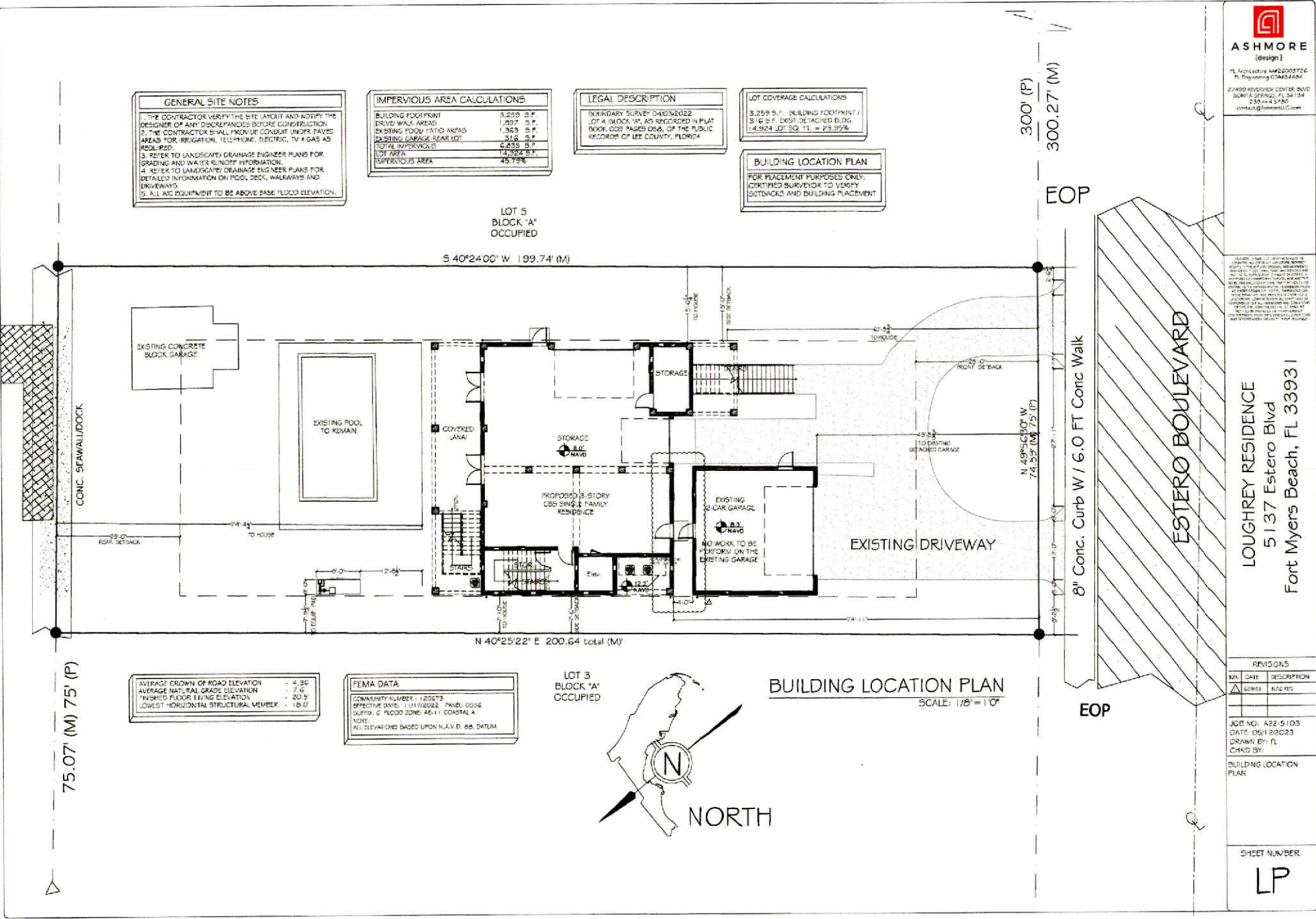
4. Granting this variance will not be injurious to the neighboring properties.

The issuance of this variance will not be injurious to the neighboring properties. The location of this accessory structure complies with all other setbacks. The structure has been in existence on the property since 2019. In addition to complying with all other setback requirements, the visibility and drainage requirements are also being met.

5. Are the conditions so common as to amend the LDC.

These conditions are unique and individual to this property and does not represent any prevailing issue on FMB

Exhibit 6-8



GENERAL SITE NOTES

1. THE CONTRACTOR VERIFY THE SITE LAYOUT AND NOTIFY THE DESIGNER OF ANY DISCREPANCIES BEFORE CONSTRUCTION.
2. THE CONTRACTOR SHALL PROVIDE CONDUIT UNDEPAVED AREAS FOR IRRIGATION, TELEPHONE, ELECTRIC, TV & GAS AS REQUIRED.
3. REFER TO LANDSCAPE/DRAINAGE ENGINEER PLANS FOR GRADING AND WATER RUNOFF INFORMATION.
4. REFER TO LANDSCAPE/DRAINAGE ENGINEER PLANS FOR DETAILED INFORMATION ON POOL DECK, WALKWAYS AND DRIVEWAYS.
5. ALL A/C EQUIPMENT TO BE ABOVE BASE FLOOD ELEVATION.

IMPERVIOUS AREA CALCULATIONS	
BUILDING FOOTPRINT	3,258 S.F.
DRIVE WALK AREAS	1,297 S.F.
EXISTING POOL/PATIO AREAS	1,363 S.F.
EXISTING GARAGE-REAR LOT	318 S.F.
TOTAL IMPERVIOUS	6,236 S.F.
LOT AREA	14,924 S.F.
IMPERVIOUS AREA	41.78%

LEGAL DESCRIPTION

BOUNDARY SURVEY 040302022
LOT 4 BLOCK 1A, AS RECORDED IN PLAT BOOK 003 PAGES 050, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

LOT COVERAGE CALCULATIONS	
3,258 S.F. BUILDING FOOTPRINT /	
318 S.F. EXIST' DETACHED B.D.G.	
14,924 LOT SQ. FT.	= 23.35%

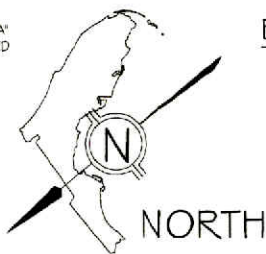
BUILDING LOCATION PLAN

FOR PLACEMENT PURPOSES ONLY:
CERTIFIED SURVEYOR TO VERIFY
SETBACKS AND BUILDING PLACEMENT

AVERAGE CROWN OF ROAD ELEVATION	- 4.36
AVERAGE NATURAL GRADE ELEVATION	- 7.6
FINISHED FLOOR LIVING ELEVATION	- 20.5
LOWEST HORIZONTAL STRUCTURAL MEMBER	- 18.0

FEMA DATA	
COMMUNITY NUMBER	120673
EFFECTIVE DATE	11/17/2022
PANEL	0556
SUFFIX	G FLOOD ZONE: AE-11 COASTAL A
NOTE	ALL ELEVATIONS BASED UPON N.A.V.D. 88 DATUM.

LOT 3
BLOCK 'A'
OCCUPIED



BUILDING LOCATION PLAN

SCALE: 1/8" = 1' 0"

ASHMORE
(design)

FL Architectural AM20003726
PL Engineering CM20003726
27400 MYERS BEACH CENTER BLVD
DUNEDIN SPRING, FL 34134
239.444.5747
contact@ashmorellc.com

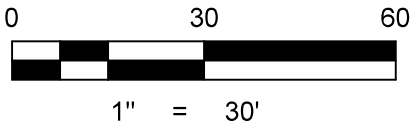
LOUGHREY RESIDENCE
5137 Estero Blvd
Fort Myers Beach, FL 33931

REVISIONS	
NO.	DATE DESCRIPTION
1	05/11/2023 RISE REV.
2	
3	
4	
5	

JOB NO: A22-5103
DATE: 05/11/2023
DRAWN BY: FL
CHECKED BY:
BUILDING LOCATION PLAN

SHEET NUMBER
LP

Flood Zone (AE / VE)
Flood Elevation 13.0'
Vertical Datum (NAVD 88)
FIRM Map (12071C-0566F)
Strap # (28-46-24-W4-0020A.0040)



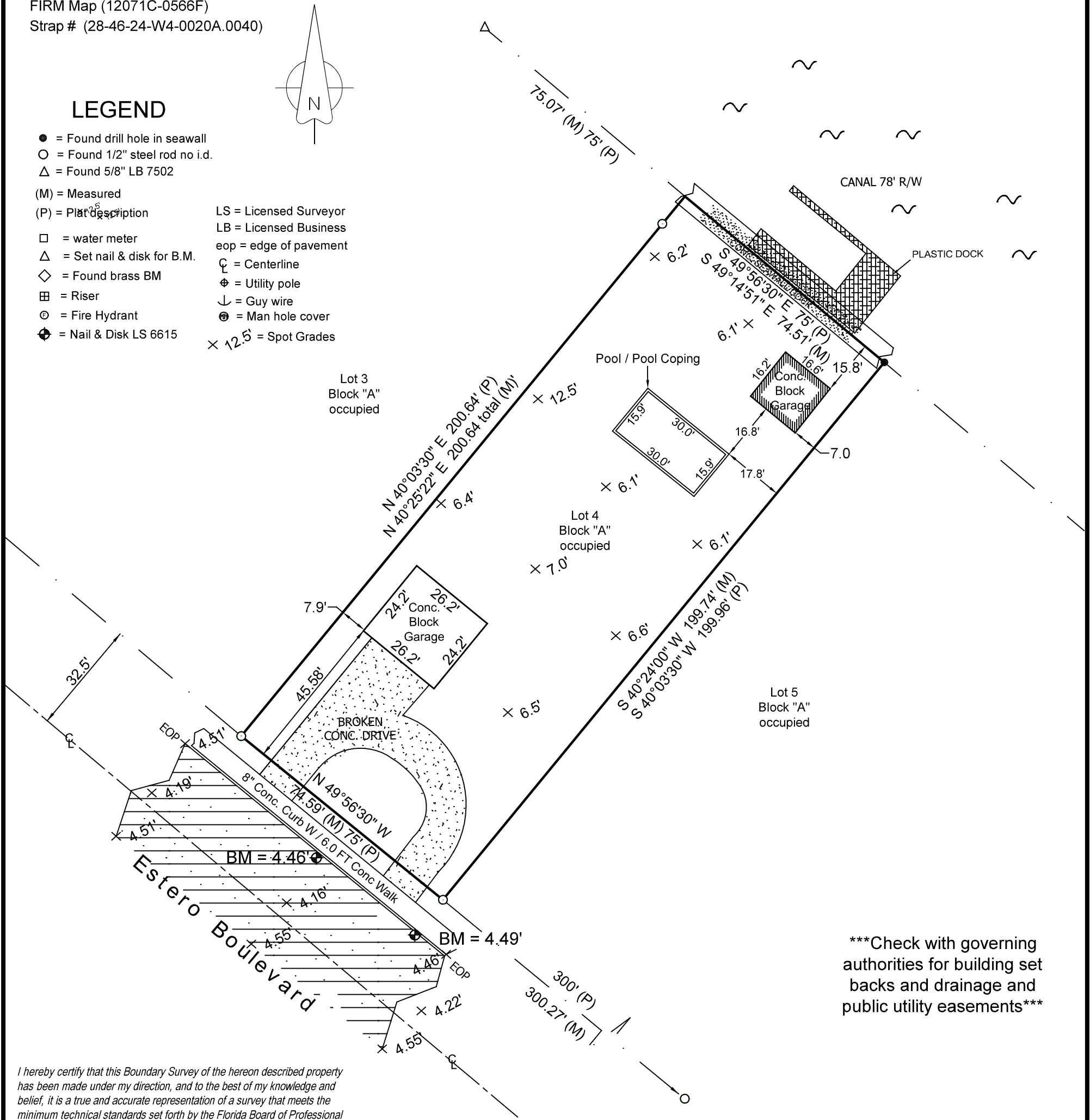
LEGEND

- = Found drill hole in seawall
 - = Found 1/2" steel rod no i.d.
 - △ = Found 5/8" LB 7502

(M) = Measured
(P) = Plat description

 - = water meter
 - △ = Set nail & disk for B.M.
 - ◇ = Found brass BM
 - ▤ = Riser
 - ⊙ = Fire Hydrant
 - ⊕ = Nail & Disk LS 6615
- LS = Licensed Surveyor
LB = Licensed Business
eop = edge of pavement

 - ⊥ = Centerline
 - ⊕ = Utility pole
 - ⌋ = Guy wire
 - ⊙ = Man hole cover
 - × 12.5' = Spot Grades



Check with governing authorities for building set backs and drainage and public utility easements

I hereby certify that this Boundary Survey of the hereon described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey that meets the minimum technical standards set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17 of the Florida Administrative Code.

BEARINGS BASED UPON THE Found monuments along th NE R/W of Estero Blvd BEING THE RECORDED PLAT BEARING OF N 49°56'30" W

REAL PROPERTY DESCRIPTION

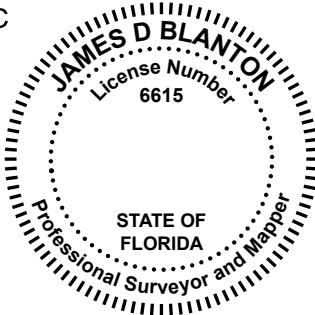
BOUNDARY SURVEY 04/03/2022 REVISION: 11/09/2022
LOTS 4 BLOCK "A" HOLIDAY HEIGHTS , AS RECORDED IN
PLAT BOOK 009 PAGES 058 , OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA

CERTIFIED TO: Ricky Francis Loughrey
Amy Jo Lefebvre

SURVEYORS NOTES:

- * THIS PLAT OF THE HEREON DESCRIBED PROPERTY IS A TRUE AND CORRECT REPRESENTATION OF A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECT SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE STATE OF FLORIDA AS PER CHAPTER 61G17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 427 FLORIDA STATUTES.
- * THIS SURVEY WAS PERFORMED BASED UPON A DESCRIPTION ISSUED VERBALLY BY THE CLIENT AND WITHOUT BENEFIT OF AN ABSTRACT OF TITLE. THE SURVEYOR HAS MADE NO INDEPENDENT SEARCH FOR EASEMENTS, OWNERSHIP, RESTRICTIVE COVENANTS OR OTHER FACTS THAT MAY AFFECT TITLE.
- * NOTE: SUBJECT TO EASEMENTS OR RESTRICTIONS OF RECORD.
- * THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THOSE SHOWN.
- * THIS SURVEY IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE.
- * THIS SURVEY DOES NOT DETERMINE OR REFLECT OWNERSHIP, TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES AND IS ONLY FOR THE LANDS DESCRIBED ABOVE.
- * THIS SURVEY IS FOR THE SOLE PURPOSES INTENDED BY THE SURVEYOR AND ONLY FOR THE INDIVIDUAL(S) AND/OR INSTITUTIONS LISTED ABOVE / UNDER "CERTIFIED TO".
- * COMMERCIAL HIGH RISK LINEAR: 1 FOOT IN 10,000 FEET * SUBURBAN LINEAR: 1 FOOT IN 7,500 FEET
RURAL LINEAR: 1 FOOT IN 5,000 FEET

J. Blanton Land Surveying, LLC
PROFESSIONAL SURVEYOR & MAPPER 6615
202 W 7th Street, Suite 113
London, Ky. 40741
FL. Office (239) 222 - 7315
KY. Office (606) 260 - 8169



BENCHMARK DESCRIPTION IN REFERENCE TO FDOT RINEX

Project ID: EdisonAve5137



ASHMORE
[design]

FL Architecture AA#26003726
FL Engineering CO#34484

27499 RIVERVIEW CENTER BLVD
BONITA SPRINGS, FL 34134
239.444.5780
contact@AshmoreLLC.com

ASHMORE DESIGN, LLC HEREBY RESERVES ITS
COMMON LAW COPYRIGHT AND OTHER PROPERTY
RIGHTS IN THESE PLANS, DESIGNS, ARRANGEMENTS
AND IDEAS. THESE IDEAS, PLANS AND DESIGNS ARE
NOT TO BE REPRODUCED, CHANGED OR COPIED IN
ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY
TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST
OBTAINING THE EXPRESS WRITTEN PERMISSION FROM
ASHMORE DESIGN, LLC. WRITTEN DIMENSIONS ON
THESE DRAWINGS HAVE PRECEDENCE OVER SCALE.
DIMENSIONS CONTRACTORS SHALL VERIFY AND BE
RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS
OF THE JOB. ASHMORE DESIGN, LLC SHALL BE
NOTIFIED IN WRITING OF ANY VARIATIONS OR
DISCREPANCIES FROM THE DIMENSIONS, CONDITIONS
AND SPECIFICATIONS SHOWN BY THESE DRAWINGS.

LOUGHREY RESIDENCE
5137 Estero Blvd
Fort Myers Beach, FL 33931

REVISIONS

MK	DATE	DESCRIPTION
△	6/29/23	BLDG REQ.

