



Fort Myers Beach Town Council

Bay Oaks Recreation Center

2731 Oak Street
Fort Myers Beach, FL 33931

AMENDED Agenda

Monday, August 19, 2024

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
 - A. Tidal Basin Update
- VIII. APPROVAL OF MINUTES
 - A. Town Council - August 7, 2024
 - B. Management & Planning Session - August 7, 2024
- IX. CONSENT AGENDA
- X. ITEMS REMOVED FROM CONSENT AGENDA
- XI. PUBLIC HEARINGS
 - A. Ordinance 24-17; Advisory Committees
**** ITEM TO BE RESCHEDULED TO SEPTEMBER 9, 2024 9:00 AM MEETING DUE TO ADVERTISING REQUIREMENTS**
Second Reading and Final Public Hearing of an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2 "PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2 "ADMINISTRATION" AND SECTION 34-113 "COMPOSITION,

APPOINTMENT AND COMPENSATION OF MEMBERS” OF DIVISION 3 “LOCAL PLANNING AGENCY” OF ARTICLE II “ZONING PROCEDURES” OF CHAPTER 34 “ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES” OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN’S AGENCIES, BOARDS, COMMITTEES OR COMMISSIONS, INCLUDING THE TOWN’S LOCAL PLANNING AGENCY; ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE TOWN’S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES; ADDING A PROVISION TO SECTION 34-113, REGARDING THE MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER’S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

NEW B. Ordinance 24-18; DCI20240143, 1668 I St, Beach Bar

First reading and Public Hearing on proposed Ordinance 24-19 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER’S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 9, 2024 at 9:00 AM.

C. Ordinance 24-19; Amendment for Immobilization Payment Options

1st Reading and Public Hearing on proposed Ordinance 24-19 entitled AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 28-30 “IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES” OF DIVISION 1 “GENERALLY” OF ARTICLE II “STOPPING, STANDING AND PARKING” OF CHAPTER 28 “TRAFFIC AND VEHICLES” OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED VEHICLES; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER’S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 9, 2024 at 9:00 AM.

- D. Ordinance 24-10; Comprehensive Plan Adoption Hearing
Second Reading, Adoption and Final Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN IN ITS ENTIRETY, PURSUANT TO 163.3184 (3), FLORIDA STATUTES; PROVIDING FOR ADOPTION OF THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN 2040, INCLUDING AMENDMENTS TO THE FUTURE LAND USE ELEMENT AND THE FUTURE LAND USE MAP, THE COMMUNITY DESIGN ELEMENT, THE TRANSPORTATION ELEMENT, THE HOUSING ELEMENT, THE HISTORIC PRESERVATION ELEMENT, THE UTILITIES ELEMENT, THE CONSERVATION ELEMENT, THE COASTAL MANAGEMENT ELEMENT, THE RECREATION, & OPEN SPACE ELEMENT, THE INTERGOVERNMENTAL COORDINATION ELEMENT, AND THE CAPITAL IMPROVEMENTS ELEMENT; INCLUSIVE OF ALL ASSOCIATED TABLES, EXHIBITS AND MAPS; AUTHORIZING FINDINGS AND ADMINISTRATIVE ACTIONS; PROVIDING FOR TRANSMITTAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR EFFECTIVE DATE.

XII. ADMINISTRATIVE AGENDA

- A. Resolution 24-160; Estero Island Shore Protection Project
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AUTHORIZING TOWN STAFF TO SUBMIT A FUNDING REQUEST TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ESTERO ISLAND SHORE PROTECTION PROJECT; AND AUTHORIZING LOCAL MATCHING FUNDS FOR FUNDING RECEIVED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND PROVIDING FOR AN EFFECTIVE DATE
- B. Resolution 24-153; Budget Amendment #6 - Purchase of New Town Hall and Acceptance of Grant
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING ACCEPTANCE OF FLORIDA DEPARTMENT OF COMMERCE GRANT FOR NEW TOWN HALL; APPROVING A GRANT AGREEMENT WITH THE STATE OF FLORIDA; APPROVING A REQUIRED BUDGET ADJUSTMENT (#6); AUTHORIZING THE MAYOR OR TOWN MANAGER TO SIGN ANY AND ALL NECESSARY DOCUMENTS TO ACQUIRE THE GRANT; AND PROVIDING AN EFFECTIVE DATE.
- C. Resolution 24-159; ICS Materials Inc, TS Debby Beach Cleanup
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN AUGUST 9, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY

TO CONTRACT WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE BEACH; AND PROVIDING FOR AN EFFECTIVE DATE.

D. STA 14; GIS Mapping and Technical Support

Approve Supplemental Task Authorizations #14 for GIS Mapping and Technical Support, in the amount of \$36,000, performed by Axis Engineering, and authorize the Town Manager to execute the required documentation.

E. STA 15, Continued Planning & Zoning Services

Approve Supplemental Task Authorizations #15 for continued Planning/Zoning services performed by Axis Engineering, and authorize the Town Manager to execute the required documentation.

F. Town Hall Purchase

Approve an amendment to the Commercial Contract entered into on May 29, 2024, as amended on July 17, 2024, by and between the Town of Fort Myers Beach (“the Buyer”) and 6231 Estero LLC, (the “Seller,” “Owner” or “Exchanger”) for the purchase of the property for the new town hall for the purpose of amending the existing terms and conditions of the agreement between the parties as follows: 1) to document the Owner’s intent to do a like-kind tax-deferred exchange in accordance with IRC Regulation Section 1.1031(k)-1; (2) to permit assignment of the contract, as amended, to the qualified intermediary; and (3) to ensure the Buyer will be held harmless with no additional expense as a result of the exchange; and (4) extension of the Closing Date.