JOB NO: A22-5103
DATE: 05/12/2023
DRAWN BY: FL
CHKD BY:

BUILDING LOCATION
PLAN

SHEET NUMBER

LP

GENERAL SITE NOTES

1. THE CONTRACTOR VERIFY THE SITE LAYOUT AND NOTIFY THE DESIGNER OF ANY DISCREPANCIES BEFORE CONSTRUCTION
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EXISTING GARAGE-REAR LOT	316 S.F.
TOTAL IMPERVIOUS	6,835 S.F.
LOT AREA	14,924 S.F.
IMPERVIOUS AREA	45.79%

LEGAL DESCRIPTION

BOUNDARY SURVEY 04/03/2022
LOT 4 BLOCK "A", AS RECORDED IN PLAT
BOOK 009 PAGES 058, OF THE PUBLIC
RECORDS OF LEE COUNTY, FLORIDA

LOT COVERAGE CALCULATIONS

3,259 S.F. BUILDING FOOTPRINT /
316 S.F. EXIST. DETACHED BLDG.
14,924 LOT SQ. FT. = 23.95%

BUILDING LOCATION PLAN

FOR PLACEMENT PURPOSES ONLY;
CERTIFIED SURVEYOR TO VERIFY
SETBACKS AND BUILDING PLACEMENT

LOT 5
BLOCK "A"
OCCUPIED

S 40°24'00" W 199.74' (M)

EXISTING CONCRETE
BLOCK GARAGE

EXISTING POOL
TO REMAIN

STORAGE

STAIRS

PROPOSED 3-STORY
CBS SINGLE FAMILY
RESIDENCE

EXISTING
2-CAR GARAGE

EXISTING DRIVEWAY

25'-0"
REAR SETBACK

74'-4 1/4"
TO HOUSE

9'-0"
POOL DECK

12'-6 1/2"

7'-9 1/4"
TO EQUIP. PAD

7'-10"
TO HOUSE

7'-6"
SIDE SETBACK

4'-0"

74'-11"

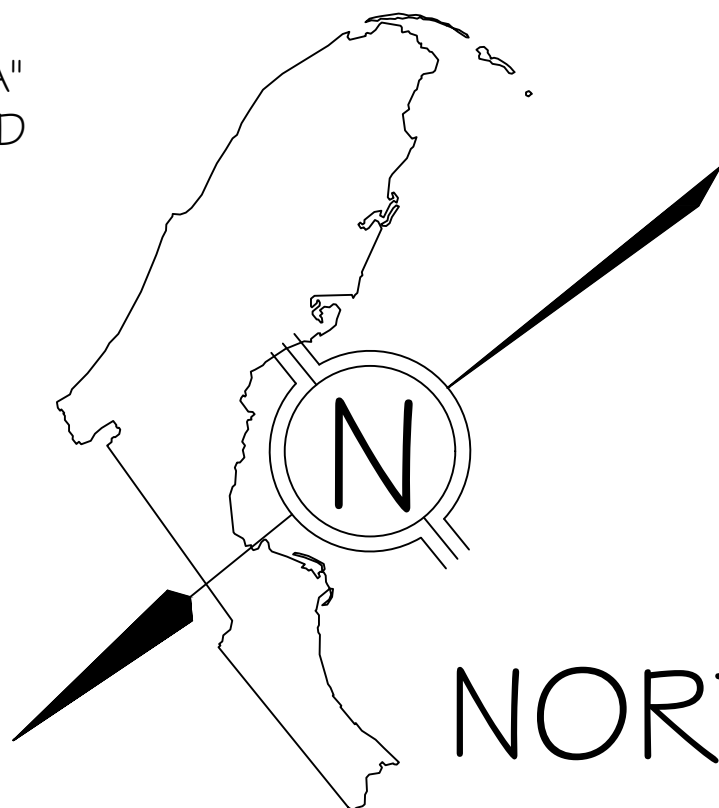
N 40°25'22" E 200.64 total (M)

AVERAGE CROWN OF ROAD ELEVATION	- 4.36'
AVERAGE NATURAL GRADE ELEVATION	- 7.6'
FINISHED FLOOR LIVING ELEVATION	- 20.5'
LOWEST HORIZONTAL STRUCTURAL MEMBER	- 18.0'

FEMA DATA

COMMUNITY NUMBER : 120673
EFFECTIVE DATE: 11/17/2022 PANEL: 0556
SUFFIX: G FLOOD ZONE: AE-11 COASTAL A
NOTE:
ALL ELEVATIONS BASED UPON N.A.V.D. 88, DATUM.

LOT 3
BLOCK "A"
OCCUPIED



NORTH

BUILDING LOCATION PLAN

SCALE: 1/8"=1'0"

300' (P)

300.27' (M)

EOP

8" Conc. Curb W / 6.0 FT Conc Walk

EOP

ESTERO BOULEVARD

75.07' (M) 75' (P)

1. Exceptional and extraordinary circumstances:

The remaining accessory structure is the result of Hurricane Ian removing the principle structure from the property. The location of the existing structure which remains today is such that the replacement of the principle structure can only be permitted and constructed behind it, placing it closer to the Street Right of way than the principle structure. The accessory structure has been looked at by Engineers and has been established to be structurally sound and does not require removal. Not allowing this structure to remain and requiring it to be demolished would create an extraordinary burden on the property owner.

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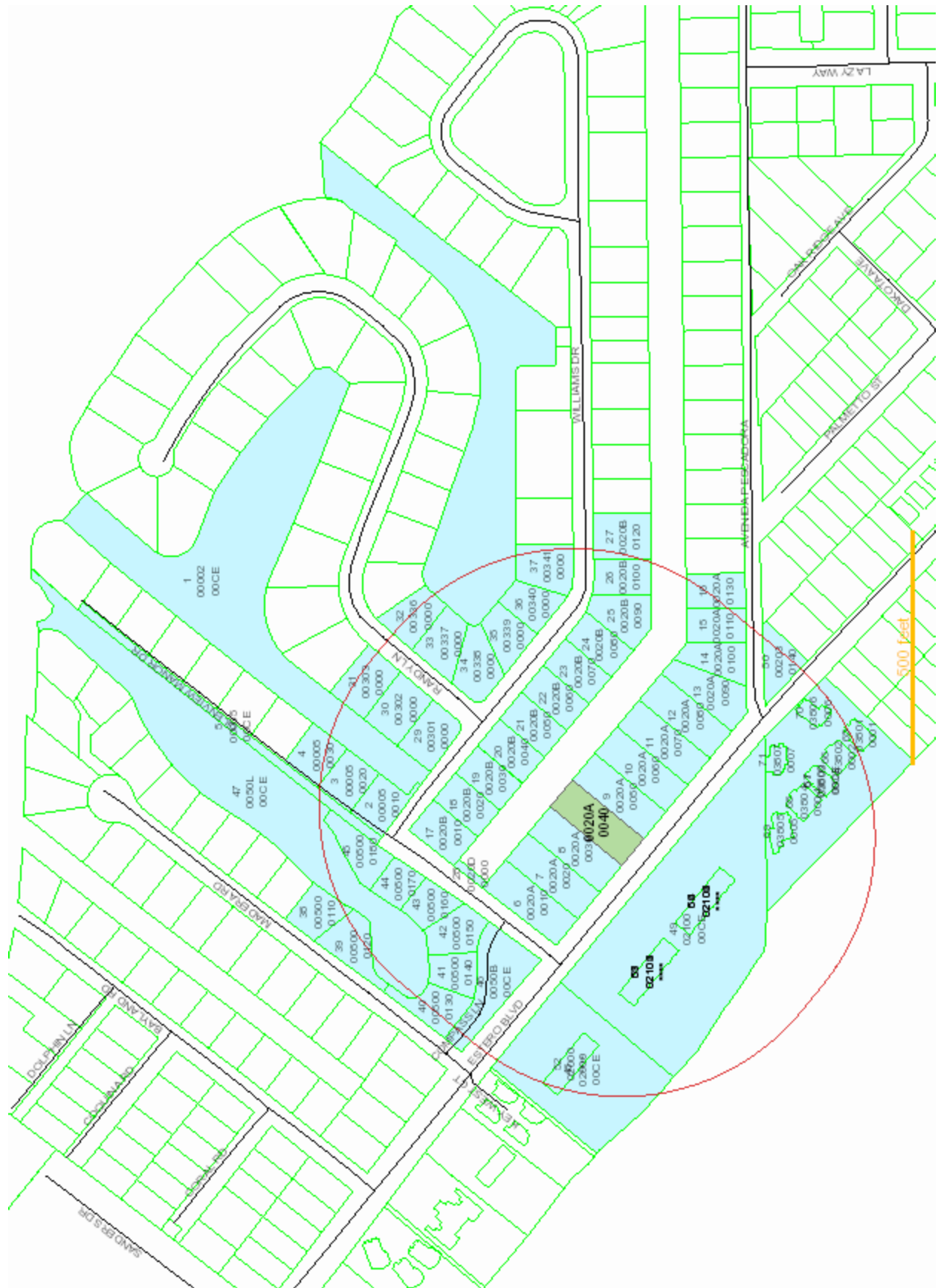
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GLENWOOD OWNERS ASSN
RANDY LN
FORT MYERS BEACH FL 33931

SCKOROPAD ALAIN &
1 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

GREY JOHN M & PATRICIA TR
2 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

KENNEDY TIMOTHY P & WENDY L
42 PARKER ST
ROCHDALE MA 01542

GLENVIEW MANOR HOMEOWNERS
10 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

MORRISON LARRY K & KIM P
5100 WILLIAMS DR
FORT MYERS BEACH FL 33931

SHEA JANICE MATHEWS
5117 ESTERO BLVD
FORT MYERS BEACH FL 33931

FUHR ACHIM A & MARIANNE TR
5127 ESTERO BLVD
FORT MYERS BEACH FL 33931

PG INVESTMENTS LLC
44345 PREMIER PLZ STE 120
ASHBURN VA 20147

DOU SHUI YING TR
854 SANTA MARIA DR
NAPERVILLE IL 60540

SEBASTIAN NANCY E +
8801 STONEBROOK LN
COLUMBIA MD 21046

MAES THOMAS ALBERT &
5177 ESTERO BLVD
FORT MYERS BEACH FL 33931

FARRIS GEORGE & MAUREEN
5195 ESTERO BLVD
FORT MYERS BEACH FL 33931

BETTY M CORNELL TRUST
5199 AVENIDA PESCADORA
FORT MYERS BEACH FL 33931

DONOVAN CHRISTOPHER R SR +
8 VINLAND DR
SOUTH DENNIS MA 02660

ROBERT L SOWINSKI TRUST +
13675 PARK CIRCLE NORTH
ELM GROVE WI 53122

LEIBOWITZ GAIL L
40 I ST
SEASIDE PARK NJ 08752

SCHWARTZ ROBERT E
5120 WILLIAMS DR
FORT MYERS BEACH FL 33931

BURROW KELLY
12318 E 196TH ST
NOBLESVILLE IN 46060

HARTMAN KELLY +
10894 BRIXTON LANE
FISHERS IN 46037

ROBINSON WILLIAM A &
5146 WILLIAMS DR
FORT MYERS BEACH FL 33931

STEWART DONALD J & JANICE E
37 BARNARD RD
OSTERVILLE MA 02655

LTE 5090 LLC
2200 COUNTY RD C W #2205
SAINT PAUL MN 55113

SKOCZEN KIMBERLY E & ARTUR
5433 YACHTSMAN LANE
GAINESVILLE GA 30504

REDENIUS RICHARD R &
5218 WILLIAMS DR
FORT MYERS BEACH FL 33931

DADDERS ESTATES LLC +
1921 PEACE AVE
SHAKOPEE MN 55379

OFARRELL KEVIN F &
5252 WILLIAMS DR
FORT MYERS BEACH FL 33931

MORRISON LARRY K & KIM P
5100 WILLIAMS DR
FORT MYERS BEACH FL 33931

PRARAZ BUILDERS LLC
4110 CENTER POINTE DR #210
FORT MYERS FL 33916

SHAW ROBERT A & DOROTHY J
241 RANDY LN
FORT MYERS BEACH FL 33931

BRAZDAU ALIN &
11373 WILLOW WOOD LN
PLYMOUTH MI 48170

LENTINI JOHN & MARIE D
374 SHERWOOD RD
UNION NJ 07083

POLLACK JUDITH M
6401 EDGEWATER DR
ERIE MI 48133

VOT COASTAL PROPERTIES LLC
260 CLARIDGE CIR
BOLINGBROOK IL 60440

JONES MARC A & JULIE W
4070 E BEACHVIEW CT
MARTINSVILLE IN 46151

DEPAUW SCOTT & DEBRA
242 PILGRIMS PATH
GURNEE IL 60031

GILLESPIE LLC
421 WEST MARKET ST
LOUISVILLE KY 40202

GROSSE RICHARD E & KAREN L TR
W1658 SANDSTONE AVE
RIPON WI 54971

SECAPT LLC
415 E 37TH ST APT 11G
NEW YORK NY 10016

CURTIS J GANO TRUST +
17391 LAKE BEACH DR
SPRING LAKE MI 49456

HANEY MICHAEL H & JANE M
5015 COMPASS LN
FORT MYERS BEACH FL 33931

TWEHUES STEPHEN J
247 RIVERSIDE PKWY
FORT THOMAS KY 41075

PRATER WANDA M
4101 SHELBYVILLE RD
SHELBYVILLE KY 40065

WILUTIS MARK A & DEBORAH A
3183 EDEN TRL
BRIGHTON MI 48114

REICHLIN JAMES M & DAWN L
5043 WILLIAMS DR
FORT MYERS BEACH FL 33931

YACHTSMANS COVE HOMEOWNERS
CARRIE DOINE
21611 MADERA RD
FORT MYERS BEACH FL 33931

YACHTSMANS COVE HOMEOWNERS
CARRIE DOINE
21611 MADERA RD
FORT MYERS BEACH FL 33931

POINTE SOUTH CONDO
5000 ESTERO BLVD
FORT MYERS BEACH FL 33931

SMUGGLERS COVE CONDO
ASSOCIATION
5100 ESTERO BLVD
FORT MYERS BEACH FL 33931

FLORIDA VACATION RENTALS LLC
4717 RIVERVIEW BLVD
BRADENTON FL 34209

TURTLE WALK OF FORT MYERS BEAC

S AND J RENTALS LLC
7690 RANIER LANE N
MAPLE GROVE MN 55311

NEPJUK TIMOTHY MICHAEL &
93 FRANKLIN WRIGHT BLVD
LAKE ORION MI 48362

SHEA LOUISE F
PO BOX 423
MADISON CT 06443

GIORDANO ROBERT J &
27 CHELSEA DR
OAK RIDGE NJ 07438

RWP LEASING LLC
3224 NAVARRE RD SW
CANTON OH 44706

OVINGTON POINTE SOUTH LLC
3224 GATESHEAD DR
NAPERVILLE IL 60564

CK9819 LLC
9543 KARLBERG WAY
PARKLAND FL 33076

THOMASSON DONNA J
6825 GRENADIER BLVD APT 505
NAPLES FL 34108

BACKENSTOES BRENT & AMY
5357 MEMORIAL RD
GERMANSVILLE PA 18053

BACKENSTOES BRENT A & AMY
5357 MEMORIAL RD
GERMANSVILLE PA 18053

LANGE JOHN J TR
418 HAWTHORNE AV
S MILWAUKEE WI 53172

NEVERMAN RANDY H
11947 ISLAND AVE
MATLACHA FL 33993

VICKERS JACK R & VIRGINIA R
5139 RICH CREEK VALLEY RD
PETERSTOWN WV 24963

WINTER MARVIN & MARYELLEN
3946 SHIRLEY RD
NORTH COLLINS NY 14111

PATON JAMES J & ROBIN L
3206 ROYAL FOX DR
SAINT CHARLES IL 60174

COOK WILLIAM E JR &
1307 WALDEN DR
FORT MYERS FL 33901

LINDEN DUANE B TR
1786 RIBBON FAN LN
NAPLES FL 34119

PARADISE ISLAND RESORT L P
9 UPPER RIDGE CT
MARKHAM ON L3S 3W6
CANADA

ELLIOTT PATRINA B TR
3885 STATE ROAD 529 E
CARDINGTON OH 43315

DVORCHAK JAMES M +
11S511 WHITTINGTON LANE
NAPERVILLE IL 60564

THOMAS DAVID A & LISA K TR
3216 ROYAL OAK CT
EDGEWOOD KY 41017

HOWELL CHRISTINE E TRUST
407 E AVENIDO DEL RIO
CLEWISTON FL 33440

WILLIAMS DENIS M & JILL A TR
761 SAINT ANNES DR
HOLLAND OH 43528

PAWKETT MARY J
43 SUNNYSIDE RD
SCOTIA NY 12302

PIPPIN JACQUELINE J TR
5000 ESTERO BLVD #404
FORT MYERS BEACH FL 33931

TRUDEL DAVID R & JUDITH B TR
1807 SETTLERS RESERVE WAY
WESTLAKE OH 44145

TANNER MARK D & JUDITH A
1848 N 225 E
ATTICA IN 47918

BLUE EARTH LODGING LLC
901 E 1ST ST
SIOUX CENTER IA 51250

KROESE ROXANNE D
16855 MARBLE AVE
LE MARS IA 51031

LYB LLC
4193 GRANT AVE
SIOUX CENTER IA 51250

SODERSTROM SUSAN
11 ROCKYPOINT RD
OLD SAYBROOK CT 06475

KROESE ROBERT J TR
16624 N INNER LN
SPIRIT LAKE IA 51360

PBW505 LLC
5748 NICKLAUS DR
FORT COLLINS CO 80528

LS DEN HERDER SD LLC
2410 LAKESIDE AVE
MILFORD IA 51351

LAY CHARLES T +
480 WATTERS RD
HACKETTSTOWN NJ 07840

WISOR DAVID L
3 BRIANS LN
FAIRFIELD OH 45014

NICHOLS JOSEPH W &
3811 PEBBLE COURT
CONYERS GA 30012

GRECO JAMES T
19 A EDGEWOOD AVE
FARMINGVILLE NY 11738

HAHN ARTHUR A
9708 UTICA RD S
BLOOMINGTON MN 55437

HUGHES MICHAEL D
19815 GOVERNORS HIGHWAY SUITE 11
FLOSSMOOR IL 60422

BOCA LLC
4422 DARNLEY CT
FORT WAYNE IN 46814

CHESLEY GERALDINE A TR
21557 S LAKE GEORGE DR NW
CEDAR MN 55011

RODEN BRADLEY D & MARY KAY
121 N 59TH ST
SUPERIOR WI 54880

MORGAN WALTER J JR L/E
2685 STAR AVE
NILES MI 49120

GARCIA DANIEL & HELEN
5237 SOUTH NEWCASTLE
CHICAGO IL 60638

LOWELL REBECA & VICTOR
10321 SW 82ND CT
MIAMI FL 33156

SCHLETZ STEVE F & REBECCA J
1848 SUMMIT LN
MENDOTA HEIGHTS MN 55118

WEIDIG BRETT T &
11030 EDEN PARK DR
CHARDON OH 44024

L + R LLC
ROBERT PAULSON
5868 N PINE LAKE RD
DULUTH MN 55811

VARTANIAN JAMES
9 PEBBLE BEACH ROAD
WEBSTER MA 01570

CARRICO EMIDIO & CAROL
78 S LAKE SHORE DR
BROOKFIELD CT 06804

KEREN ORNA TR
14380 RIVA DEL LAGO DR #903S
FORT MYERS FL 33907

DEE CHARLES C TR +
3304 NATHAN LN
HOLMEN WI 54636

STEPHENS JAMES B &
392 W CLINTON ST
DANVILLE IN 46122

RANDOLPHS PROPERTIES LLC
1630 MADDY LN
KEEGO HARBOR MI 48320

CENTRAL PROPERTIES INC
PO BOX 759
HOCKESSIN DE 19707

DAYUS SHERYL
12942 RIVERSIDE DR E
TECUMSEH ON N8N 1A8
CANADA

BRECHA DIANE +
87 JOHN CT
DANVILLE IN 46122

FILIAK DONALD G & ELAINE TR
12250 WOODCREST
TAYLOR MI 48180

FERRUCCI CAROL LEE
300 WESTFIELD RD
MERIDEN CT 06450

LIBERATORE MANAGEMENT GROUP II
3984 BURKE PKWY
BLASDELL NY 14219

DIEMER CHARLES A & JUDY A
128 KING EIDER CT
DAYTONA BEACH FL 32119

WHAT ME WORRY LLC
5950 N NAVARRE AVE
CHICAGO IL 60631

MONTGOMERY RONALD O &
5377 W TWIN BEACH LANE
BRAZIL IN 47834

WHARTON ROBERT A SR TR
4845 MULBERRY DR
MARIETTA GA 30068

JONES JAMES R & SONDRAS
6844 COTTONWOOD DR
PLAINFIELD IN 46168

MARKER ALL SEASONS LLC
739 ALLISON RD
BELLEFONTAINE OH 43311

POST WILLIAM C JR TR
136 CAMBRIDGE CT
INDIALANTIC FL 32903

DOWNEY SANDRA E & EDWARD J TR
N68W5671 BRIDGE COMMONS CT
CEDARBURG WI 53012

GULFVIEW PROPERTIES LLC
305 SHADY TREE CT
CLAYTON OH 45315

D + S INVESTMENTS
4890 SOUTH HWY 45
OSHKOSH WI 54902

SCHNABEL GAIL E TR
4216 DEER RUN CT
MAUMEE OH 43537

ESSMRS LLC
4640 DUCKHORN LN
LAFAYETTE IN 47909

PAYNE THOMAS E & JANE B
33 MOUNTAINEER DR
MURPHY NC 28906

SJG CONDO LLC
3927 STATE ROUTE 4
HUDSON FALLS NY 12839

HAHN ARTHUR A
9708 UTICA RD S
BLOOMINGTON MN 55437

AHEARN ELISE M
19 MAYAPPLE RD
WILTON CT 06897

DEE CHARLES C & DONNA M TR
3304 NATHAN LN
HOLMEN WI 54636

SZEWCZYK THADDEUS Z JR &
5749 N MULLIGAN AVE
CHICAGO IL 60646

4A3 PARADISE RENTALS LLC
8288 DALEVIEW RD
CINCINNATI OH 45247

HANSON BRUCE D TR
4211 DREW AVE N
ROBBINSDALE MN 55422

CZERWINSKI DENNIS L
16827 CECELIA LN
SPRING LAKE MI 49456

WITTENBERG MARK T &
2487 LAKERIDGE CT
SAUKVILLE WI 53080

PRATER WANDA M TR
4101 SHELBYVILLE RD
SHELBYVILLE KY 40065

BRUEWER GERTRUD A
2139 CLIFF RD
NORTH BEND OH 45052

ORANGE VIKING LLC
4948 RUSTIC OAKS CIR
NAPLES FL 34105

WALLRAB WILLIAM TR
2920 KNOLLCREST DR
BURLINGTON WI 53105

DAVIS GEORGE E III TR
7962 BUTLER HILL DR
CONCORD TOWNSHIP OH 44077

MOST STEVE
3900 GALT OCEAN DR APT 1602
FORT LAUDERDALE FL 33308

OSUCHOWSKI JOHN M & LAURIE
7 SERENITY LN
MEREDITH NH 03253

YOUNG LYNDA TR
9284 TRIESTE DR
FORT MYERS FL 33913

LOGAN SHARON P +
716 GASKILL ST
ATLANTA GA 30316

SCHLITT DONALD W +
12790 KELLY GREENS BLVD
FORT MYERS FL 33908

PRUDENTE CYNTHIA
15730 CALOOSA CREEK CIR
FORT MYERS FL 33908

WILMA L LAHAM TRUST
3070 HOLLY HALL
HOUSTON TX 77054

MADONNA J CLARK TRUST
1996 SPRINGTREE DR
MARYLAND HEIGHTS MO 63043

SYSTEMS MANAGEMENT LLC
PO BOX 526
LAVONIA GA 30553

BLACKVILLE LLC
109 KING ST
GROVELAND MA 01834

GAIL E SCHNABEL TRUST +
4216 DEER RUN CT
MAUMEE OH 43537

RUNDLE VIVIANNE & DOUGLAS
14 BAYBERRY RD
MONO ON L9W 6G6
CANADA

LAM THI THU HANG
1854 IVORY CANE POINT
NAPLES FL 34119

ROBISON WILLIAM L
10555 WEST BERRY DR
LITTLETON CO 80127

SMUGGLERS COVE 5B5 LLC
8135 CHERRY LAUREL DR
LIBERTY TOWNSHIP OH 45044

HUGHES FLORIDA PROPERTY TRUST
19815 GOVERNORS HWY STE#11
FLOSSMOOR IL 60422

VAN PELT PETER & SANDRA
45 MACURO CT
FORT MYERS FL 33912

MASSOUD HANNA & MICHELE
37150 DUNDEE ST
STERLING HEIGHTS MI 48310

ULFERS BERNHARD G & KAY S TR
15072 BALMORAL LOOP
FORT MYERS FL 33919

OCCHIALINI DAVID +
31 OCCHIALINI CT
NEWINGTON CT 06111

ELLIOTT ROBERT M TR
5100 ESTERO BLVD #6A4
FORT MYERS BEACH FL 33931

WASKOM RICHARD D TR
6136 PALOMINO CIR
UNIVERSITY PARK FL 34201

FREIWALD JOHN T & JUDITH L
11191 BENT PINE DR
FORT MYERS FL 33913

BURNS RICHARD W + PAMELA A
573 WEDGEWOOD DR
VALPARAISO IN 46385

AHEARN FRANCIS E + MARY TR
830 W PLACITA DE LA COTONIA
GREEN VALLEY AZ 85622

MANDOLINI LORRAINE V TR
6597 NICHOLAS BLVD # 1101
NAPLES FL 34108

SACCO CARMINE
4591 BAY BEACH LN #191
FORT MYERS BEACH FL 33931

COAN JOSEPH TR +
24 ROLLING VIEWS DR
WEST PATERSON NJ 07424

HEHR JOSEPH T & JOY S L/E
116 OAKLEY MEADOW LANE
TIFFIN OH 44883

RICHARD D MASON TRUST +
1 LAKEVIEW TER BLVD
WACONIA MN 55387

MOST STEPHEN
3900 GALT OCEAN DR APT 1602
FORT LAUDERDALE FL 33308

TREGUNNO DARLENE
12511 VITTORIA WAY
FORT MYERS FL 33912

GARY L DAVIS TRUST +
1000 TIMBERLINE DR
TRENTON IL 62293

SZUBA SUSAN MCCRAITH TR
7255 NORTON AVE
CLINTON NY 13323

HUFFMASTER KIMBER L TR
9755 PINE KNOB ROAD
CLARKSTON MI 48348

WEBER ROBERT F JR &
5748 NICKLAUS DR
FORT COLLINS CO 80528

ELLIOTT KEVIN A TR
2973 HILLCREST DR
WEST BRANCH MI 48661

KISTER NANCY F TR
1444 MORTON DR
ASHTABULA OH 44004

Michael D. Stewart, PE, LLC.

Phone: 239-292-7670

Email: MStewart@MStewartPE.com

October 12, 2022

Loughrey Ricky Francis +
Lefebvre Amy Jo
5137 Estero Blvd
Fort Myers Beach FL 33931

Project Address: 5137 Estero Boulevard, Fort Myers Beach, FL, 33931

On Wednesday September 28th, 2022, Hurricane Ian, a Category-4 major hurricane, made landfall with the Southwest coast of Florida. The storm delivered sustained winds of 155mph and gusts of 190mph. Storm surge in excess of 15ft devastated Lee County in several locations, with Fort Myers Beach being one of the most affected localities.

The building owner has contracted Michael D. Stewart, P.E., LLC to enter the epicenter of the disaster zone and provide a preliminary damage assessment of the structure. The primary scope of work was to determine the current condition of the structure and to advise if the structure is safe enough for repairs crews to begin debris removal. All observations were made from the ground level. Observation of the structure's electrical system is not in the scope of this assessment. A licensed electrician shall inspect the building's electrical systems prior to connecting to the electrical service.

This is a preliminary damage assessment for the primary building elements, which is only based on what is observable and does not include windows, doors, garages, roofing membrane, mechanical, electrical, or plumbing. Prior to replacement of all building elements, building permits shall be obtained. In all cases, a licensed engineer or architect will be required to provide repair plans that illustrate the scope of the replacement, as well as any additional uncovered damage. Repair and replacement documents are not in the scope of this assessment.

Findings:

The foundation slab has been undermined in multiple locations, for the main house structure and the accessory structure in the backyard. The back portion of the main house structure has suffered significant structural damage to both the roof and the load bearing walls and columns. This condition should be shored by a general contractor prior to any work on the building. Further evaluation of the structural elements will be required prior to any reconstruction and repair of the building. The garage structure is in adequate condition.

Photos:



The above picture shows the front elevation of the house. There is significant amount of debris in front of the house. All portions of the house EXCEPT the garage have significant structural damage.



The above picture shows the back left view of the garage and the destroyed house behind it. The garage appears to be in adequate structural condition, while the house is not.



The above picture shows a side view of the house. The foundation slab has been undermined. The back wall has been entirely compromised due to the storm surge and flooding in of debris. This condition should be shored by a general contractor prior to any work on the building. Further evaluation of the structural elements will be required prior to any reconstruction and repair of the building.



The above picture shows a side view of the shed. While it does have foundation washout, the building otherwise seems to be in adequate structural condition.



The above picture shows an shed accessory structure in the back yard of the property. The foundation slab has been undermined. Otherwise, the structure appears to be in adequate condition.



The above picture shows the interior of the garage structure. There is debris which has floated in. The garage is comprised of exterior masonry walls and pre-engineered parallel truss chords. The structure appears to be in adequate condition.

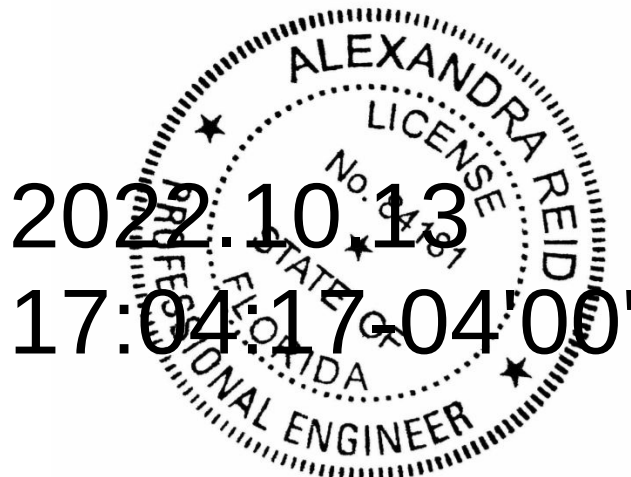


The above picture shows the roof framing of the garage structure. The structure appears to be in adequate condition.



The above picture shows a rear view of the house. The roof of the rear portion of the house has collapsed and multiple supporting columns/walls have collapsed as well. This condition should be shored by a general contractor prior to any work on the building. Further evaluation of the structural elements will be required prior to any reconstruction and repair of the building.

Alexandra P. (Reid) Lundblad, P.E.
FLA REG# 94181



OWNER: Ricky Frances Loughrey + Amy Jo Lefebvre-Loughrey
MAILING ADDRESS: 5137 Estero Blvd. Ft Myers Beach FL 33931
CITY: Ft Myers Beach STATE: FL ZIP CODE: 33931
SITE ADDRESS: 5137 Estero Blvd. Ft Myers Beach FL 33931
PARCEL/STRAP #: 28-46-24-W4-0020A 0040

COMPLIANCE AGREEMENT

This compliance agreement is entered into on this 28th day of August, 2023, by the Town of Fort Myers Beach (the Town), and Ricky Francis Loughrey + Amy Jo Lefebvre (Property Owner), in reference to allowing the garage at 5137 Estero Blvd., Fort Myers Beach, FL 33931 to remain.

The Town must follow floodplain regulations and building codes that govern construction throughout the State of Florida, as well as through FEMA. Since the Town has agreed to be a participating community in the National Flood Insurance Program, which reduces flood insurance costs for residents, consistently following the rules is critical to maintain the Town's good standing.

Maintaining the Town's good standing impacts post-disaster FEMA funding and mortgage availability for all residents. The state and federal agencies that watch over these programs pay very close attention to the Town's adherence to their rules.

It is hereby agreed by and between The Town and the Property Owner that the garage will be treated as a separate, independent structure and must remain an independent structure with the following conditions in place:

1. Structural evaluation of the remaining structure to confirm it is sound is to be submitted to the Town.
2. Obtain a variance for the setback requirements for accessory structures located closer to a street right-of-way line or street easement than the principal structure.
3. The remaining non-conforming structure, constructed in 2019, is to be retrofitted with flood openings to comply with Zone AE requirements that were in effect when it was permitted.
4. Property Owner is to sign a nonconversion agreement to maintain that the structure be used for parking, storage, or access only.
5. Property Owner is to obtain permits for all repairs to the structure including repairs that have already been made that did not have a permit.

All conditions must be satisfied by the time the certificate of occupancy is issued for the house that will be built on the parcel. If conditions are not met, the Property Owner will be required to remove the

garage. Failure to comply with this agreement will result in code enforcement action taken upon the property owner, which can result in the creation of a lien on the property that can lead to the declaration of a 1316 on the property.

1316 Property Declarations and Rescissions

Section 1316 of the National Flood Insurance Act of 1968, as amended, states that no new flood insurance coverage shall be provided for any property that FEMA finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in floodprone areas. Insurance availability is restored once the violation is corrected, and the 1316 Declaration has been rescinded by FEMA.

By signing below, the property owner agrees to the above terms and conditions.

Property Owner Signature: Paul Loughrey Printed Name: Ricky Frances Loughrey
Amy J. Loughrey Amy Jo Lefebvre-Loughrey
Witness Signature: Kara Stewart Printed Name: Kara Stewart
Town Staff Signature: _____ Printed Name: _____



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: November 6, 2023

CASE: VAR20230175

ADDRESS: 5137 Estero Blvd

APPLICANT: Amy Lefebvre

REQUEST: The applicant is requesting a variance from LDC 34-1174 (b), to allow an existing garage closer to the right-of-way than the principle structure in the RS zoning district.

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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Fort Myers Beach, FL 33931

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

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

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

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

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

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

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

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

1. **Requested Motion:**

Meeting Date: November 6, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A CHANGE ORDER BETWEEN THE TOWN AND GRUBBS EMERGENCY SERVICES FOR INCREASING CONTRACT TIME 60 DAYS AND INCREASING CONTRACT PRICE \$1,250,392.00.

Why the action is necessary:

Based on the current site conditions, the balance of the femA approved volume will be insufficient to complete the berm along the approved alignment.

What the action accomplishes:

Additional sand enables the Town to complete the emergency berm project.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Chadd Chustz, Environmental
Services

5. **Background:**

Due to multiple factors, additional sand is needed to complete the emergency berm as approved. The additional volume needed is estimated to be 14,600 CY. Converting to tones, this equates to 20,524 tons. The effective unit price per ton in the contractor's bids equals \$6.49 per ton. The Town respectfully request an additional \$1,303,070 to complete the emergency berm project.

Attachments:

1. 23-151,231030 GRUBBS CO3 Resolution
2. 22302 Cat B Emer Berm SOV 20231027
3. 22502 CO #3 20231027
4. FMB Berm PROJECT 693579
5. FMB Emergency Berm PW#62 Narrative 20230914
6. PRJ_Report_693579_20231030

Financial Impact:

FEMA is expected to cost share 90% of the net cost of the project.

FDEM is expected to cost share 5% of the net cost of the project.

The Town is expected to cost share 5% of the net cost of the project.

5% of Change Order #3 is \$65,153.50

5% of the Total Net Cost of the Project (9,274,013.00) is \$463,700.65 (this includes the dollar figure above)

6. **Alternative Action**

Do not approve Change Order #3

7. **Management Recommendations:**

Approve change Order #3 to complete the berm.

8. **Recommended Approval:**

Amy Baker, Town Clerk
Joe Onzick, Finance Director
Gretchen R.H. Vose, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 10/30/2023
Approved - 10/30/2023
Approved - 10/30/2023
Approved - 10/30/2023
Final Approval - 10/30/2023

RESOLUTION NUMBER 23-151

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A CHANGE ORDER BETWEEN THE TOWN AND GRUBBS EMERGENCY SERVICES FOR INCREASING CONTRACT TIME 60 DAYS AND INCREASING CONTRACT PRICE \$1,250,392.00.

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, an additional 14,660 cubic yards of sand is needed to complete the emergency berm as approved by FEMA; and

WHEREAS, the Town has requested \$1,303,070.00 from FEMA to complete the emergency berm project; and

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 Change Order #3 between the Town and Grubbs Emergency Services, for \$1,250,392.00. A copy of the change order 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 ____ 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.

**ESTERO ISLAND EMERGENCY BERM
GRUBBS REVISED BID WITH CHANGE ORDER # 3
OCTOBER 27, 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)	Tons	125,170	\$17.00	\$2,127,890	
C-5	Sand (Delivery/Placement)	Tons	125,170	\$41.00	\$5,131,970	
C-6	Surveys	LS	1	\$50,000	\$50,000	\$7,559,860
CO#2	Change Order # 2					
D-1	Deduct Sand Volume	Tons	-3,413	\$58.00	-\$197,977	
C-7	Shorebird Protection	LS	1	\$367,790	\$367,790	\$169,813
CO#3	Change Order #3					
	Additional Mob/Access/MOT	LS	1	\$50,000	\$50,000	
	Additional Sand (Production)	Tons	20,524	\$17.00	\$348,908	
	Additional Sand (Delivery)	Tons	20,524	\$15.00	\$307,860	
	Additional Sand (Placement)	Tons	20,524	\$26.00	\$533,624	
	Additional Surveys	LS	1	\$10,000	\$10,000	
						\$1,250,392
						\$8,980,065



TOWN of FORT MYERS BEACH

BID NO. ITB-23-08-CD

PART E
FMB:011 - CONSTRUCTION CONTRACT
CHANGE ORDER

No.: 3

(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: 10/27/2023

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 complete emergency berm segments

Attachments: (List documents supporting change) _____

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
\$169,813	<u>117</u> Calendar Days
Contract Price prior to this Change Order	Contract Time prior to this Change Order
<u>\$7,729,673</u>	<u>208</u> Calendar Days
Net Increase (Decrease) of this Change Order	Net Increase (Decrease) of this Change Order
<u>\$1,250,392</u>	<u>60</u> Calendar Days
Contract Price will all approved Change Orders	Contract Time with all approved Change Orders
<u>\$8,980,065</u>	<u>268</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: _____
Consultant (if applicable) Date

By: _____
Department Director Date

Contracts Management

APPROVED:

Town Attorney Date

ACCEPTED

By: _____
Contractor

Date Accepted: _____

(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: _____



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

September 25, 2023

Angela Gillman, Infrastructure Branch Director
U.S. Department of Homeland Security / FEMA
Public Assistance Recovery Division

RE: FORT MYERS BEACH PROJECT #693579 PW# 62

Dear Ms. Gillman,

The Town of Fort Myers Beach is requesting a change in the Scope of Work necessary to complete the Town's Emergency Berm Project, which will require more sand.

The additional sand is required due multiple factors including variability in erosion patterns along the beach, losses due to work stoppage, and variability in the sand density from the standard ton to cubic yard conversion factor. The reasons for the requested change in scope are detailed in the attached narrative report.

The additional volume needed is estimated to be 14,660 CY. Converting to tons, this equates to 20,524 tons. The effective unit price per ton in the contractor's bid equals \$63.49 per ton. The Town respectfully requests an additional \$1,303,070 to complete the emergency berm project.