XIII. FINAL PUBLIC COMMENT

XIV. TOWN MANAGER'S ITEMS

XV. TOWN ATTORNEY'S ITEMS

XVI. COUNCILMEMBERS ITEMS AND REPORTS

XVII. 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

**Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931**

Minutes

Wednesday, August 7, 2024

9:00 AM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King, Council Member Safford 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, seconded by Council Member Safford.

The motion carried unanimously.

V. PUBLIC COMMENT

Ellen Vaughan, resident, reported that the Friends of the Mound House would host the Island Hopper event on Saturday, September 28, 2024.

Ramona Kaiser, resident, stated that Sterling flooded a lot and the drain with a new duckbill across the street from her did not work. There was another drain and duckbill across the canal, but the water went over her seawall. She indicated that another drain was supposed to be installed in her yard, but it did not make sense to her because of the other drains. She suggested it would be better to drain the water to the back bay.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member King recognized the town manager and all the staff for their hard work preparing for and cleaning up after Debby.

Council Member Atterholt recognized Council Member Woodson, the Lee County Commissioners and all those involved for their work on the pier. He listed several items that were falling into place on the island and he recognized all those involved for helping to make things happen.

Council Member Safford mentioned the improved communication and thanked

Council Member Atterholt recognized Council Member Woodson, the Lee County Commissioners and all those involved for their work on the pier. He listed several items that were falling into place on the island and he recognized all those involved for helping to make things happen.

Council Member Safford mentioned the improved communication and thanked Communications Coordinator Nicole Berzin for pushing out information. Mayor Allers agreed with Council Members Safford and King. He thanked the staff for being well organized.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Chair of the Marine and Environmental Resources Task Force (MERTF) Steve Johnson corrected previous recommendations. New recommendations included prioritizing mangrove propagation as a community benefit and requesting permission to approach the beach school to begin discussions regarding the curriculum. Town Council Members granted permission. Mayor Allers suggested that MERTF contact Clearwater regarding seawalls or boardwalks to protect the island.

A. Dr. Traci Kohler - Fort Myers Beach Elementary School Update
Cancelled

B. Barrier Island Resiliency Development Project

Len Januzik from J&L Resources, Inc., and Attorney Tom Sylke proposed a project for the town to harden the beach. He utilized PowerPoint for his presentation. Slides included Presenting Organizations, Ultimate Goal, Interdependency Matrix, Hardening the Grid Using MicroGrids, How Important is the Grid, How Does All This Relate to Florida, Fort Myers Beach Location - Southern Florida, Mainland Substation Feeding Fort Myers Beach, Street View Feeders, Fort Myers Beach Street Map, Why a Hardened MicroGrid in Fort Myers Beach Now, What is the Benefit to Fort Myers Beach, Summary of Benefits, The Fort Myers Beach MicroGrid will be Resilient to, The Process, Structures of the MicroGrid, Small MicroGrid Installation, Medium MicroGrid Installation, Scoping Study Task List and Next Steps in Process.

VIII. APPROVAL OF MINUTES

A. Town Council - June 17, 2024

Council Member King moved to approve the minutes, seconded by Council Member Woodson.

The motion carried unanimously.

IX. CONSENT AGENDA

Council Member Woodson moved to approve the consent agenda, seconded by Council Member Safford.

The motion carried unanimously.

- A. Resolutions 24-137 through 24-141; Extending Local State of Emergency for 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, seconded by Council Member Safford.

The motion carried unanimously.

- B. Resolutions 24-142 through 24-146; Extending 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, seconded by Council Member Safford.

The motion carried unanimously.

- C. Resolutions 24-155 through 24-158; Extending Local State of Emergency Tropical Storm Debby

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY 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, seconded by Council Member Safford.

The motion carried unanimously.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS

- A. Ordinance 24-18; DCI20240143, 1668 I Street (Beach Bar)

Continuance Requested by Petitioner:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Community Development Senior Planner Jason Smalley stated that the petitioner requested a continuance to August 19, 2024.

Council Member Safford moved to approve the request, seconded by Council Member King.

The motion carried unanimously.

- B. Review of SEZ20230126, 163 Old San Carlos

An annual review of approved resolution 23-87 for special exception SEZ20230126 that allows temporary outdoor consumption on premises with retail use at 163 Old San Carlos Boulevard.

Senior Planner Smalley reported no new code issues, violations or permits on either of the lots in the past year. Owner Susie Bahan stated that no permit applications were submitted because insurance was still in litigation. After her property is sold in Texas, she will begin repairing the building. She noted her tiki bar was open on Fridays and Saturdays. Council Member Woodson indicated that the music was too loud. Ms. Bahan replied that she would turn it down at 10:00 p.m.

Vice Mayor Atterholt moved to extend the special exception for six months, seconded by Mayor Allers.

The motion carried unanimously.

C. Ordinance 24-17; Advisory Committees

1st Reading and Public Hearing of an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2 "PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2 "ADMINISTRATION" AND SECTION 34-113 "COMPOSITION, APPOINTMENT AND COMPENSATION OF MEMBERS" OF DIVISION 3 "LOCAL PLANNING AGENCY" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES OR COMMISSIONS, INCLUDING THE TOWN'S LOCAL PLANNING AGENCY; ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE TOWN'S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES; ADDING A PROVISION TO SECTION 34-113, REGARDING THE MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on August 19, 2024 at 9:00 AM.