Sincerely,

Chadd Chustz
Environmental Project Manager
Town of Fort Myers Beach



**FORT MYERS BEACH - EMERGENCY BERM
PROJECT #693579 PW# 62
SEPTEMBER 14, 2023**

INTRODUCTION

During the declared incident period from September 23, 2022 to November 4, 2022, Hurricane Ian generated storm surge and wave action that caused beach and dune erosion on Estero Island leaving improved property along the beach susceptible to damage from a 5-year storm. The Town of Fort Myers Beach is the responsible local government for the beach and dune system. They applied and received public assistance from the Federal Emergency Management Agency for a Category B emergency berm (Project). The total eligible erosion volume (including the base where necessary) equal to 86,969 cubic yards (CY) was computed utilizing pre- and post-storm beach profiles collected at each Florida Department of Environmental Protection R-Monument. The R-monuments which are spaced on average 1000 feet apart along the beach. Due to variability between R-monuments, modifications to the actual construction template were anticipated to be made based on field conditions.

FEMA approved the Project on April 3, 2023. The Town issued the Notice to Proceed on April 5th. Berm construction commenced that week and continued until June 27th when work was stopped due to the presence of nesting shorebirds on the southern end of the island that precluded berm construction along 25% of the approved alignment. Work re-commenced on September 8th and is proceeding to completion. Based on the current site conditions the balance of the approved volume will be insufficient to complete the berm along the approved alignment.

INCREASE IN SAND QUANTITIES

Variability Between R-Monuments

There was significant variability in erosion patterns along Estero Island as evidenced in the post-storm aeriels, on site observations, and pre-construction survey. Surveys and construction observations documented over 3,000 cubic yards (CY) of scouring between the monuments that would not have been accounted for in the computation of the total eligible erosion volume.

Losses due to Work Stoppage

The Contractor had stockpiled several thousand CY of sand along 1,500 feet of the berm alignment prior to work stoppage. Due to coastal processes (winds, waves, tides, storms) the stockpiles have been weathered as sand has been transported outside the berm alignment and onto the dry beach or up into the vegetation making it unrecoverable. An approximation of the losses from the stockpile is based on observations by the Town, their engineer, and contractor as follows: 2,000 feet (long) by 40 feet (wide) by 1 foot (vertical difference) equal to 2,960 CY.



Converting Cubic Yards to Tons

A 1.4 multiplier was used to convert the total eligible erosion volume from CY to tons for truck haul construction. This was based on a density of 103 pounds per cubic foot for sand with a moisture content of 5%. Due to variability at the mine, approximately 10% of the samples tested above 5%, which would require a multiplier of 1.45. At the time of work stoppage, the contractor had delivered 84,028 CY to the work area. This equates to an additional 8,700 CY ($= 10\% \text{ times } 84,028 \text{ times } 1.45 \text{ divided by } 1.4$) needed to complete the berm as approved.

SUMMARY

Due to multiple factors additional sand is needed to complete the emergency berm as approved. The additional volume needed is estimated to be 14,660 CY. Converting to tons, this equates to 20,524 tons. The effective unit price per ton in the contractor's bid equals \$63.49 per ton. The Town respectfully requests an additional \$1,303,070 to complete the emergency berm project.

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Department of Homeland Security Federal Emergency Management Agency

General Info

Project #	693579	PW #	62	Project Type	Expedited
Project Category	B - Emergency Protective Measures			Applicant	Fort Myers Beach, Town of (071-24150-00)
Project Title	Fort Myers Beach - Emergency Berm				
Project Size	Large			Event	4673DR-FL (4673DR)
Activity Completion Date	3/29/2023			Declaration Date	9/29/2022
Process Step	Applicant Signed Project			Incident Start Date	9/23/2022
				Incident End Date	11/4/2022

Damage Description and Dimensions

The Disaster # 4673DR, which occurred between 09/23/2022 and 11/04/2022, caused:

Damage # 1267206; Emergency Protective Measures (Emergency Berm)

See attached Subject Matter Expert (SME) report for additional information on location, project eligibility, Scope of Work, Cost Estimate and environmental compliance.

During the incident period of 9/23/2022 through 11/4/2022, Hurricane Ian created an immediate threat to the health and safety of the general public requiring emergency response and protective measures.

- Provided Constructing Emergency Berms or Temporary Levees for A 5-year storm could damage improved property at Fort Myers Beach (26.452601, -81.955357 to 26.40458, -81.884472) from 3/1/2023 to 5/15/2023.

DR-4673-FL

Project # 693579

Town of Fort Myers Beach CATEGORY B

Location:

The Town of Fort Myers Beach (Sub-Recipient) is in Lee County on the southwest coast of Florida.

The proposed emergency work (Project) that will be completed on Fort Myers Beach will place an emergency berm between the following coordinates:

-
North End: R-181 (26.452601, -81.955357)

South End: R-210 (26.40458, -81.884472)

Approximate Length = 28,000 LF

The location of this project is shown in [Attachment 1. Fort Myers Beach CAT B Location Map](#)

Damage Description and Dimensions (DDD)

During the declared incident period from September 23, 2022 – November 4, 2022, Hurricane Ian generated storm surge and wave action that caused beach and dune erosion on the coast of Lee County, Florida. A major disaster, DR-4673-FL was declared on September 29, 2022. Photos taken during the Preliminary Damage Assessment on October 26, 2022, are shown in [Attachment 2. Fort Myers Beach Cat B Photos](#)

Hurricane Ian caused extensive erosion of the natural dune system leaving improved property along the beach susceptible to damage from a 5-year storm.

Eligible Sand Quantity

As detailed in [Attachment 3. \(4673DR\) Fort Myers Beach Town of \(071-24150-00\) 693579 Fort Myers Beach - Emergency Berm - proposed revised work plan](#), the Sub-Recipient's Engineer of Record, Coastal Engineering Consultants, Inc. (CEC), completed an analysis to determine the Sub-Recipient's eligibility for placement of a Category B Emergency Berm.

As stated in the Public Assistance Program and Policy Guide (PAPPGv4, pp.137), *"If a natural or engineered beach has eroded to a point where flooding from a 5-year storm could damage improved property, cost-effective emergency protective measures on the beach that protect the improved property against damage from that 5-year storm are eligible."*

The two components for evaluation of potential future risk of a 5-year storm to improved property are: 1) Stillwater Elevation (SWEL) which is the summation of local astronomical tides and storm surge height estimated for a 5-year event; and 2) Wave Runup which is calculated using wave data for a 5-year event. The sum of these two components results in a Total Water Level (TWL). In locations where the elevation of the post-storm dune is less than the TWL, improved property would be in danger of flooding from a 5-year storm.

CEC computed the 5-year SWL for Estero Island, by calculating the 5-year storm wave height using USACE Wave Information Studies (WIS) data obtained at Station ST73295 located at 26.35°N, 82.05°W, approximately 9 miles offshore of Estero Island.

Fig. 6 of [Attachment 3](#) presents a graph of wave height analysis at this station for storm events of various return periods

developed by the U.S. Army Engineer Research & Development Center (ERDC). Based on the graph, the 5-year storm wave height is 5.9 feet. CRC analyzed the ST73295 data series to locate a recent storm event with a close match to the 5.9-foot-high wave. It was determined that Tropical Storm Eta (TS Eta), which impacted Southwest Florida in November 2020 closely matched the wave height expected for a 5-year storm.

To estimate the 5-year SWEL, a water level record obtained from the closest NOAA tide station at the Naples Pier corresponding to the time period in which the TS Eta impacted Southwest Florida (see Fig. 7 of [Attachment 3](#)).

The engineer then combined the Mean High Water (MHW) elevation at Estero Island (0.3 feet NAVD88) with the 5-year surge value (3.4 FT) resulting in a SWEL of 3.7 FT NAVD88 for TS Eta (a close approximation of the 5-year storm).

To compute a 5-year wave runup, CEC used the ACES model developed by USACE Waterways Experimental Station. Wave height and period for TS Eta and the average nearshore slope for the Project area were used in the model. This resulted in a predicted wave runup for a 5-year storm (exceeded by 2% of the runups, R2%) of 2.5 FT.

Combining the runup (2.5 FT) with the SWEL of 3.7 FT NAVD88 yielded a 5-year TWL of 6.2 FT NAVD88.

The pre-storm survey used in this Category B analysis was completed on June 13, 2022. The post-storm survey was completed on October 26, 2022. The beach profiles at each R-monument between R-182 and R-210 are presented in Appendix 1 of [Attachment 3](#).

CEC analyzed the post lan survey profiles to assess the post-storm dune elevations. These elevations were then compared to the 5-year TWL to determine if they were exceeded by it. Fig. 9 of [Attachment 3](#) shows this comparison. The 5-year TWL exceeded the dune elevations for the entire beach segment between R-182 and R-210. Thus, the entire beach in the Project area has eroded to a point where flooding from a 5-year storm could damage improved property.

Pre and post storm profiles and the planned emergency berm are shown in Appendix A of [Attachment 3](#). CEC has designed the berm so that it will be *“constructed with up to 6 cubic yards per linear foot of sand above the 5-year stillwater level or the berm’s pre-incident profile, whichever is less, [In] ... “some cases, placing sand below the 5-year stillwater level...[was] necessary to provide a base for berm. The placement of that sand is also eligible as part of the emergency protective measure. (See PAPPG v4, p. 138).*

The estimated, eligible quantities of sand (the quantity necessary to restore the pre-storm profile above the SWEL and, where necessary, the base below SWEL) that the Applicant plans to place to protect the improved property from a 5-year storm are shown in Table 3 of [Attachment 3](#).

Note that the “Combined Volume” shown in Table 3 was limited to 6 CY/LF of sand above the 5-year SWEL or the berm’s pre-storm profile, whichever was less except in the few cases where additional sand is needed to provide a base below SWEL. This quantity is also included in the “Combined Volume”.

Note that the quantities shown in Table 3 were developed by the Applicant’s engineer for each station to obtain a total eligible volume (including the base where necessary). However, modifications to the actual construction template will be made based on

field conditions.

The total quantity of sand eligible for emergency placement = 86,969 CY

The Town will also install native dune vegetation in a 10-foot-wide strip along the Emergency Berm as required by the Town's Comprehensive Plan and Land Development Code Policy 5-D-1 ii which states:

"Sand dunes should be protected and recreated wherever they have been removed. Native dune plants should be protected and non-native exotics removed" and Policy 6-E-3 which states *"The Town will implement the following measures to promote the restoration of beach and dune systems: Initiate a program to recreate a dune line and plant appropriate vegetation such as sea oats wherever sand dunes have been destroyed."*

The Applicant's engineer estimated the dune grass planting area based on the preliminary template with a 10 FT wide planted strip on the dune. Dune plants will be placed on 18-inch centers (4 plants per SY), which results in approximately 29,100 plants.

Final Scope

1267206 Emergency Berm

VERSION 1

Work to be Completed:

Version 1 is being written to capture the additional cost of sand material necessary to construct the emergency beach berms for the Town of Fort Myers Beach from North End R-181 with GPS coordinates (26.452601, -81.955357) to South End R-210 with GPS coordinates (26.40458, -81.884472):

A. Furnish and install 14,660 CY of additional beach dune compatible sand for emergency berm, along 28,000 LF of beach (R-180 to R-210)

Work to be Completed Total: \$1,303,070.00

Scope Note:

1. The Applicant has requested a change to the SOW to include additional sand to construct the emergency beach berms. The additional sand is required due to multiple factors including variability in erosion patterns along the beach, losses due to work stoppage, and variability in the sand density from the standard ton to cubic yard conversion factor. The reasons for the requested change in scope are detailed in the attached narrative report. See Document "SR-DR-4673-FL--Fort-Myers-Beach--Town-of-PW62-GP693579-V1-AMD-Scope-of-Work-1767511-69121.pdf"

Cost

Code	Quantity	Unit	Total Cost	Section
9001 (Contract-Version 1 Additional Costs)	1.00	Lump Sum	\$1,303,070.00	Uncompleted
9001 (Contract)	1.00	Lump Sum	\$7,970,943.00	Uncompleted

CRC Gross Cost	\$9,274,013.00
Total Insurance Reductions	\$0.00
CRC Net Cost	\$9,274,013.00
Federal Share (90.00%)	\$8,346,611.70
Non-Federal Share (10.00%)	\$927,401.30

Award Information

Version Information

Version #	Eligibility Status	Current Location	Bundle Number	Project Amount	Cost Share	Federal Share Obligated	Date Obligated
0	Eligible	Awarded	PA-04-FL-4673-PW-00062(209)	\$7,970,943.00	75 %	\$5,978,207.25	4/6/2023
1	Eligible	Notified		\$0.00	15 %	\$0.00	
2	Eligible	In Review		\$1,303,070.00	90 %	\$0.00	

Drawdown History

EMMIE Drawdown Status As of Date	IFMIS Obligation #	Expenditure Number	Expended Date	Expended Amount
5/2/2023	4673DRFLP00000621	20223AOO-05012023	4/28/2023	\$2,989,103.63

Obligation History

Version #	Date Obligated	Obligated Cost	Cost Share	IFMIS Status	IFMIS Obligation #
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Subgrant Conditions

- As described in Title 2 Code of Federal Regulations (C.F.R.) § 200.333, financial records, supporting documents, statistical records and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three (3) years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. Exceptions are stated in 2 C.F.R. §200.333(a) – (f)(1) and (2). All records relative to this project are subject to examination and audit by the State, FEMA and the Comptroller General of the United States and must reflect work related to disaster-specific costs.
- In the seeking of proposals and letting of contracts for eligible work, the Applicant/Subrecipient must comply with its Local, State (provided that the procurements conform to applicable Federal law) and Federal procurement laws, regulations, and procedures as required by FEMA Policy 2 CFR Part 200, Procurement Standards, §§ 317-326.
- The Recipient must submit its certification of the subrecipient's completion of this project, the final claim for payment, and supporting documentation within 180 days from the date that the applicant completes the scope of work, or the project deadline, whichever occurs first. FEMA reimburses Large Projects (those with costs above the large project threshold) based on the actual eligible final project costs. Therefore, during the final project reconciliation (closeout), the project may be amended to reflect the reconciliation of actual eligible costs.
- When any individual item of equipment purchased with PA funding is no longer needed, or a residual inventory of unused supplies exceeding \$5,000 remains, the subrecipient must follow the disposition requirements in Title 2 Code of Federal Regulations (C.F.R.) § 200.313-314.
- The terms of the FEMA-State Agreement are incorporated by reference into this project under the Public Assistance award and the applicant must comply with all applicable laws, regulations, policy, and guidance. This includes, among others, the Robert T. Stafford Disaster Relief and Emergency Assistance Act; Title 44 of the Code of Federal Regulations; FEMA Policy No. 104-009-2, Public Assistance Program and Policy Guide; and other applicable FEMA policy and guidance.
- The DHS Standard Terms and Conditions in effect as of the declaration date of this emergency declarations or major disaster, as applicable, are incorporated by reference into this project under the Public Assistance grant, which flow down from the Recipient to subrecipients unless a particular term or condition indicates otherwise.
- The Uniform Administrative Requirements, Cost Principles, and Audit Requirements set forth at Title 2 Code of Federal Regulations (C.F.R.) Part 200 apply to this project award under the Public Assistance grant, which flow down from the Recipient to all subrecipients unless a particular section of 2 C.F.R. Part 200, the FEMA-State Agreement, or the terms and conditions of this project award indicate otherwise. See 2 C.F.R. §§ 200.101 and 110.
- The subrecipient must submit a written request through the Recipient to FEMA before it makes a change to the approved scope of work in this project. If the subrecipient commences work associated with a change before FEMA approves the change, it will jeopardize financial assistance for this project. See FEMA Policy No. 104-009-2, Public Assistance Program and Policy Guide.
- Pursuant to section 312 of the Stafford Act, 42 U.S.C. 5155, FEMA is prohibited from providing financial assistance to any entity that receives assistance from another program, insurance, or any other source for the same work. The subrecipient agrees to repay all duplicated assistance to FEMA if they receive assistance for the same work from another Federal agency, insurance, or any other source. If an subrecipient receives funding from another federal program for the same purpose, it must notify FEMA through the Recipient and return any duplicated funding.

Insurance

Additional Information

10/12/2023: Version (1) is being written to capture the additional \$1,303,070.00 in cost of sand material. No change to prior insurance determination.

FACTS

During the incident period Severe Storms, High Winds and Surge Flooding required the Town of Fort Myers Beach to provide Emergency Protective Measures.

REPETITIVE DAMAGES

No previous disaster requirements for surge flooding were found for the location(s) identified in this project.

FINDINGS

The Town of Fort Myers Beach provided a commercial property insurance policy issued by Florida Municipal Insurance Trust (FMIT), Agreement # 0778 with effective dates of 10/01/2021 to 10/01/2022. The policy has Building property limits of \$13,435,548.00 and Contents property limits of \$1,175,000.00 with a \$500.00 basic deductible per occurrence. The policy includes Named Storm coverage with a 5% of Total Insured Value (TIV) per Item, per location and per Scheduled Value per occurrence. The policy includes an 80% coinsurance condition.

Property insurance coverage is limited to insured locations. The emergency protective berm represented in this project does not include insured locations and are neither insured nor insurable. No insurance relief is anticipated. No insurance narrative will be produced or uploaded into documents or attachments.

FEMA Policy 206-086-1

PART 2: Other Insurance-Related Provisions. (Sections 312 and 406(d) of the Stafford Act) A. Duplication of Benefits. FEMA cannot provide assistance for disaster-related losses that duplicate benefits available to an applicant from another source, including insurance.

1. Before FEMA approves assistance for a property, an applicant must provide FEMA with information about any actual or anticipated insurance settlement or recovery it is entitled to for that property.
2. FEMA will reduce assistance to an applicant by the amount of its actual or anticipated insurance proceeds.
3. Applicants must take reasonable efforts to recover insurance proceeds that they are entitled to receive from their insurer(s).

REQUIREMENTS

No insurance requirements will be required for this project. Insurance requirements are specific to permanent work to replace, restore, repair, reconstruct, or construct buildings, contents, equipment, and vehicles (FEMA Recovery Policy FP 206-086-1).

Steven A. Goodroad, Insurance Specialist, CRC East

O&M Requirements

There are no Obtain and Maintain Requirements on **Fort Myers Beach - Emergency Berm**.

Environmental Historical Preservation

Is this project compliant with EHP laws, regulations, and executive orders?

Yes

EHP Conditions

- Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
- This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize funding.
- If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archaeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.
- NEPA CONDITION: This project has been reviewed with the assumption the emergency berm will be constructed utilized an approved and permitted upland sand source and as a stand-alone project. Any changes to the scope of work will require resubmission for EHP review prior to initiation of any work, including placement of berms within a CBRS Unit. Failure to do so may jeopardize funding.
- NHPA CONDITION: If human remains or intact archaeological features or deposits (e.g. arrowheads, pottery, glass, metal, etc.) are uncovered, work in the vicinity of the discovery will stop immediately and all reasonable measures to avoid or minimize harm to the finds will be taken. The subrecipient will ensure that archaeological discoveries are secured in place, that access to the sensitive area is restricted, and that all reasonable measures are taken to avoid further disturbance of the discoveries. The subrecipient's contractor will provide immediate notice of such discoveries to the applicant. The subrecipient shall contact the Florida Division of Historic Resources and FEMA within 24 hours of the discovery. Work in the vicinity of the discovery may not resume until FEMA has completed consultation with SHPO, Tribes, and other consulting parties as necessary. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Florida Statutes, Section 872.05.
- NHPA CONDITION: [Upland] Prior to conducting repairs, the subrecipient must identify the source and location of fill material and provide this information to FDEM and FEMA. If the borrow pit is privately owned, or is located on previously undisturbed land, or if the fill is obtained by the horizontal expansion of a preexisting borrow pit, FEMA consultation with the State Historic Preservation Officer will be required. Failure to comply with this condition may jeopardize FEMA funding; verification of compliance will be required at project closeout.
- ESA CONDITION: The subrecipient is responsible for compliance and documentation of all Conservation Measures as outlined in the attached USFWS Biological Opinion, dated 04/03/2008, Service Activity #:41910-2007-F-0430. The subrecipient is also responsible to obtain any permits that may be required by the FDEP Bureau of Beaches and Coastal Systems. Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance will be required at project closeout.
- CBRA CONDITION: Per consultation with USFWS initiated on 02/06/2023 and completed on 03/22/2023, FEMA determined any placement of sand in the CBRS Unit is not an eligible exemption to the CBRA and does not meet the 3 purposes of the CBRA. No portion of the project can occur within the CBRS Unit Lovers Key. Failure to do so may jeopardize funding.
- CZMA CONDITION: The subrecipient is responsible for coordinating with and obtaining any required permit(s) from FDEP Beaches and Coastal Management Division. Subrecipient must obtain a Coastal Construction Control Line (CCCL) permit prior to initiating work or verification that no permit was required. The subrecipient shall comply with all conditions of the required permit. All coordination pertaining to these activities should be documented and compliance maintained in their permanent files. Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance will be required at project closeout.

EHP Additional Info

There is no additional environmental historical preservation on **Fort Myers Beach - Emergency Berm**.

Final Reviews

Final Review

Reviewed By HALL, AGNESS J.

Reviewed On 10/16/2023 8:13 AM EDT

Review Comments

Amendment completed totaling \$1,303,070.00.

Recipient Review

Reviewed By Hayth, John

Reviewed On 10/18/2023 8:57 AM EDT

Review Comments

Advanced

Project Signatures

Signed By Russ, Cheri

Signed On 10/23/2023

1. **Requested Motion:**

Meeting Date: November 6, 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN SEPTEMBER 1, 2023 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE BEACH; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE No. 102423-01 IN THE AMOUNT \$220,059.39; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Hurricane Idalia impacts resulted in numerous hazards to public health and safety on the beach that needed to be removed for public health and safety.

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Chadd Chustz, Environmental
Services

5. **Background:**

Hurricane Idalia formed in the Gulf of Mexico on Sunday, August 27 and became Tropical Storm Idalia later that day. It reached hurricane strength on Tuesday, August 29 and rapidly intensified into a major Category 3 hurricane with an increase in wind speeds of 55 mph in less than 24 hours.

Storm surge impacts on Fort Myers Beach occurred on August 29th as Hurricane Idalia moved north towards its landfall in the Big Bend of Florida. In addition to the 2-4 feet of storm surge, a King Tide occurred at noon on Aug. 29, and the greatest impact from storm surge occurred late Tuesday night into Wednesday, Aug. 30, early morning as the storm passed by Fort Myers Beach overnight.

Fort Myers Beach was already low lying after more than 220,000 cubic yards were eroded from the beach due to Hurricane Ian in the year prior. As a result, the beach experienced further erosion, washover onto Estero Blvd, and numerous hazards spewed onto the beach from Hurricane Idalia as it moved north.

Attachments:

1. Resolution 23-153, Ratify ICS Contract
2. ICS contract - Executed
3. ICS Exhibits A, B & C
4. Idalia Info
5. Post Idalia Beach Photos
6. INVOICE - Hurr. Idalia Beach Recovery 10.24.23

Financial Impact:

FEMA is expected to pay for 75% of the cost.

FDEM is expected to pay for 12.5% of the cost.

The Town is expected to pay 12.5% of the cost, which equals \$27,507.42. TDC FY23 Beach Maintenance Funds will be used to cover this cost pending TDC approval.

6. Alternative Action

Do not ratify the action of the Town taken September 1, 2023 regarding the waiving of the Town's competitive procurement policy and contracting with ICS Materials, Inc. to take emergency protective measures to remove hazards to public health and safety from the beach; and approving payment of ICS Materials, Inc. Invoice No. 102423-01 in the amount of \$220,059.39

7. Management Recommendations:

8. Recommended Approval:

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

Created/Initiated - 10/30/2023
Approved - 10/30/2023
Approved - 10/30/2023
Approved - 10/30/2023
Final Approval - 10/30/2023

RESOLUTION NUMBER 23-153

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN SEPTEMBER 1, 2023 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE BEACH; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE NO. 102423-01 IN THE AMOUNT \$220,059.39; 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 was impacted by the winds and storm surge from Hurricane Idalia resulting in significant amounts of construction and demolition debris on the beach; and

WHEREAS, Governor DeSantis issued a Declaration of State Emergency for 49 counties including Lee County on August 29, 2023; and

WHEREAS, the Federal Emergency Management Agency approved Public Assistance Category B for emergency protective measures taken in Lee County in response to Hurricane Idalia.

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 contract with ICS MATERIALS INC. for removal of hazards to public safety from the beach, and waiving of the Town's procurement policy, and directing the Town Manager to pay for services rendered in the amount of \$220,059.39.

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 6th day of November 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 November 2023.

SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is entered into on this **31st** day of **August 2023**, by and between the Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931, a chartered municipality of the State of Florida (hereafter "Town"), and **ICS MATERIALS, INC.** with an address of **9160 FORUM CORPORATE PKWY #350, FORT MYERS, FL 33905** (hereafter "Provider").

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. Scope of Services. Provider will perform all services and work necessary as set forth in "Scope of Services" attached as Exhibit "A". Provider warrants and represents that it is qualified, willing and able to provide and perform all services in accordance with the terms of this Agreement. The parties have the ability to modify the Scope of Services by mutual written agreement, except that the Town has the unilateral right to exclude specified services hereunder for any reason upon prior written notice to Provider and Provider will not be entitled to compensation for such excluded services unless those services have already been performed by Provider.
2. Term. The term of this Agreement is **14 days** commencing on **September 1, 2023** and terminating on **September 15, 2023.**
3. Payment Obligation. The Town will pay for all requested and authorized services rendered hereunder by the Provider and completed in accordance with this Agreement, as set forth in attached Exhibit "B". The Provider's invoice statements must contain a breakdown of charges, description of services and work provided or performed, and, where appropriate, supportive documentation of charges consistent with the basis of compensation set forth in this Agreement. In the event of a dispute as to the Town's payment obligation, the Town will pay the undisputed amount, if any, within 30 days of the date of the invoice.
4. Provider's Obligations. The Provider's obligations include, but are not limited to, the following:
 - a) Licensure. The Provider will maintain all licenses and certifications required by governmental agencies responsible for regulating and licensing the services provided and performed by the Provider.
 - b) Provision of Services. The Provider will perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies that regulate or have jurisdiction over the services to be provided or performed by the Provider. All personnel assigned by Provider hereunder will be qualified to perform such duties. Provider will designate one person as the point of contact for the Town regarding its duties hereunder. Provider is solely responsible for all taxes incurred by Provider and will make all deductions required of employers by state, federal and local laws.
 - c) Non-Waiver. Neither review, approval, nor acceptance by Town of data, studies, reports, memoranda, and incidental professional services, work and materials

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 - c) Non-Waiver. Neither review, approval, nor acceptance by Town of data, studies, reports, memoranda, and incidental professional services, work and materials

furnished hereunder by the Provider will in any way relieve Provider of responsibility for the adequacy, completeness and accuracy of its services, work and materials.

- d) Indemnity and Hold Harmless. The Provider agrees to indemnify and hold harmless the Town, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Provider and persons employed or utilized by Provider in providing services under this Agreement.
 - e) Non-Public Information. The Provider agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without the Town's prior written consent, or unless incident to the proper performance of Provider's obligations hereunder, or as provided for or required by law, any non-public information concerning the services to be rendered by Provider. Provider will require all of its employees and agents to comply with the provisions of this paragraph.
 - f) Statutory Duties. The duties and obligations imposed upon the Provider by this Agreement and the rights and remedies available to the Town hereunder will be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.
 - g) Disclosure. The Provider warrants it has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift or other compensation contingent upon or resulting from the award or making of this Agreement.
5. Commencement and Completion of Work. The Town will provide written notice to the Provider regarding commencement of services under this Agreement. Time is of the essence in the performance of this Agreement. The Provider agrees to commence work promptly and carry on all services and work as may be required in a timely and diligent manner to completion. Should the Provider fail to commence, provide, perform, and complete any of the services and work required hereunder in a timely and diligent manner, the Town may terminate this Agreement, in addition to any other remedies the Town may have.
6. Insurance. The Provider will have, and maintain, during the entire period of this Agreement, all such insurance (or self-insurance) as set forth on Exhibit "C". Each Certificate of Insurance must include the name and type of policy and coverages provided; the amount or limit applicable to each coverage provided; the date of expiration of coverage; the designation of the Town of Fort Myers Beach as additional insured and as certificate holder, except as to Professional Liability Insurance and Workers' Compensation Insurance. Should any of these policies be cancelled before the expiration date thereof, Provider will instruct the issuing company to mail 30 days written notice to the Town of such cancellation.

7. Inclusion of Additional Documents. Any request for bids and/or request for proposal, along with all exhibits or other attachments thereto as issued by the Town, are hereby incorporated by reference. In addition, the following Exhibits are attached hereto and hereby incorporated by reference: Exhibit "A"; Exhibit "B"; Exhibit "C"; Attachment "A".
8. Termination of Agreement. Either party may terminate this Agreement without cause upon 30 calendar days' prior written notice to the other, in which case the Town will compensate the Provider for all services performed prior to the effective date of termination and reimbursable expenses then due.
9. Assignment, Transfer and Subcontracts. The Provider may not assign or transfer any of its rights, benefits, or obligations hereunder, except for transfers that result from the merger or consolidation of Provider with a third party. The Provider has the right, subject to the Town's prior written approval, to employ other persons and firms to serve as subcontractors to Provider in connection with its performance of services and work pursuant to this Agreement.
10. Maintenance of Records. The Provider will keep and maintain adequate records and supporting documentation applicable to all the services, work, information, expense, costs, invoices and materials provided and performed pursuant to this Agreement. Said records and documentation will be retained by the Provider for a minimum of three years from the date of termination of this Agreement, or for such period as required by law. The Town and its authorized agents will, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the Town deems necessary during the term of this Agreement and the next succeeding three years.
11. Public Records. The following provisions are required by §119.0701, Fla. Stat., and may not be amended. Contractor shall keep and maintain public records required by the Town to perform the services required under this Contract. Upon request from Town's custodian of public records, Contractor shall provide Town with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract's term and following completion of the Contract if Contractor does not transfer the public records to Town. Upon completion of the Contract, Contractor may transfer, at no cost, to Town all public records in possession of Contractor or keep and maintain public records required by Town to perform the services required under the Contract. If Contractor transfers all public records to Town upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Town, upon request from Town's custodian of public records, in a format that is compatible with Town's information technology systems. The failure of Contractor to comply with the provisions set forth in this Section shall constitute a Default and Breach of this Agreement, for which, the Town may terminate the Agreement.

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

12. References to Town. All references to "the Town" or "the Town of Fort Myers Beach" are deemed to include its employees, agents, and authorized representatives.
13. Modification. Except as set forth in Paragraph 1 above, modifications to this Agreement will be valid only when made in writing and signed by both parties. In the event of a conflict between the requirements, provisions, or terms of this Agreement and any subsequent written modification hereto, the most recently executed document will take precedence.
14. E-Verify. ***As a condition precedent to entering into this AGREEMENT***, and in compliance with Section 448.095, Fla. Stat., Contractor, and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.
 - a. Contractor shall require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this AGREEMENT.
 - b. Town, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity.
 - c. Town, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.
 - d. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Contractor acknowledges that upon termination of this AGREEMENT by the Town for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the Town as a result of termination of any contract for a violation of this section.
 - e. *Subcontracts.* Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include

these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

15. Prohibition Against Contracting with Scrutinized Companies. By execution of this Contract, in accordance with the requirements of §§287.135 and 215.473, Fla. Stat., Contractor certifies that Contractor is not participating in a boycott of Israel. Contractor further certifies that Contractor is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has Contractor been engaged in business operations in Cuba or Syria. Subject to limited exceptions provided in state law, the Town will not contract for the provision of goods or services with any scrutinized company referred to above. Submitting a false certification shall be deemed a material breach of Contract. The Town shall provide notice, in writing, to Contractor of the Town's determination concerning the false certification. Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active Contract term, Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If Contractor does not demonstrate that the Town's determination of false certification was made in error then the Town shall have the right to terminate the contract and seek civil remedies pursuant to §287.135, Fla. Stat., as amended from time to time.

16. Miscellaneous Provisions.

- a) Applicable Law. This Agreement is governed by the laws of the State of Florida.
- b) Non-Discrimination. The Provider covenants that in the furnishing of services hereunder, no person on the grounds of race, color, national origin, handicap, or sex will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
- c) Headings. The headings of the Articles, Sections, Exhibits, and Attachments in this Agreement are for the purpose of convenience only and may not be deemed to expand, limit or change the provisions contained in such Articles, Section, Exhibits and Attachments.
- d) Entire Agreement. This Agreement, including any Exhibits, constitutes the entire Agreement between the parties and supersedes all prior agreements or understandings, written or oral, relating to the matters set forth herein.
- e) Notices. All notices required under this Agreement must be in writing and sent via U.S. Postal Service, first class mail, to the other party's address as listed at the beginning of this Agreement. Either party may change its address by prior written notice to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement as set forth below.

TOWN OF FORT MYERS BEACH

ATTEST:

BY: _____
Andy Hyatt, TOWN MANAGER

BY: _____
Amy Baker, TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

BY: _____
Town Attorney

PROVIDER: ICS MATERIALS, INC.

BY: _____
Signature
JACOB VOTH
Printed name of person signing

Karen Dix
Witness Signature
Karen Dix
Printed name of witness

General Manager
Title (printed)

EXHIBIT "A"

TO THE SERVICE PROVIDER CONTRACT DATED THIS 1st day of September 2023
BETWEEN THE TOWN AND **ICS MATERIALS, INC.**, PROVIDER.

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

Provider shall:

Collect, remove and dispose of storm related construction, demolition and vegetative and debris caused by Hurricane Idalia from the beach within the Town of Fort Myers Beach, as directed by Town Staff.

Storm-related debris must be properly disposed of at permitted waste management facility authorized to accept the type of debris offered for disposal. The provider shall provide the location and permitting information of the waste disposal facility to the Town.

Impervious surface at Newton Park shall be used as the Debris Management Site for staging and handling of debris. Receipt documentation of proper disposal of debris from the disposal facility shall be submitted to Town Staff within 7 days of disposal.

All provider operators shall provide the Town with complete Federal Emergency Management Agency 214 Incident Command System Activity Forms daily to support operator and equipment claimed.

Provider shall comply with all Federal, State, and Local Rules and Guidelines for Storm debris removal on the Beach, including the United States Fish and Wildlife Service 2015 Statewide Programmatic Biological Opinion, the State issued Executive Order 23-171, the Florida Fish & Wildlife Conservation Guidelines for Driving on the Beach, and the Florida Department of Environmental Protection Guidance for Establishment, Operation, and Closure of Disaster Debris Management Sites.

EXHIBIT "B"

TO THE SERVICE PROVIDER CONTRACT DATED THIS 1st DAY OF September, 2023,
BETWEEN THE TOWN AND **ICS MATERIALS, INC.**, PROVIDER.

PAYMENT OBLIGATION

The Town will pay the Provider as follows for all services listed in Exhibit "A":

The town will compensate the Contractor on a time and materials basis for staff labor, equipment and vehicle equipment usage, and actual disposal costs incurred in the performance of the scope of services listed in Attachment A.

The Contractor will receive no compensation for mobilization to the site as the Contractor staff and equipment needed to perform the work are onsite as of August 31, 2023.

Invoice for services must include the following documentation to support labor, equipment and vehicle usage, and disposal charges:

- List of vehicles and equipment used in providing services with type of equipment/vehicle including capacity and size necessary to determine correct equipment rental rates
- Proof of proper disposal of debris including but not limited to receipts for tipping fees for other charges from a properly permitted solid waste disposal facility
- Copies of ICS214, or equivalent, for each employee assigned to project describing work performed and equipment used in providing services
- Supervisor and employee-approved timecards or timesheets which support the number of hours charged for individual staff members
- Copies of ICS214, or equivalent, identifying operator and hours operated to support use or operation of equipment and vehicle claimed

The Contractor will be reimbursed for use of equipment and vehicles based on hourly rates in accordance the currently applicable Blue Book Rental Rates used by the Federal Highway Administration for performance of work under Federal transportation projects. The Contractor will not be reimbursed for any fuel, mileage, or other expenses incidental to the operation of equipment or vehicles.

Contractor will be reimbursed for properly documented staff time in accordance with the following rates:



August 31, 2023

Fort Myers Beach
2525 Estero Blvd.
Fort Myers Beach, FL 33931

RE: Unit Prices - Equipment & Labor

The following unit prices are provided as follows:

<u>EQUIPMENT</u>	<u>MANUFACTURER</u>	<u>Quan</u>	<u>Unit</u>	<u>Unit Price</u>
Dump Truck	Mack	EA	HOURLY	\$ 80.00
Catepillar	Loader (950)	EA	HOURLY	\$ 91.72
Catepillar	Dozer (D3)	EA	HOURLY	\$ 168.94
Catepillar	740 (Off-Road)	EA	HOURLY	\$ 197.39
Pickup Truck	Dodge (2500 4x4)	EA	HOURLY	\$ 20.46
Tractor	Kubota	EA	HOURLY	\$ 79.40
Skidsteer	Kubota	EA	HOURLY	\$ 85.64

LABOR RATES

Operator Rate per Hour	\$38.00
Laborer Rate per Hour	\$24.00
Supervisor Rate per Hour	\$78.00

~~Tipping fees at the Landfill: \$17.50/CY~~ → See following page

If further information is required, please contact me directly.

Respectfully,
ICS MATERIALS, INC.

Jake Voth

Digitally signed by Jake Voth
DN: C=US,
E=jake@floridcontractors.us,
O=ICS Materials, Inc.,
OU=Heavy Civil, CN=Jake Voth
Date: 2023.08.05
16:15:52-0400

General Manager

16301 PALM BEACH BLVD., SUITE 3, ALVA, FLORIDA 33920



August 31, 2023

Fort Myers Beach
2525 Estero Blvd.
Fort Myers Beach, FL 33931

RE: Unit Prices - Equipment & Labor

The following unit prices are provided as follows:

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LABOR RATES

Operator Rate per Hour	\$38.00
Laborer Rate per Hour	\$24.00
Supervisor Rate per Hour	\$78.00

Tipping Fees, \$38.58/Ton (Lee County Waste - 10550 Buckingham Road, Fort Myers, FL) are a pass-through to the Town, with no markup.