Mayor Allers read the title of the resolution. Town Attorney Nancy Stuparich stated that due to substantive changes, this was coming back as a first reading. She reviewed the changes. Council Member Safford pointed out a change that was not made in Exhibit A.

No public comment.

Council Member King moved to move it to a second reading, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. FY2023 Audit Report

Accept FY2023 Audit Report Prepared by Mauldin & Jenkins

Finance Director Joe Onzick reported that the FY2023 audit was clean and there were no findings. He thanked the finance department's persistence and dedication along with the administrative staff. The Audit Committee recommended that the Town Council accept the report. Director Onzick stated that he was impressed with Maudlin & Jenkins and noted they were very patient, flexible, accommodating and very thorough. He added that there was no evidence that a forensic audit was necessary.

Council members thanked Director Onzick and his team for their hard work under difficult circumstances.

Council Member King moved to accept the audit report, seconded by Mayor Allers.

The motion carried unanimously.

B. Second Amendment ROW Agreement, Bandes Construction Co.

Authorize the Mayor to execute Amendment #2 to the previous Non-Exclusive Right of Way Agreement with Bandes Construction Company, Inc. to extend the agreement for two additional months under the same terms and conditions.

Operations & Compliance Director Frankie Kropacek explained that the extension was needed to redo the elevator pit.

Council Member King moved to authorize, seconded by Council Member Woodson.

The motion carried unanimously.

C. Resolution 24-135; CDBG-DR Excessive Force Policy

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING POLICY PROTECTING INDIVIDUALS ENGAGED IN NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Deputy Clerk Jason Freeman indicated that the county requested the resolution be included with application materials for the CDBGR grants.

Council Member Woodson moved to approve the resolution, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

D. Resolution 24-136, 2025 F-ROC Participation

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE TOWN MANAGER TO EXECUTE THE 2025 PARTICIPATION REQUEST AND RENEWAL FORM FOR THE FLORIDA RECOVERY OBLIGATION CALCULATION (F-ROC) PROGRAM; AUTHORIZING THE TOWN MANAGER OR THEIR DESIGNEE TO EXECUTE AND SUBMIT RELATED DOCUMENTS NEEDED TO IMPLEMENT AND ADMINISTER THE PROGRAM INCLUDING THE DISASTER READINESS ASSESSMENT AND ABATEMENT ACTIVITIES; PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Deputy Clerk Freeman reported that the town's scores in Category A increased from 37 to 54 and from 38 to 55 in Category B. He explained that the increased scores translated to more upfront funding and obligated projects. He noted that they would continue to make improvements to increase the scores.

Council Member Woodson moved to approve the resolution, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

E. Resolution 24-147; BCC TD Fund Grant Agreement FY25

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE MAYOR OR TOWN MANAGER TO EXECUTE A GRANT AGREEMENT WITH THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS FOR RECEIPT OF TOURIST DEVELOPMENT TAX FUNDS IN THE AMOUNT \$1,262,550.00 FOR BEACH AND SHORELINE MAINTENANCE; AUTHORIZING THE MAYOR OR TOWN MANAGER TO EXECUTE ANY RELATED DOCUMENTS NEEDED FOR RECEIPT OF THE FUNDING; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Environmental Projects Manager Chadd Chustz described how the funds would be used. Director Kropacek listed items that were already approved.

Council Member King moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

F. Resolution 24-148; FDEP Hurricane Restoration Grant

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE TOWN MANAGER TO EXECUTE AMENDMENTS TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION HURRICANE RESTORATION REIMBURSEMENT GRANT TO FUND THE ESTERO ISLAND BEACH RENOURISHMENT AND HURRICANE RECOVERY PROJECT; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Projects Manager Chustz explained that a local match was not required and they had to submit documentation as soon as possible because the grant was on a first-come, first-served basis. Michael Poff from Coastal Engineering described how the beach renourishment company kept the pipeline from breaking and the submerged pipeline would be assessed once the conditions improved. The survey for the north segment would be repeated to evaluate the sand. The berm would be rebuilt and the dune plans were being put out to bid. Mr. Poff explained the renourishment and emergency berm replacement process and asked people not to walk past the fence for safety. He stated that the sand blown to other areas would be sifted when necessary and put back on the beach.

Council Member King moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

G. Resolution 24-149, Budget Amendment #3 - Allocation of FY23 Savings to Emergency Reserves

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING BUDGET AMENDMENT #3 TO THE TOWN GENERAL FUND AND EMERGENCY FUND; PROVIDING AUTHORITY; EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick used slides to explain the reason for the amendment. He proposed that they transfer \$2 million from the general fund to the emergency fund and displayed a slide showing what that would accomplish.

Council Member Safford moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

H. Resolution 24-150; Temporary \$8 Million Interfund Loan to Purchase Building

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING TEMPORARY INTERFUND LOAN TO PURCHASE PROPERTY FOR NEW TOWN HALL; PROVIDING AUTHORITY; EFFECTIVE DATE.

Director Onzick reviewed the background of the request utilizing slides. Council Member King moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

- I. Resolution 24-151; Budget Amendment #4 - Authorizing ARPA Funds for Emergency Outfall Repairs

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING 1) THE USE OF \$104,929 OF AMERICAN RESCUE PLAN ACT (“ARPA”) FUNDS TO REIMBURSE THE STORMWATER FUND FOR EMERGENCY EXPENDITURES INELIGIBLE FOR REIMBURSEMENT BY FEMA; AND 2) AMENDMENTS TO THE FISCAL YEAR 2024 BUDGET RELATED TO THIS REIMBURSEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Director Onzick reviewed the background of the request.