If further information is required, please contact me directly.

Respectfully,
ICS MATERIALS, INC.

Jake Voth
General Manager

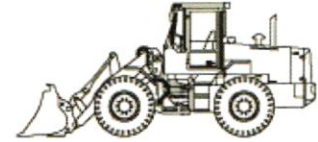
Digitally signed by Jake Voth
DN: cn=J.V.,
ou=ICS Materials, Inc.,
o=ICS Materials, Inc.,
email=jake.voth@icsmaterials.com,
c=US

Rental Rate Blue Book®

August 31, 2023

Caterpillar 950M

4-Wd Articulated Wheel Loaders

 Size Class:
 225 - 249 hp
 Weight:
 N/A

Configuration for 950M

 Bucket Capacity
 Operator Protection

12.0 cu yd
ROPS/FOPS

 Horsepower
 Power Mode

230.0 hp
Diesel
Blue Book Rates

** FHWA Rate is equal to the monthly ownership cost divided by 176 plus the hourly estimated operating cost.

	Ownership Costs				Estimated Operating Costs Hourly	FHWA Rate** Hourly
	Monthly	Weekly	Daily	Hourly		
Published Rates	USD \$9,595.00	USD \$2,685.00	USD \$670.00	USD \$100.00	USD \$37.04	USD \$91.56
Adjustments						
Region (Fort Myers, Florida: 100.3%)	USD \$28.78	USD \$8.06	USD \$2.01	USD \$0.30		
Model Year (2023: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$9,623.79	USD \$2,693.05	USD \$672.01	USD \$100.30	USD \$37.04	USD \$91.72

Non-Active Use Rates

	Hourly
Standby Rate	USD \$36.09
Idling Rate	USD \$70.46

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	38%	USD \$3,646.10/mo
Overhaul (ownership)	34%	USD \$3,262.30/mo
CFC (ownership)	17%	USD \$1,631.15/mo
Indirect (ownership)	11%	USD \$1,055.45/mo
Fuel (operating) @ USD 3.88	42.6%	USD \$15.78/hr

Revised Date: 3rd quarter 2023

 These are the most accurate rates for the selected Revision Date(s). However, due to more frequent online updates, these rates may not match Rental Rate Blue Book Print. Visit the [Cost Recovery Product Guide](#) on our Help page for more information.

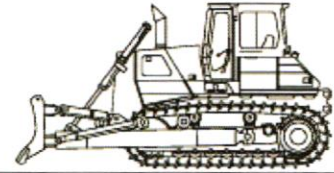
 The equipment represented in this report has been exclusively prepared for LEE SELIGMAN
 (lee@floridacontractors.us)

Rental Rate Blue Book®

August 31, 2023

Caterpillar D3

Standard Crawler Dozers

 Size Class:
 85 - 104 hp
 Weight:
 N/A

Configuration for D3

Dozer Type	Crawler	Horsepower	104 hp
Operator Protection	ROPS/FOPS	Power Mode	Diesel

Blue Book Rates

** FHWA Rate is equal to the monthly ownership cost divided by 176 plus the hourly estimated operating cost.

	Ownership Costs				Estimated Operating Costs	FHWA Rate**
	Monthly	Weekly	Daily	Hourly	Hourly	Hourly
Published Rates	USD \$18,880.00	USD \$5,285.00	USD \$1,320.00	USD \$200.00	USD \$61.77	USD \$169.04
Adjustments						
Region (Fort Myers, Florida: 99.9%)	(USD \$18.88)	(USD \$5.28)	(USD \$1.32)	(USD \$0.20)		
Model Year (2023: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$18,861.12	USD \$5,279.71	USD \$1,318.68	USD \$199.80	USD \$61.77	USD \$168.94

Non-Active Use Rates

	Hourly
Standby Rate	USD \$51.44
Idling Rate	USD \$116.92

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	24%	USD \$4,531.20/mo
Overhaul (ownership)	52%	USD \$9,817.60/mo
CFC (ownership)	13%	USD \$2,454.40/mo
Indirect (ownership)	11%	USD \$2,076.80/mo
Fuel (operating) @ USD 3.88	15.78%	USD \$9.75/hr

Revised Date: 3rd quarter 2023

These are the most accurate rates for the selected Revision Date(s). However, due to more frequent online updates, these rates may not match Rental Rate Blue Book Print. Visit the Cost Recovery Product Guide on our Help page for more information.

The equipment represented in this report has been exclusively prepared for LEE SELIGMAN
 (lee@floridacontractors.us)

Rental Rate Blue Book®

August 31, 2023

Caterpillar 740 GC
 Articulated Rear Dumps

 Size Class:
34.5 mt & Over
 Weight:
N/A

Configuration for 740 GC

Axle Configuration	6 x 6	Body Capacity	29.7 cu yd
Horsepower	439.0 hp	Power Mode	Diesel
Rated Payload	40.0 mt		

Blue Book Rates

** FHWA Rate is equal to the monthly ownership cost divided by 176 plus the hourly estimated operating cost.

	Ownership Costs				Estimated Operating Costs	FHWA Rate**
	Monthly	Weekly	Daily	Hourly	Hourly	Hourly
Published Rates	USD \$21,760.00	USD \$6,095.00	USD \$1,525.00	USD \$230.00	USD \$74.25	USD \$197.89
Adjustments						
Region (Fort Myers, Florida: 99.6%)	(USD \$87.04)	(USD \$24.38)	(USD \$6.10)	(USD \$0.92)		
Model Year (2023: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$21,672.96	USD \$6,070.62	USD \$1,518.90	USD \$229.08	USD \$74.25	USD \$197.39

Non-Active Use Rates

Standby Rate	Hourly	USD \$70.19
Idling Rate		USD \$153.52

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	33%	USD \$7,180.80/mo
Overhaul (ownership)	44%	USD \$9,574.40/mo
CFC (ownership)	13%	USD \$2,828.80/mo
Indirect (ownership)	11%	USD \$2,393.60/mo
Fuel (operating) @ USD 3.88	40.92%	USD \$30.38/hr

Revised Date: 3rd quarter 2023

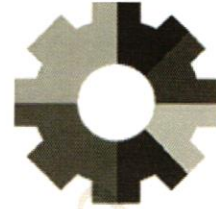
These are the most accurate rates for the selected Revision Date(s). However, due to more frequent online updates, these rates may not match Rental Rate Blue Book Print. Visit the Cost Recovery Product Guide on our Help page for more information.

 The equipment represented in this report has been exclusively prepared for LEE SELIGMAN
 (lee@floridacontractors.us)

AED Green Book®

April 7, 2023

Dodge RAM 2500 4x4 Diesel (disc. 2002)
 Light Duty Trucks

 Size Class:
 2
 Weight:
 N/A

Configuration for RAM 2500 4x4 Diesel (disc. 2002)

Power Mode	Diesel	Wheelbase	134.7 Inches
Gross Vehicle Weight Rating	8800 Pounds		

AED Rental Rates

These rental rates reflect an average for equipment of this type and size. Rates shown for specific brands or models are provided for convenience only. Rates charged by rental companies for specific brands or models will vary depending on many factors

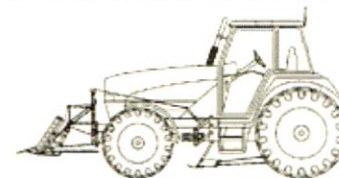
	Monthly	Weekly	Daily
Published Rates	USD \$1,727.00	USD \$639.00	USD \$202.00
Adjustments			
Region (Florida: 101%)	USD \$22.27	USD \$8.24	USD \$2.61
User Defined			
Rental Rates (100%)	-	-	-
Total:	USD \$1,749.27	USD \$647.24	USD \$204.61
Date Last Updated: Mar 01, 2023			

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 (lee@floridacontractors.us)

Rental Rate Blue Book®

August 31, 2023

Kubota M7060
 Wheel Tractors

 Size Class:
 50 - 74 hp
 Weight:
 N/A

Configuration for M7060

 Power Mode **Diesel**
Blue Book Rates

** FHWA Rate is equal to the monthly ownership cost divided by 176 plus the hourly estimated operating cost.

	Ownership Costs				Estimated Operating Costs	FHWA Rate**
	Monthly	Weekly	Daily	Hourly	Hourly	Hourly
Published Rates	USD \$8,290.00	USD \$2,320.00	USD \$580.00	USD \$87.00	USD \$32.30	USD \$79.40
Adjustments						
Region (Fort Myers, Florida: 100%)	-	-	-	-		
Model Year (2023: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$8,290.00	USD \$2,320.00	USD \$580.00	USD \$87.00	USD \$32.30	USD \$79.40

Non-Active Use Rates

	Hourly
Standby Rate	USD \$25.91
Idling Rate	USD \$57.02

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	20%	USD \$1,658.00/mo
Overhaul (ownership)	45%	USD \$3,730.50/mo
CFC (ownership)	15%	USD \$1,243.50/mo
Indirect (ownership)	20%	USD \$1,658.00/mo
Fuel (operating) @ USD 3.88	30.71%	USD \$9.92/hr

Revised Date: 3rd quarter 2023

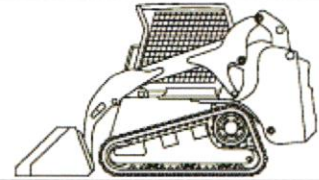
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Rental Rate Blue Book®

August 31, 2023

Kubota SVL95-2S
 Compact Track Loaders

 Size Class:
2851 - 3200 lbs
 Weight:
N/A

Configuration for SVL95-2S

Operator Protection ROPS/FOPS Power Mode Diesel

Blue Book Rates

** FHWA Rate is equal to the monthly ownership cost divided by 176 plus the hourly estimated operating cost.

	Ownership Costs				Estimated Operating Costs	FHWA Rate**
	Monthly	Weekly	Daily	Hourly	Hourly	Hourly
Published Rates	USD \$9,160.00	USD \$2,565.00	USD \$640.00	USD \$96.00	USD \$33.70	USD \$85.75
Adjustments						
Region (Fort Myers, Florida: 99.8%)	(USD \$18.32)	(USD \$5.13)	(USD \$1.28)	(USD \$0.19)		
Model Year (2023: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$9,141.68	USD \$2,559.87	USD \$638.72	USD \$95.81	USD \$33.70	USD \$85.64

Non-Active Use Rates

	Hourly
Standby Rate	USD \$22.85
Idling Rate	USD \$64.44

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	18%	USD \$1,648.80/mo
Overhaul (ownership)	55%	USD \$5,038.00/mo
CFC (ownership)	11%	USD \$1,007.60/mo
Indirect (ownership)	15%	USD \$1,374.00/mo
Fuel (operating) @ USD 3.88	37.09%	USD \$12.50/hr

Revised Date: 3rd quarter 2023

These are the most accurate rates for the selected Revision Date(s). However, due to more frequent online updates, these rates may not match Rental Rate Blue Book Print. Visit the Cost Recovery Product Guide on our Help page for more information.

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EXHIBIT "C"

INSURANCE: The Provider shall obtain and maintain the following insurance coverages:

- a) Workers Compensation Coverage to comply for all employees for Statutory Limits in compliance with the applicable State and Federal laws;
- b) Employer's Liability with a minimum limit per accident in accordance with statutory requirements.
- c) Commercial General Liability Insurance with minimum limits of \$500,000 per occurrence and \$500,000 aggregate for Bodily Injury Liability and a minimum limit of \$500,000 for Property Damage Liability, or a minimum combined single limit of \$1,000,000.
- d) Business Automobile Liability Insurance with minimum limits of \$500,000 per person and \$500,000 per accident for Bodily Injury Liability and a minimum limit of \$500,000 for Property Damage Liability, or a minimum combined single limit of \$500,000, with coverage including owned vehicles, hired and non-owned vehicles, and employee non-ownership.

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

FEDERAL EMERGENCY MANAGEMENT AGENCY PUBLIC ASSISTANCE

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

Prohibition on Covered Telecommunications Equipment or Services

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

(b) Prohibitions.

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

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

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

(c) Exceptions.

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

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

(d) Reporting requirement.

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

CONSTRUCTION ACTIVITIES

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

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

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

Davis Bacon Act: Exempt under FEMA Public Assistance Funding

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

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

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

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

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
and VOLUNTARY EXCLUSION**

Contractor Covered Transactions

- (1) The prospective subcontractor of the Sub-recipient, Town, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the Sub-recipient's subcontractor is unable to certify to the above statement, the prospective contract shall attach an explanation to this form.

CONTRACTOR

ICS- MATERIALS, INC.

By:

Signature

DAKE VOTH - General Manager

Name and Title

16301 Palm Beach Blvd Suite 3

Street Address

ALVA, FL 33920

City, State, Zip

UEI Unique Entity Identifier (for SAM.gov verification)

10/4/23 10/4/23

Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

TOWN OF FORT MYERS BEACH																					
ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT																					
Status will be verified. Unverifiable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.																					
A. PRIME VENDOR/CONTRACTOR INFORMATION																					
PRIME NAME		PRIME FED NUMBER		CONTRACT DOLLAR AMOUNT																	
ICS Materials, Inc.		47-4953418		To be determined																	
IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/WBE/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS BA CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?		VETERAN Y ☒ N DBE? Y ☒ N MBE? Y ☒ N WBE? Y ☒ N SDB BA? Y ☒ N		IS THE ACTIVITY OF THIS CONTRACT...																	
				CONSTRUCTION? Y ☐ N CONSULTATION? Y ☐ N OTHER? ☒ N																	
IS THIS SUBMISSION A REVISION?		Y ☐ N ☒		IF YES, REVISION NUMBER																	
B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION																					
DBE M/WBE VETERAN	SUBCONTRACTOR OR SUPPLIER NAME	TYPE OF WORK OR SPECIALTY	ETHNICITY CODE (See Below)	SUB/SUPPLIER DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS																
TOTALS:																					
C. SECTION TO BE COMPLETED BY PRIME VENDOR/CONTRACTOR																					
NAME OF SUBMITTER		DATE		TITLE OF SUBMITTER																	
Jason Clark		10/5/2023		President																	
EMAIL ADDRESS OF PRIME (SUBMITTER)		TELEPHONE NUMBER		FAX NUMBER																	
jason@floridacontractors.us		239-463-3529		None																	
NOTE: This information is used to track and report anticipated DBE or MBE participation in federally funded contracts. The anticipated DBE or MBE amount is voluntary and will not become part of the contractual terms. This form must be submitted at time of response to a solicitation. If and when awarded a County contract, the prime will be asked to update the information for the grant compliance files.																					
<table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>ETHNICITY</th> <th>CODE</th> </tr> </thead> <tbody> <tr><td>Black American</td><td>BA</td></tr> <tr><td>Hispanic American</td><td>HA</td></tr> <tr><td>Native American</td><td>NA</td></tr> <tr><td>Subcont. Asian American</td><td>SAA</td></tr> <tr><td>Asian-Pacific American</td><td>APA</td></tr> <tr><td>Non-Minority Women</td><td>NMW</td></tr> <tr><td>Other not of any other group listed</td><td>O</td></tr> </tbody> </table>						ETHNICITY	CODE	Black American	BA	Hispanic American	HA	Native American	NA	Subcont. Asian American	SAA	Asian-Pacific American	APA	Non-Minority Women	NMW	Other not of any other group listed	O
ETHNICITY	CODE																				
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Asian-Pacific American	APA																				
Non-Minority Women	NMW																				
Other not of any other group listed	O																				
D. SECTION TO BE COMPLETED BY TOWN OF FORT MYERS BEACH																					
DEPARTMENT NAME		FMB CONTRACT # (FBI/RFP or PO/REQ)		GRANT PROGRAM/CONTRACT																	
ACCEPTED BY:					DATE																

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

LOBBYING CERTIFICATION
(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

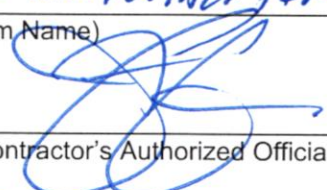
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

JCS Materials, Inc

Contractor (Firm Name)


Signature of Contractor's Authorized Official

General Mgr

Name and Title of Contractor's Authorized Official

10/4/23

Date

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

Certification

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

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name FCS MATERIALS, INC

Date 10/4/23

Authorized Signature 



Town of Fort Myers Beach Florida
2525 Estero Boulevard
Fort Myers Beach, FL 33931

September 8, 2023

ATTN: Mr. Chadd Chustz
Environmental Projects Manager

Sent Via Email:
chadd@fmbgov.com

RE: SPA-23-23-EN
Idalia Beach Cleanup
(Exhibits A, B & C Attached)

Dear Mr. Chustz,

While attempting to unload the remnants of seaweed at the Landfill yesterday, we were informed that the seaweed materials were mixed with other debris thus changing the classification and the unit prices. I have attached the entire price structures for your review. Despite my attempts to lock down one unit price, the Landfill has specific guidelines for accepting the mixed materials generated on Fort Myers Beach as well as specific landfills this material can be deposited.

Since this is a pay when delivered account, ICS Materials has been absorbing the additional costs for disposal. These fees are a pass-through to the Town, with no markup, which we will include in our invoices for the above-referenced project. Please amend the agreement to include the attached price sheets (Exhibits A & B) provided by Lee County Solid Waste.

Additionally, I have included the Screener and Conveyor hourly rate in this correspondence which is marked Exhibit C.

If I can assist in any manner, please contact me directly.

Sincerely,
ICS Materials, Inc.


Jake Voth
Digitally signed by Jake Voth
DN: cn=US,
E=jake@floridaccontractors.us,
O="ICS Materials, Inc.",
OU=Heavy Civil, CN=Jake Voth
Date: 2023.09.08
16:12:59.0470

General Manager

cc: Jason Clark (ICS), Sara Louis (ICS), Project File

16310 FL-SR80, ALVA, FLORIDA 33920 - Office phone: (239) 839-0862

**Lee County Solid Waste Department
10550 Buckingham Road
Fort Myers, FL 33905 239-533-8000**

<u>HOURS OF OPERATION:</u>	Monday – Friday	6:00 AM – 6:00 PM
	Saturday	6:00 AM – 12:00 NOON

Hand unloaders and outbound material pickups are requested to arrive at least 30 minutes prior to closing time to allow time to load/unload

Scale House Instructions: Vehicles will enter via the scale-house ramps to record the weight and type of material brought to the facility. Scale house staff will provide directions to the appropriate disposal location and collect the disposal fee. We accept all major credit cards, cash and checks.