Council Member King moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

- J. Resolution 24-152; Budget Amendment #5 - Allocation of Community Enhancement Fund Balance

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING BUDGET AMENDMENT #5 TO THE TOWN GENERAL FUND AND OTHER TOWN FUNDS; PROVIDING AUTHORITY; EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick reviewed the background of the resolution.

Council Member King moved to approve the resolution, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

- K. Resolution 24-153; Budget Amendment #6 - Purchase of New Town Hall and Acceptance of Grant

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING ACCEPTANCE OF FLORIDA DEPARTMENT OF COMMERCE GRANT FOR NEW TOWN HALL AND RELATED BUDGET ADJUSTMENT (#6); PROVIDING AUTHORITY; EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick explained that they did not have the document yet and requested that the issue be rescheduled.

Mayor Allers moved to reschedule the resolution to August 19, 2024 to 9:00 a.m., seconded by Council Member Safford.

The motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt reported that FEMA letters regarding the National Flood Insurance Program would be sent to policyholders. He indicated that teams were assessing the damage from Debby and he cautioned about the increase in traffic. Director Kropacek discussed the possibility of an underground storage tank to relieve the burden on Bahia Via.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich summarized the recent Special Magistrate Hearing.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Safford questioned whether the town would get help after Debby. Town Manager Hyatt replied that information was being collected.

Director Kropacek reported that funds from the CDBGR would probably be used to rebuild the pool.

Council Member Woodson acknowledged John Richard's parking lot and hoped it would become a model. She questioned whether they could change the start of the regular meeting on September 23, 2024, to 3:00 p.m. instead of 9:00 a.m.

Town Manager Hyatt noted that they could start the regular meeting at 5:30 p.m. after the budget meeting. He received support.

Vice Mayor Atterholt suggested exploring acquiring the Strandview property next to Newton Park through the Florida Land Trust. Council members supported the idea. Town Manager Hyatt described partnering with the Florida Land Trust.

Council Member King raised complaints about the bullhorns and portable speakers in Times Square. Town Attorney Stuparich will research amendments to the noise ordinance. Council Member King noted that he was now the Treasurer of the Southwest Florida League of Cities.

Mayor Allers questioned cleaning up the wrack line after the storm. Projects Manager Chustz replied that they had the equipment to do it.

Mayor Allers spoke to a contractor about potentially building a parking garage on the old town hall property. He received approval to proceed with the discussions.

XVII. ADJOURNMENT

Council Member King moved to adjourn, seconded by Council Member Safford. The motion carried unanimously.

The meeting was adjourned at 12:31 p.m.



Fort Myers Beach Management & Planning Session

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931

Minutes

Wednesday, August 7, 2024

12:00 PM

ORDER OF BUSINESS

I. CALL TO ORDER

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

Council Member King moved to recess for 27 minutes, seconded by Council Member Safford.

The motion carried unanimously.

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Presentation: Barrier Island Resiliency Development Project

Presentation: Len Januzik, J&L Resources, Inc.

Presented at the Town Council meeting earlier.

B. CB Zoning

Discuss CB zoning district changes

Community Development Planner Sarah Propst displayed maps showing the CB (Commercial Boulevard) zoned properties on the island. Changes included limitations to outdoor entertainment and outdoor dining due to noise issues. She explained Exhibit B- Amended Table 24-2, which would allow properties to have additional uses with limitations to reduce the impact on adjacent properties. The Town Council agreed with the changes.

C. Land Development Code

Discuss main topics for Land Development Code rewrite

Planner Propst described the next steps for the LDC and noted that a lot would include clean-up to resolve issues in the code. The Town Council, the LPA (Local Planning Agency) and the community will have input through

workshops and online. Parking lots and regulations were discussed first. Planner Propst indicated they could set minimum and maximum calculations for restaurants and bars. She mentioned allowing the community to provide feedback as a starting point. Council Member Safford suggested giving additional credit for golf carts and bicycles. Vice Mayor Atterholt noted that market forces would determine whether there was enough parking for an establishment to survive up to a point, but he did not have the answers.

Members supported public input.

Planner Propst suggested the list of public benefits would be a good topic for the public to provide feedback on. The council agreed. Additional height options will also be included in the list of public benefits. Public art was discussed, and Council Member Safford brought up the First Amendment.

Public art will be added to the list of possible public benefits.

Planner Propst stated that one section of the code allowed drive-throughs, but another prohibited them. She explained how it could be added to the conditional uses section and the council agreed.

Accessory structures were discussed. Planner Propst noted that the code did not clearly define a dwelling, and most communities defined dwellings as a 220 plug. The council agreed to define dwellings.

Architectural features with additional height were removed from the code because people abused it. Planner Propst indicated they could add them back more carefully and the council agreed.

The use table was unclear and had to be clarified with better definitions. Planner Propst indicated that redevelopment districts had specific criteria, and she questioned whether they still worked. The council agreed to send the issue to the public for input.

Landscaping buffers were adopted from Lee County and did not work for a small town. Planner Propst felt there was some leeway for change and Mayor Allers supported asking the community for feedback.

Scheduling workshops was brought up and Council Member Safford suggested holding a Zoom meeting first since so many people were still out of town. The Comprehensive Plan (Comp Plan) will come back to the council on August 19, 2024. Mayor Allers questioned whether the presentation should be divided into two meetings due to the length of the previous discussion. Vice Mayor Atterholt suggested that only changes be presented. Council Member Woodson proposed prioritizing the changes. Planner Propst will distribute the complete Comp Plan and changes before the meeting.

Mayor Allers questioned whether Planner Propst would look at parking garages and she responded positively.

D. Bridge Tolls**Per Town Council's request, a discussion regarding tolls on FMB bridges.**

Council Member Woodson initially brought up the issue and discovered that tolls were prohibited until the Matanzas Bridge was replaced. The Big Carlos Pass bridge was under construction and discussions on implementing tolls should have been discussed well before construction. There was no leeway to add tolls to either bridge anytime in the future.

E. Consent Agenda / Public Comment**Per Town Council's request, a discussion regarding the Consent Agenda and public comment expectations**

Council Member King suggested adding the policy for public comment. Town Clerk Baker will add language to the agenda. The consent agenda will not change, and certain items will still be pulled for further explanation.

IV. AGENDA MANAGEMENT

A. August 2024

Discuss e-bikes sooner rather than later.

Change the time of updating Tier 1 projects to after the budget meetings.

Add a joint meeting with the LPA regarding the LDC and Comp Plan after data is compiled from the meeting with the public.

Add a joint meeting with CELCAB (Cultural and Environmental Learning Center Advisory Board) for the map assessment on September 19, 2024, from 9:00 to 11:00 a.m. Town Clerk Baker will confirm the date at the next meeting.

Add Estero Blvd. landscaping.

Add adding Mobi mats to the beach.

V. ADJOURNMENT

Council Member King moved to adjourn, seconded by Council Member Safford. The motion carried unanimously.

The meeting was adjourned at 2:48 p.m.

1. **Request:**

Meeting Date: August 19, 2024

**** ITEM TO BE RESCHEDULED TO SEPTEMBER 9, 2024 9:00 AM MEETING DUE TO ADVERTISING REQUIREMENTS**

Second Reading and Final Public Hearing of an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2 "PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2 "ADMINISTRATION" AND SECTION 34-113 "COMPOSITION, APPOINTMENT AND COMPENSATION OF MEMBERS" OF DIVISION 3 "LOCAL PLANNING AGENCY" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES OR COMMISSIONS, INCLUDING THE TOWN'S LOCAL PLANNING AGENCY; ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE TOWN'S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES; ADDING A PROVISION TO SECTION 34-113, REGARDING THE MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

Why the action is necessary:

The passage of this ordinance is necessary to ensure only involved members of the community with a vested interest in the Town's operations (i.e. registered voters within the territorial boundaries of Fort Myers Beach) can be appointed to the Town's boards, agencies, commissions, and committees, including the Town's local planning agency; to streamline the Town Code by removing duplicative language; to add a grandfather provision to allow current non-qualifying members of the Town's boards, agencies, commissions or committees to keep their appointment; and to add a clause regarding the mandatory annual financial disclosure for the members of the Town's local planning agency as required by the Florida Commission on Ethics.

What the action accomplishes:

The ordinance restricts the appointment of individuals to the Town's boards, agencies, committees and commissions, including the Town's local planning agency, exclusively to registered voters within the Town's territorial boundaries, removes property ownership as a qualification criteria for appointment, adds a grandfather clause to allow current non-qualifying members to keep their appointment for the full term, eliminates duplicative language from the Code, and adds a reference to the mandatory annual financial disclosure required by Florida Commission on Ethics.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Nancy Stuparich, Town
Attorney

5. **Background:**

On June 17, 2024, the Town held a first reading of Ordinance 24-17. Following a discussion, the Town Council gave the Town Attorney a directive to research the requirements for the members

of various committees and to revise Ordinance 24-17 to add a grandfather provision to the Ordinance, which resulted in a substantial change to the title of that Ordinance, necessitating a second first reading of this proposed Ordinance at the August 5, 2024 Town Council meeting.

Currently, section 34-113 of the Town Code provides that “[e]xcept for inclusion of members required under Florida law, all members must be residents of, or owners of real property located within, the territorial limits of the Town of Fort Myers Beach at the time of application for membership on the local planning agency and during the period of service on the local planning agency.”

Furthermore, Section 2-94 of the Town Code states that preference shall be given “to a registered voter within the town’s jurisdiction or a property owner within the town’s jurisdiction.” However, Section 2-96 contains contradictory language and states that “[i]n the event that any member is no longer a registered voter within the town’s jurisdiction or a property owner within the town’s jurisdiction ... the town council shall terminate the appointment of such person as a member of the agency, board, committee or commission.”

Section 163.3174, Florida Statutes, discusses the formation and the functions of a local planning agency, and does not set out a residency or a property ownership requirement for the members of a local planning agency.

Section 218.391, Florida Statutes, discusses the functions and operations of an auditor selection committee. This section, just like Section 163.3174, does not set forth residency or property ownership within the jurisdiction as a qualification requirement for the appointed members to serve on the committee.

Based on the Town Council’s discussion and the Town Attorney’s research, the Town Attorney revisions have been made to the prior draft Ordinance to remove property ownership as a qualification criteria for the appointment to the Town’s boards, agencies, commissions or committees. Furthermore, “residency” is ambiguous and raises questions. Therefore, the revised draft ordinance provides that individuals appointed to the Town’s boards, agencies, commissions or committees shall only be required to be registered voters within the Town’s territorial boundaries to qualify for appointment. Voter registration is easier to verify than “residency” and limits appointment to those individuals, who have a vested interest in the Town as a registered voter.