Incoming Waste Loads

Incoming waste will be classified as one of four (4) categories: MSW, C&D, Shingles or Class III. Please refer to the material descriptions below. *Determination of the waste classification will be made by Solid Waste Department staff based on the materials identified in the load.* Rates for C&D Debris and Class III waste are only applicable for materials generated from a construction and/or demolition site. Shingle Rate is only applicable to loads of asphaltic shingles and attached or related roofing materials. All other loads will be assessed the standard MSW rate. *Solid Waste Department staff will base their classification on the proportion of materials comprising the load. Mixed loads will cause the load to be assessed at the more restrictive material.*

<u>MSW:</u>	\$ 59.96/ton	(Minimum charge \$15)
Trash & garbage. All other bagged waste and other waste materials. More than 10% of MSW mixed in a load will cause the load to be assessed and disposed of as MSW		
<u>Construction and Demolition Debris (C&D):</u>	\$ 61.72/ton	(Minimum charge \$15)
Concrete, concrete block, brick, drywall, plaster, clay tiles, untreated lumber (includes painted demolition debris), plywood, pallets, asphalt, metal, building demolition components (doors, windows, etc.), rock and soil.		
<u>Class III:</u>	\$ 61.72/ton	(Minimum charge \$15)
Carpet, padding, cardboard, paper, glass, plastic, Styrofoam, furniture, treated lumber, telephone poles, etc.		
<u>Shingles:</u>	\$ 75.00/ton	(Minimum charge \$15)
80% of load must be asphaltic shingles and attached or related roofing debris in order to be charged at this rate		
<u>Recycle:</u>	\$ 41.12/ton	(Minimum charge \$15)
<u>Horticulture/Yard Waste:</u>	\$ 38.58/ton	(Minimum charge \$15)
<u>Tires (Including Car/Trucks/Semi-Trucks Tires):</u>	\$160.00/ton	(Minimum charge \$15)
<u>Off-Road Tires Extra Large Tires:</u>	\$160.00/ton	(Minimum charge \$50)

HAZARDOUS WASTE IS NOT ACCEPTED AT THIS SITE

Please ask Scale House attendant for disposal information.

If you have questions about this information, please contact us at (239) 533-8000. All items subject to change.

Lee County Solid Waste Department
5500 Church Rd.
Felda, FL 33930 239-369-2030

<u>HOURS OF OPERATION:</u>	Monday – Friday	7:00 AM – 4:00 PM
	Saturday	7:00 AM – 12:00 NOON

Hand unloaders are requested to arrive at least 30 minutes prior to closing time to allow time to unload

Scale House Instructions: Vehicles will enter via the scale-house ramps to record the weight and type of material brought to the facility. Scale house staff will provide directions to the appropriate disposal location and collect the disposal fee. We accept all major credit cards, cash and checks.

Incoming Waste Loads

Incoming waste will be classified as one of four (4) categories: MSW, C&D, Shingles or Class III. Please refer to the material descriptions below. *Determination of the waste classification will be made by Solid Waste Department staff based on the materials identified in the load.* Rates for C&D Debris and Class III waste are only applicable for materials generated from a construction and/or demolition site. Shingle Rate is only applicable to loads of asphaltic shingles and attached or related roofing materials. All other loads will be assessed the standard MSW rate. *Solid Waste Department staff will base their classification on the proportion of materials comprising the load. Mixed loads will cause the load to be assessed at the more restrictive material.*

<u>MSW:</u>	\$ 59.96/ton	(Minimum charge \$15)
Trash & garbage. All other bagged waste and other waste materials. More than 10% of MSW mixed in a load will cause the load to be assessed and disposed of as MSW		

<u>Construction and Demolition Debris (C&D):</u>	\$ 61.72/ton	(Minimum charge \$15)
Concrete, concrete block, brick, drywall, plaster, clay tiles, untreated lumber (includes painted demolition debris), plywood, pallets, asphalt, metal, building demolition components (doors, windows, etc.), rock and soil.		

<u>Class III:</u>	\$ 61.72/ton	(Minimum charge \$15)
Carpet, padding, cardboard, paper, glass, plastic, Styrofoam, furniture, treated lumber, telephone poles, etc.		

<u>Shingles:</u>	\$ 35.00/ton	(Minimum charge \$15)
80% of load must be asphaltic shingles and attached or related roofing debris in order to be charged at this rate		

<u>Boats/RV:</u>	\$ 89.96/ton	(Minimum charge \$15)
Prior to arriving for disposal, all fuel, oil, or other fluids must be drained from engine or drive units. All fuel, water, or other liquid holding tanks must be removed with the tops and bottoms of the tanks removed so that no liquids can become trapped in the tanks. Customers are responsible for unloading vessels and all tires must be removed and taken away by the customer.		

<u>Off-Road Tires Extra Large Tires:</u>	\$160.00/ton	(Minimum charge \$50)
---	---------------------	------------------------------

HAZARDOUS WASTE IS NOT ACCEPTED AT THIS SITE

Please ask Scale House attendant for disposal information.

If you have questions about this information, please contact us at (239) 533-8000. All items subject to change.



September 8, 2023

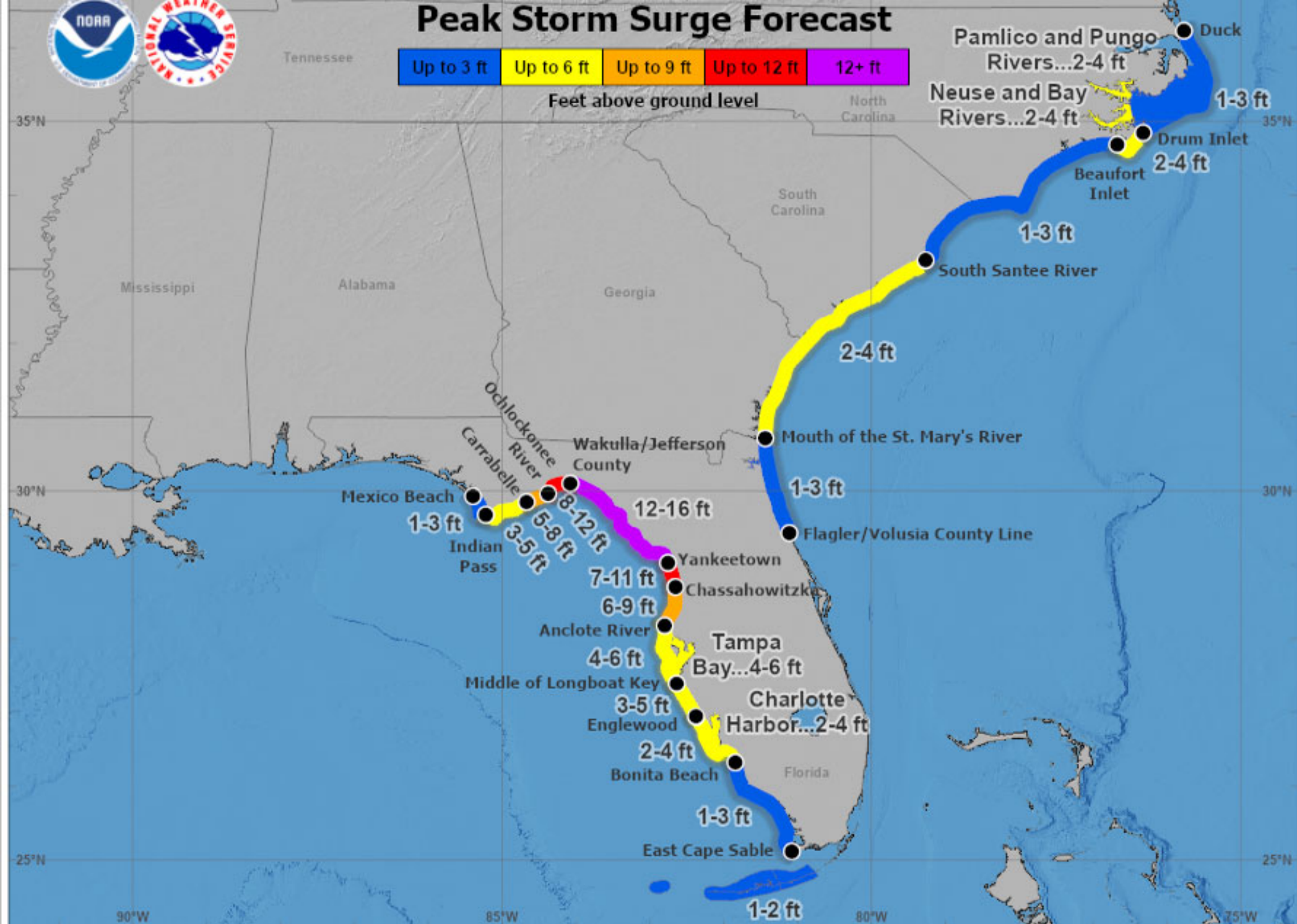
EXHIBIT "C"

Hourly Equipment Rental - Screener & Conveyor	
EQUIPMENT DESCRIPTION	Monthly Rental & Fuel
Finlay 883 Screener	\$ 13,500.00
Finley TC80 Conveyer	\$ 5,800.00
Total Mo. Equip. Rental	\$ 19,300.00
Estimated Total Mo. Fuel Costs	\$ 12,350.00
Sub Total	\$ 31,650.00
Hourly / 176	\$ 179.83
Maintenance 25%	\$ 44.96
Total Hourly Rental Rate	\$ 224.79
NOTE:	
Support Equipment hourly rates such as excavator, loader, haul trucks and operators are already established.	

Peak Storm Surge Forecast

Up to 3 ft Up to 6 ft Up to 9 ft Up to 12 ft 12+ ft

Feet above ground level



Hurricane Idalia
Tuesday August 29, 2023
11 PM EDT Advisory 14

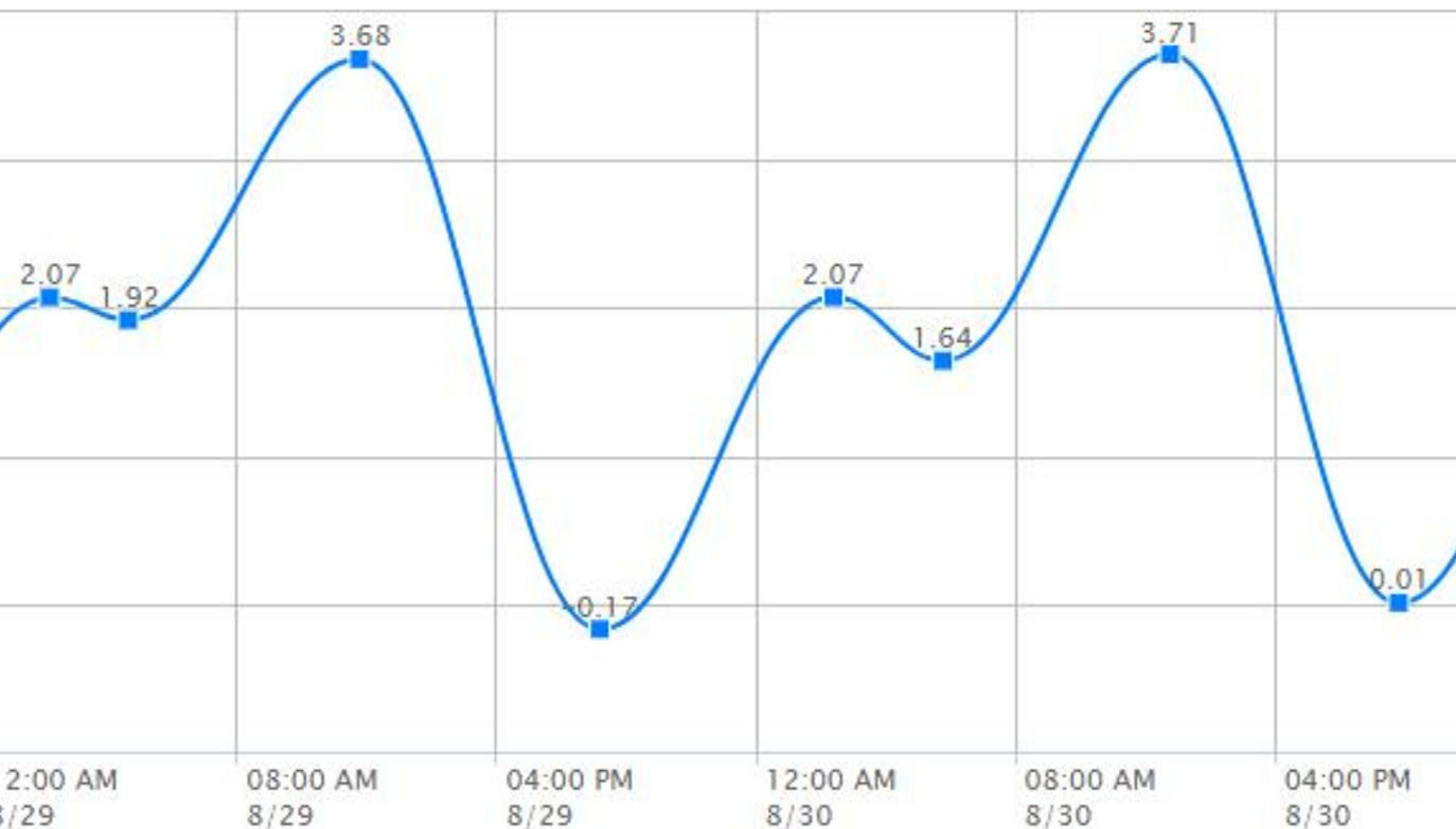
User Notes: Water levels along the immediate coast could reach the following heights above ground level within the indicated areas. Elevated water levels will likely be accompanied by large and destructive waves. Colors are determined by the highest values in the associated forecast peak surge range. Values shown on this graphic are inclusive of tide.

NOAA/NOS/CO-OPS

Tide Predictions at 8725366, MATANZAS PASS, ESTERO ISLAND FL

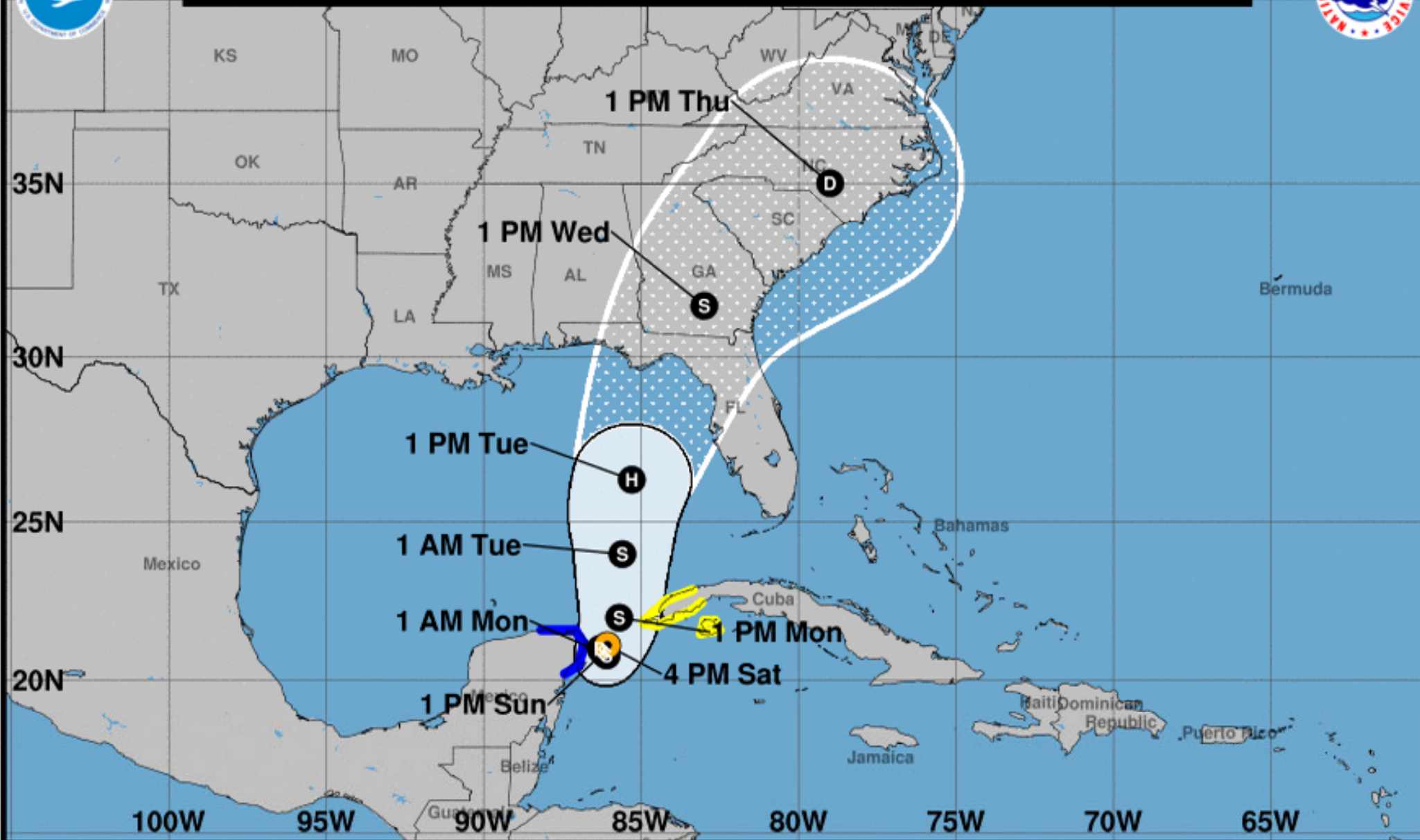
From 2023/08/28 12:00 AM LST/LDT to 2023/08/31 11:59 PM LST/LDT

ation (St. Petersburg, Tampa Bay 8726520) | Time offsets (high: -70 min. low: -94 min.) | Height offsets





Note: The cone contains the probable path of the storm center but does not show the size of the storm. Hazardous conditions can occur outside of the cone.