The Town Council further discussed the necessity for inclusion of a grandfather provision, to allow any current members of the Town’s agencies, boards, commissions or committees, including the members of the Town’s local planning agency, who may own property in the Town, but are not registered voters, to keep their appointment for the full term.

The proposed ordinance further adds a provision to Section 34-113 of the Town Code, obligating the members of the Town’s local planning agency to comply with mandatory annual financial disclosure pursuant to the requirements set forth by the Florida Commission on Ethics.

The Town Council approved the ordinance at First Reading which was rescheduled from August 5, 2024 to August 7, 2024 due to the then approaching Tropical Storm Debby. The rescheduling prevented adequate time for advertising a Second Reading for August 19, 2024. For this reason, Second Reading has been rescheduled for September 9, 2024 to allow time for satisfaction of advertising requirements.

Lastly, to ensure uniformity between the Town Code and the Town’s procedural rules and policies, the Town’s procedural rules and policies will require an amendment to Section 5 as it

pertains to the residency requirements of the members of the Town's advisory boards, agencies, and committees. This amendment can be accomplished by a Resolution at the next Town Council meeting on September 9, 2024.

Attachments:

Financial Impact:

None

6. Alternative Action

7. Management Recommendations:

Approve the ordinance.

8. Recommended Approval:

nancy stuparich, Town Attorney
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/8/2024
Approved - 8/13/2024
Approved - 8/13/2024
Final Approval - 8/14/2024

1. **Request:**

Meeting Date: August 19, 2024

First reading and Public Hearing on proposed Ordinance 24-19 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 9, 2024 at 9:00 AM.

Why the action is necessary:

The Town Council hears and approves rezoning cases.

What the action accomplishes:

The CPD rezoning will allow development of a residence and bar that exceeds the FAR allowed in that location in the Downtown zoning district.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Jason Smalley, Senior Planner

5. **Background:**

The applicant is requesting a rezoning from Downtown to Commercial Planned Development for the redevelopment of a bar and dwelling unit. The residential use is allowed in the Downtown zoning district and the bar use received approval through Lee County Special Permit Case 95-10-173 (attached as Exhibit C) and has been in operation since that time. The CPD includes a deviation to increase the floor area ratio (FAR) from 1.0 to 1.4.

Attachments:

1. Ordinance 24-18
2. Staff Report
3. Exhibit A - MCP
4. Exhibit B - Uses, Deviations & Conditions
5. Exhibit C - 95-10-173-02
6. Exhibit D - BZA-88-339
7. Exhibit E - Architectural Plans
8. Exhibit F - Application
9. 24-18, Business Impact Estimate DCI20240143-1668 I St-Beach Bar

Financial Impact:

Unknown

6. **Alternative Action**

Deny

7. **Management Recommendations:**

Recommend approval with conditions

8. **Recommended Approval:**

Sarah Propst, Community Development, Planning Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/15/2024
Approved - 8/15/2024
Approved - 8/15/2024
Approved - 8/15/2024
Final Approval - 8/15/2024

ORDINANCE 24-18

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, B & B Properties of Fort Myers, as owner, and Jim Ink, Ink Engineering Inc., as agent for the owner of property located at 1668 I Street, and generally identified as STRAP numbers 19-46-24-W4-0070B.0110 ("Subject Property") in the Town of Fort Myers Beach, filed an application to rezone the property from the Downtown Zoning District to Commercial Planned Development (CPD) with a Master Concept Plan (MCP) and a request for certain deviations to the Land Development Code (LDC) in order to develop a bar and residence; and

WHEREAS, the Subject Property is a single parcel located in the Pedestrian Commercial Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on June 11, 2024; and

WHEREAS, at the June 11, 2024 public hearing the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) sec. 34-85; and

WHEREAS, at the June 11, 2024 public hearing the LPA found that the request is **consistent** with the comprehensive plan and the requirements of the LDC and voted to recommend **approval with conditions** of the rezoning by a 6-0 vote; and

WHEREAS, on August 5, 2024 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code

(LDC) Section 34-85; and

WHEREAS, the Town Council voted to have a second reading of the proposed Ordinance and a public hearing on this matter was legally noticed in the _____ 10 days prior to the Town Council’s meeting on August 19, 2024 at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34- 85; and

WHEREAS, the applicant has resolved and is current on any outstanding fees associated with notice, advertisement, and consulting services required by the Town; and

WHEREAS, a Business Impact Estimate has been prepared and timely published on the Town’s website; and

WHEREAS, the Town Council finds approval of the request with requirements and conditions to be in the interest of the public’s health, safety, and welfare as well as in compliance with the comprehensive plan and the Land Development Code; and

WHEREAS, Exhibit A provides the approved Master Concept Plan (MCP), which future development should be substantially in compliance with; and

WHEREAS, Exhibit B is the schedule of uses, conditions of approval, and approved deviations for this CPD, to be used during the permitting process; and

WHEREAS, the Town Council finds that this request to rezone the property from the Downtown Zoning District to CPD with MCP with certain deviations to the Land Development Code (LDC) in order to develop a bar and residence, is a unique and individual application which does not set precedent for future development or rezoning applications. Approved deviations include:

Deviation #1

Request to deviate from 34-675(c)3 that states, Floor area ratio (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District” to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675(c)(2).

WHEREAS, the Town Council has considered all relevant factors and made the following formal findings before making its final decision on the requested rezone to a Commercial Planned Development (see LDC 34-85 and 34-216):

- a. Minor ambiguities were resolved through the deviation process.
- b. The Town Council carefully considered the testimony of the applicant, the recommendations of staff and of the local planning agency, and testimony from the public.
- c. The rezoning would be consistent with the goals, objectives, policies, and intent, and

- with the densities, intensities, and general uses in the Comprehensive Plan.
- d. The rezoning would meet or exceed all performance and locational standards set forth for the proposed use.
 - e. Urban services are available and adequate to serve the proposed use.
 - f. The rezoning would protect, conserve, or preserve environmentally critical areas and natural resources.
 - g. The rezoning would be compatible with existing and planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property.
 - h. The rezoning would not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.
 - i. The rezoning, with the mitigating factors volunteered by the applicant and the special conditions imposed by the Town Council, is consistent with the Fort Myers Beach Comprehensive Plan, Land Development Code, and other applicable town ordinances or codes.
 - l. The proposed use or mix of uses is appropriate at the subject location.
 - m. Sufficient safeguards to the public interest are provided by the recommended special conditions to the master concept plan and by other applicable regulations.
 - n. All recommended special conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

WHEREAS, the Town Council made the following formal findings before making final decisions on the one requested deviation from "by-right" requirements of the Land Development Code (see LDC 34-216):

- a. Each item enhances the achievement of the objectives of the planned development; and
- b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and
- c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and
- d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

WHEREAS, the Town Council finds that this application to approve Ordinance 24-02 which is, **consistent/ not consistent** with the Town of Fort Myers Beach Comprehensive Plan and LDC and voted to **deny/ approve/ approve with conditions** the Application.

NOW, THEREFORE, IT IS HEREBY 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 request to approve Town of Fort Myers Beach's Ordinance No. 24-05 and the conditions of approval for the CPD **does/ does not** meet the requirements of the Town Comprehensive Plan and LDC.

Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **DENY/ APPROVE/ APPROVE WITH CONDITIONS AND REQUIREMENTS** as contained in the Master Concept Plan in Exhibit A and the schedule of uses, deviations, and conditions of approval for the Property's CPD set forth in Exhibit B, which shall be attached to and incorporated by this reference to approval of the Ordinance.

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

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

DULY PASSED AND ADOPTED on this 19th day of August 2024.

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

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 Ordinance was filed in the Office of the Town Clerk on this ____ day of August 2024.

Attachments:

A – Master Concept Plan (MCP)

B – Schedule of Uses, Conditions of Approval and Deviation



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Commercial Planned Development

CASE NUMBER: DCI Rezoning, 20240143

CASE NAME: 1668 I St, rezone the property from Downtown Zoning to Commercial Planned Development for the redevelopment of a bar and dwelling unit.

**1st TOWN COUNCIL
HEARING DATE:** August 5, 2024 at 9 AM

**LPA
HEARING DATE:** June 11, 2024 at 9 AM

**STAFF
RECOMMENDATION:** Approve with conditions

**PREPARED/
SUBMITTED BY:** Sarah Propst, AICP, PMP

I. APPLICATION SUMMARY

Applicant/Owner: James Ink, Ink Engineering Inc. / B & B Properties of Fort Myers

Request: Rezone the property from Downtown Zoning to Commercial Planned Development with one deviation, for the redevelopment of a bar and residential dwelling.

Subject property: See attached site plan

Physical Address: 1668 I Street

STRAP #: 19-46-24-W4-0070B.0110

FLU: Pedestrian Commercial

Zoning: Downtown

Adjacent zoning and land uses:

North: Downtown/ Pedestrian Commercial
Vacant, previously residence

South: Environmentally Critical/Recreation
Beach

East: Downtown/ Pedestrian Commercial
Residence

West: Downtown/ Pedestrian Commercial
Vacant

II. BACKGROUND AND ANALYSIS

Background:

James Ink on behalf of B & B Properties of Fort Myers, owner of 1668 I Street, is requesting a rezoning from Downtown to Commercial Planned Development for the redevelopment of a bar and dwelling unit. The residential use is allowed in the Downtown zoning district and the bar use received approvals through Lee County Special Permit Case 95-10-173 (attached as Exhibit C) and has been in operation since that time. A reduction in parking requirements from 10 parking spaces to 0 parking spaces was approved per Lee County Resolution BZA-88-339 (Attached as Exhibit D).

Analysis:

1668 I Street has been used as a bar and since at least 1995. Pre Ian, the property included a ground floor retail store with alcohol sales and a second story with two residential units, for a total of approximately 3,690 square feet, per the Lee Property Appraiser property details. The proposed development will contain a ground floor open area used as a bar which will open to the beach where a sand seating area is located. A residence is proposed on the second and third floor of the structure. The total proposed gross square footage is 5,822 square feet.

The applicant is requesting a CPD in order to increase the allowable floor area ratio (FAR) from 1.0 to 1.4 to allow additional square footage of the proposed development. The Downtown zoning district provides three FAR limits, depending on the location of the parcel:

- 1) Parcels along Old San Carlos, between 5th and 1st Streets and fronting on Times Square pedestrian plaza are limited to 1.8 FAR.
- 2) Parcels fronting on Estero Blvd and fronting on the Bayfront pedestrian plaza are limited to 1.4 FAR
- 3) All other Downtown zoned parcels are limited to 1.0 FAR.