Tropical Depression Ten

Saturday August 26, 2023

4 PM CDT Advisory 1

NWS National Hurricane Center

Current information: ●

Center location 21.1 N 86.1 W

Maximum sustained wind 30 mph

Movement: Stationary

Forecast positions:

● Tropical Cyclone ○ Post/Potential TC

Sustained winds: D < 39 mph

S 39-73 mph H 74-110 mph M > 110 mph

Potential track area:



Day 1-3



Day 4-5

Watches:



Hurricane



Trop Storm

Warnings:



Hurricane

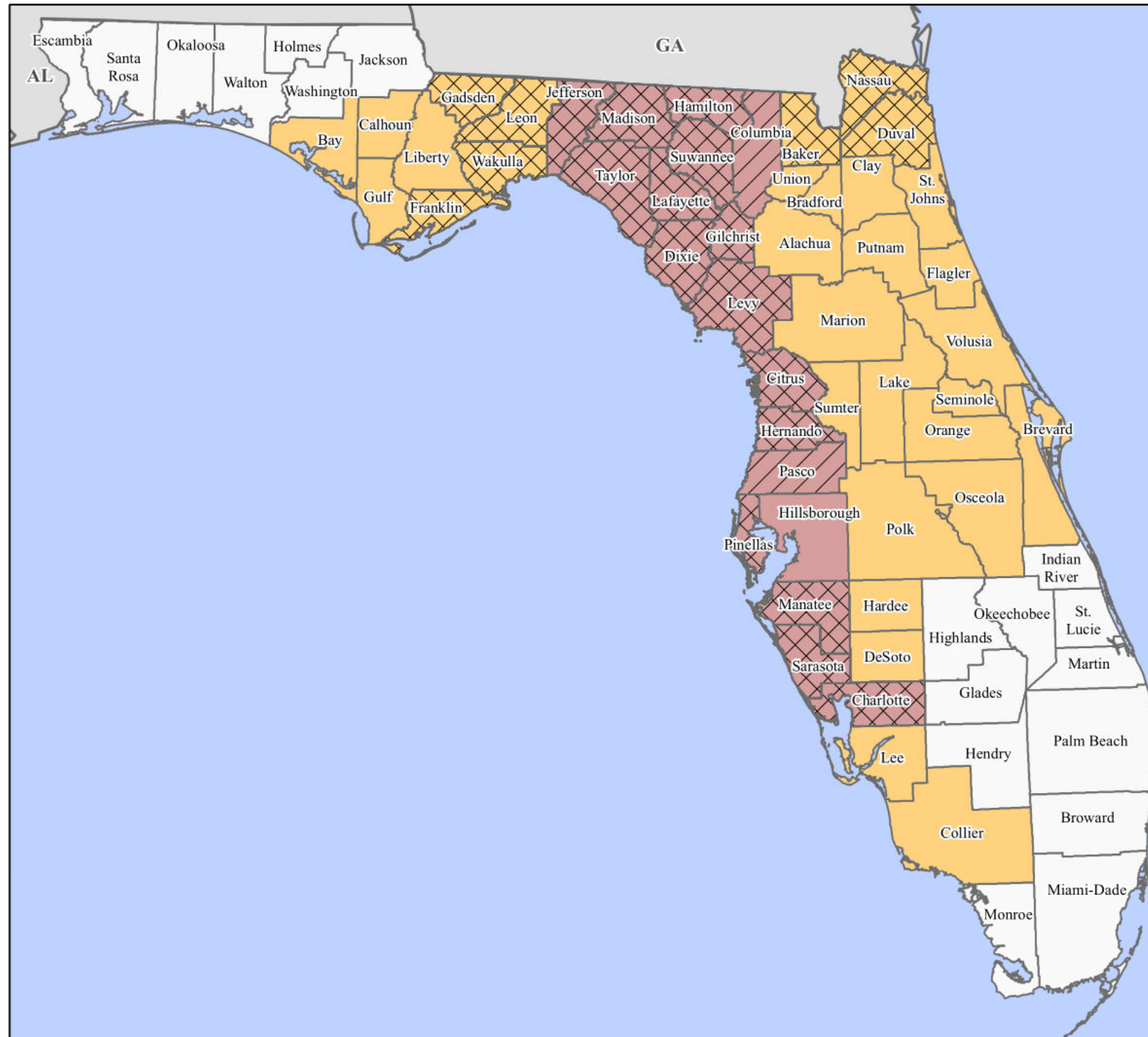


Trop Storm

FEMA-4734-DR, Florida Disaster Declaration as of 10/02/2023



FEMA

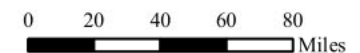
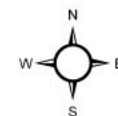


Data Layer/Map Description:
The types of assistance that have been designated for selected areas in the State of Florida.

All areas in the State of Florida are eligible to apply for assistance under the Hazard Mitigation Grant Program.

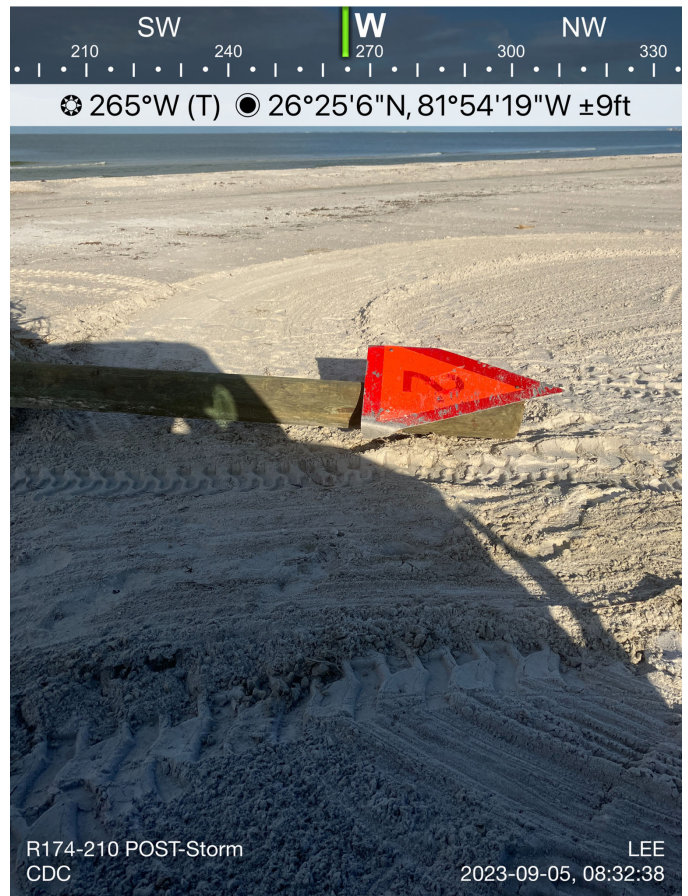
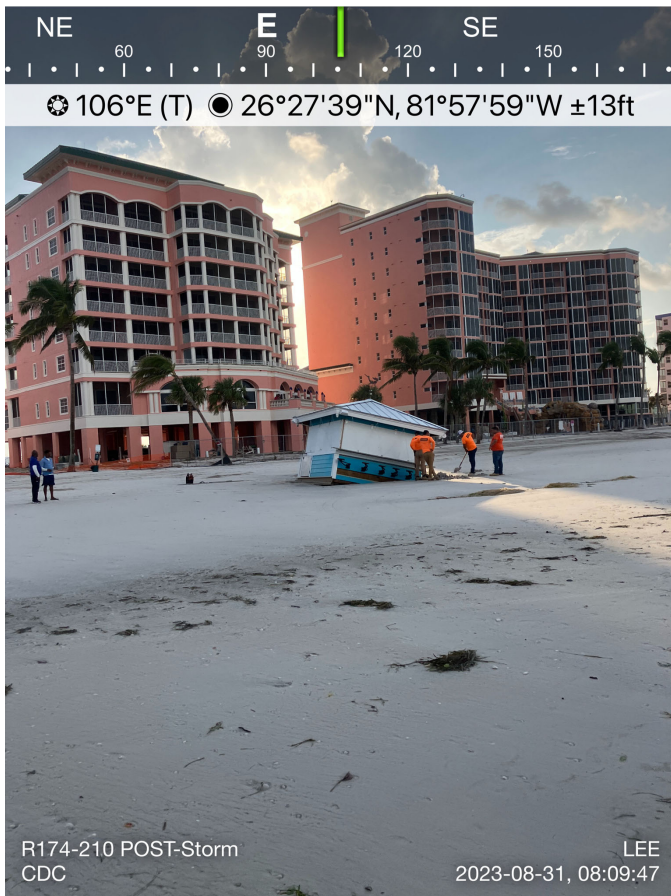
Designated Counties

- No Designation
- Public Assistance (Category B)
- Public Assistance (Categories A - G)
- Individual Assistance and Public Assistance (Category B)
- Individual Assistance and Public Assistance (Categories A and B)
- Individual Assistance and Public Assistance (Categories A - G)

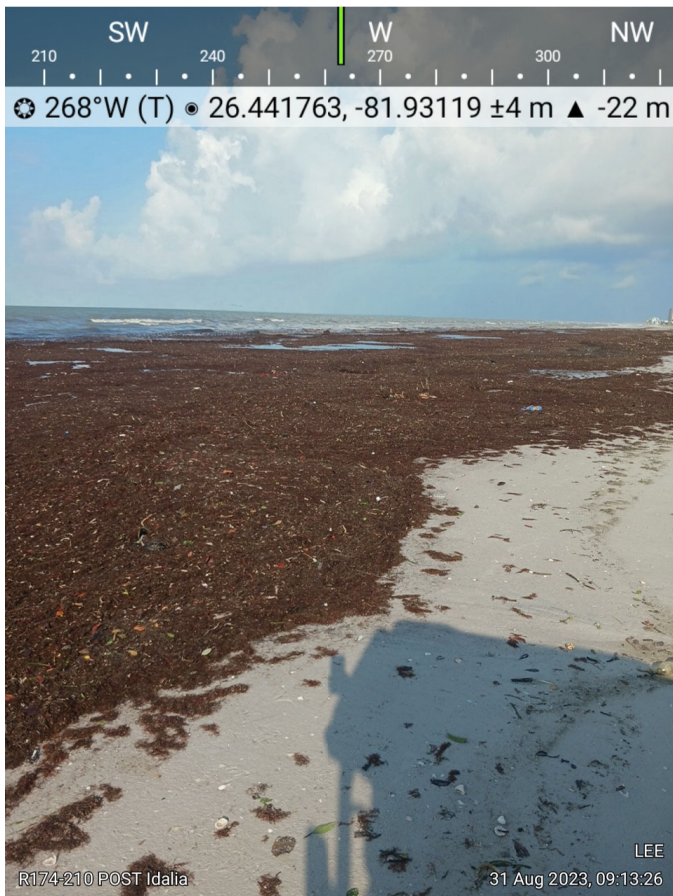
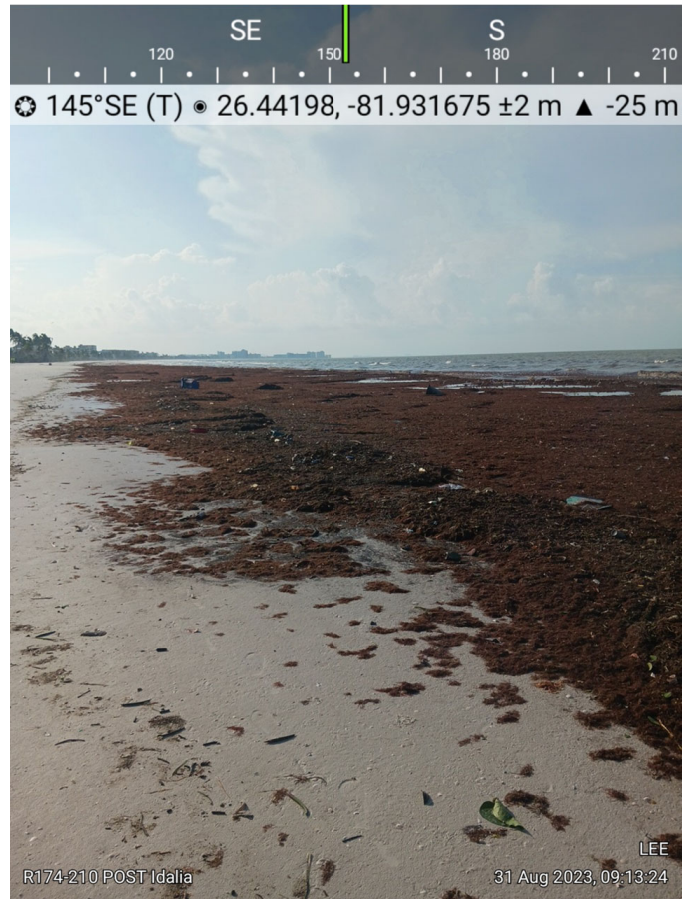
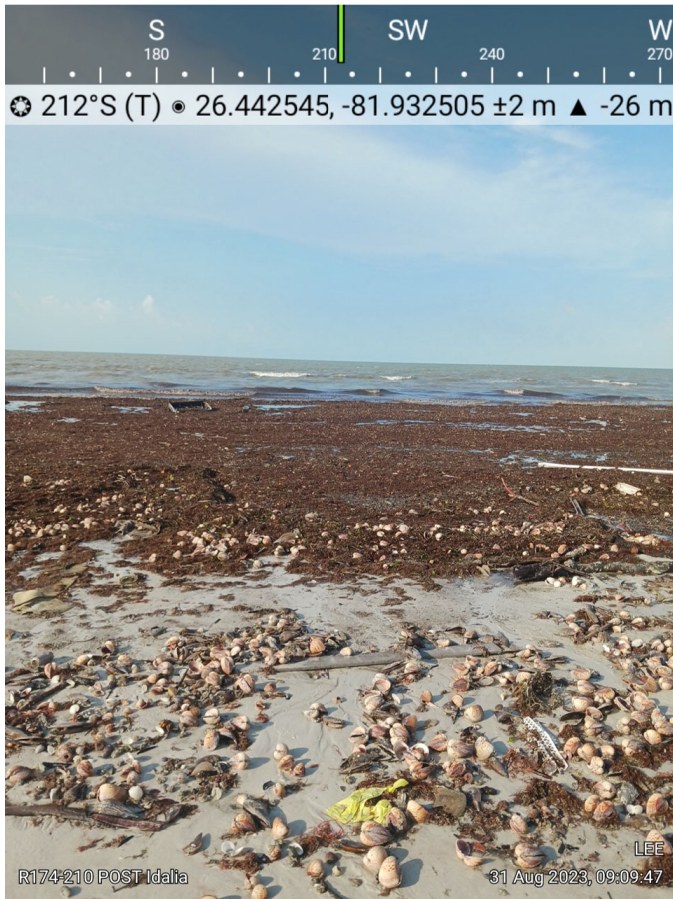


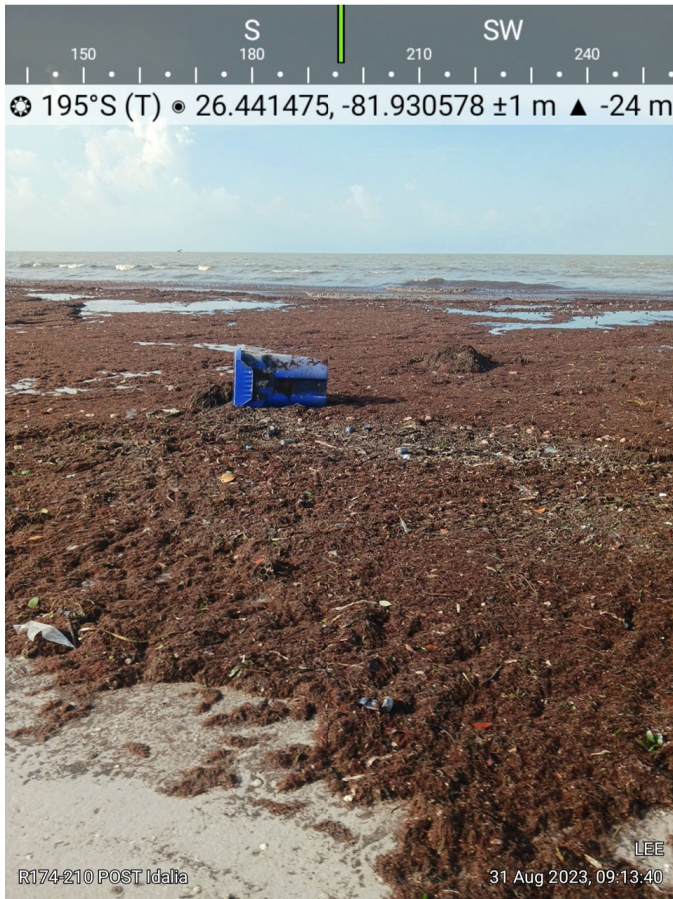
Data Sources:

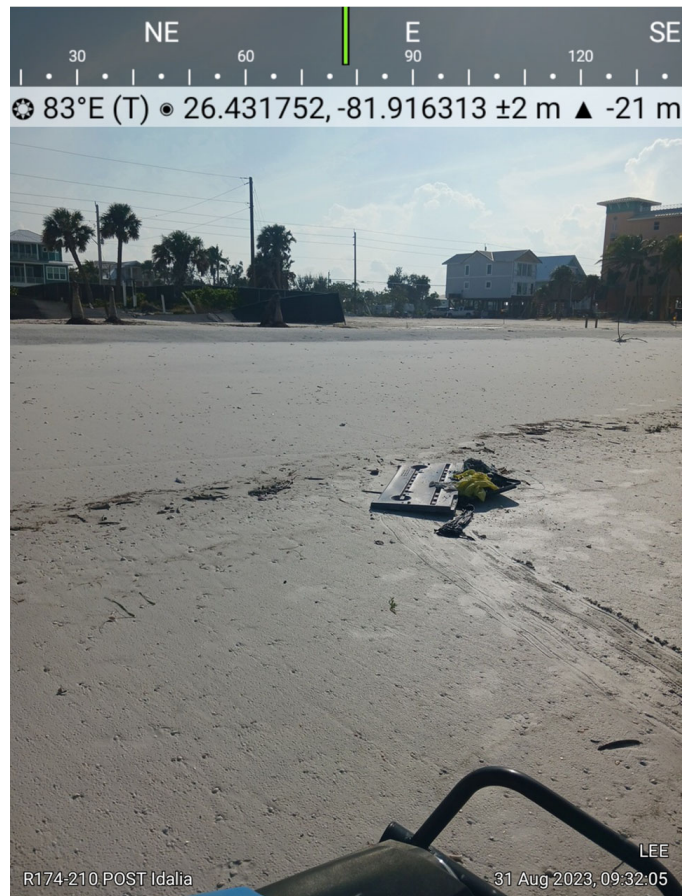
FEMA, ESRI;
Initial Declaration: 08/31/2023
Disaster Federal Registry Notice:
Amendment #7: 10/02/2023
Datum: North American 1983
Projection: Lambert Conformal Conic











ICS Materials Inc.

9160 Forum Corporate Pkwy, Suite 350
 Fort Myers, FL 33905 US
 (239) 839-0862
 info@floridacontractors.us



To: Town of FMB, FL
 Loc: 2525 Estero Blvd.,
 City: FMB, FL, 33931

Invoice No. 102423-01
 Date: October 24 ,2023

DESCRIPTION	INVOICE	QTY	RATE	AMOUNT
<u>ICS Daily Totals</u>				
9/1/2023	\$		13,244.32	
9/2/2023	\$		14,328.20	
9/5/2023	\$		13,958.22	
9/6/2023	\$		15,582.10	
9/7/2023	\$		13,740.42	
9/8/2023	\$		14,276.75	
9/11/2023	\$		16,609.90	
9/12/2023	\$		17,435.40	
9/13/2023	\$		16,938.76	
9/14/2023	\$		1,296.90	
9/15/2023	\$		1,945.35	
9/16/2023	\$		2,005.35	
Total Daily Shifts	\$		141,361.67	
<u>Tipping Fees</u>				
Lee Landfill	\$		22,838.12	
Veranza	\$		22,200.00	
Danaili	\$		2,527.20	
<u>Trucking Fees</u>				
234 Hrs x \$80.00 per hr	\$		18,720.00	
Sub Total	\$		207,646.99	
<u>8/31/2023</u>				
Remove Sand @ Times Square & Haul to Screener			No. Charge	
<u>9/9/2023</u>				
Screen Sand and Haul & Place at Beach Accesses	\$		12,412.40	
Grand Total	\$		220,059.39	

Thank you