This parcel is located in the 1.0 FAR area and contains only 4,159 square feet of Downtown zoned property. The remainder of the property is located in the Environmentally Critical (EC) zoning district and this district does not grant any additional FAR. Based on the portion of the lot in the Downtown zoning district, an FAR of 1.0 would allow a maximum of 4,159 square feet. The underlying future land use district, Pedestrian Commercial, provides the top limit of 2.5 FAR for a CPD.

Requested Deviations:

- 1) **Request to deviate from 34-675(c)3 that states, “Floor area ration (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District” to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675(c)(2).**

Applicant Justification: The subject property was developed as a two unit elevated single story residential structure with a commercial bar facility on the ground level operating under a Lee County Resolution Number BZA-88-339 and Hearing Examiner Case 95-10-173.02s. These entitlements were established before incorporation of the Town of Fort Myers Beach on December 31, 1995. Prior the town incorporating, Lee County did not use Floor Area Ratios to determine density and intensities. The subject property was bound for development by density, setbacks, and heights. The Town adopted their Comprehensive Plan on January 1, 1999. The plan developed Future Land Use categories for determining use and development of the parcels consistent with the Comprehensive Plan. The plan splits the subject property into two future land use categories. They are Pedestrian Commercial and Recreation. Pedestrian Commercial has a maximum Floor Area Ratio of 2.5 and Recreation does not allow development. The Town further restricted the use of the subject property with the adoption of the town’s Land Development Code setting an allowable FAR of 1.0 on the subject property. These actions changed development rights from development based on density, height, and setbacks to a highly restrictive FAR in a Future Land Use category that is the highest allowable in the Comprehensive Plan. There is only one zoning district (Santos) that allows residential with a FAR of less than the subject property. Santos zoning district is a transitional community that is a buffer between high intensities on Estero Blvd and low-density residential portions of Venetian Gardens Subdivision. The subject property

and all lots along Alva Drive and I Street do not provide any transition to a lower density neighborhood. In fact this area is in the heart of Gulf front properties that could support much higher FAR's. This poor planning perspective is further supported in the apparent lack of the town to enforcement of the restrictive FAR at 1560 I Street and 61 Alva Drive.

Staff Comment: The proposed request meets all of the setback and height requirements of the Downtown zoning district. While the square footage is greater than would be allowed by the strict interpretation of the ordinance, it is unlikely to have any noticeable impact. The proposed development contains approximately 300 additional square feet of first floor bar area than the previous development. The residence above will be unlikely to impact adjacent properties.

Neighborhood Compatibility:

Many of the previously existing commercial and residential properties in the area were destroyed by hurricane Ian. Very few structures remain standing. The proposed development will decrease density from two units to a single unit, although the unit will be larger. The bar use has been in place for several decades and the existing conditions, repeated in this staff report and the ordinance, will remain in effect.

While the square footage increases the FAR above the code allowed 1.0, it does appear that some developments in this same FAR category may exceed the allowed 1.0 FAR. Properties less than 100 feet from this property are allowed an FAR of 1.4.

Findings and Conclusions:

LDC Sec. 34-85(b) and (c) and 34-216(2) sets forth the required considerations and findings for the approval of a rezoning.

(b) Considerations. In reaching its decision, the town council shall consider the following, whenever applicable:

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

No errors or ambiguities exist.

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

The previous structure was destroyed by Hurricane Ian and the property owner would like to build a larger structure. This is a design choice, not a changing condition.

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

If the intent of the code was to encourage smaller, quaint beach homes, this may affect

the intent. However, that intent is not explicit, only inferred from the regulatory requirements.

(4) The testimony of any applicant.

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

(6) The testimony of the public.

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

The proposed development is in compliance with the intent and intensity of the future land use district, as the maximum allowed intensity is 2.5.

The proposed development is not consistent with the intent of Policy 4-A-8, as the lower intensity of 1.0 was developed following the adoption of this Comprehensive Plan policy.

- **Policy 4-A-8** *The Town shall establish clear and consistent rules and processes that govern private and public development. They shall be incorporated into an illustrated Land Development Code that: v. In existing subdivisions, controls the scale of new homes to avoid the replacement of existing homes with excessively large structures.*

The proposed use is, however, consistent with Policy 4-B-6, which recommends residential uses over commercial uses in the Pedestrian Commercial district.

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

The proposed development will meet performance standards set for the in 34-2031 and 34-2032. An approved photometric plan will be required prior Certificate of Occupancy.. There are no special location standards for residences and the bar use has been previously approved by Lee County Special Permit 95-10-173.

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

The urban services exist in this location.

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

The requested FAR increase is landward of the EC zoning district. The seating area is located within the EC zoning district but has been approved and in existence for several decades. The dune and plantings will be located seaward of the proposed outdoor seating area.

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

The proposed use has been in existence in this location for many decades. It is not anticipated to have any detrimental impacts on existing or planned uses. The structure will be approximately 2,100 square feet larger than the previous structure. The impact of the structure size is unknown.

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

This use in this location will not place additional burden on the transportation network or other facilities and services. The two parking spaces provided will be for the residential unit, not the bar.

(13) For planned development rezonings, see [§ 34-216](#) for additional considerations.

(c) Findings. Before granting any rezoning, the town council shall find that the requested zoning district complies with:

(1) The Fort Myers Beach Comprehensive Plan.

The proposed use and requested deviation for the CPD comply with the Comprehensive Plan.

(2) This chapter.

The proposed use complies with this chapter except in regard to the deviation to increase the FAR.

(3) Any other applicable town ordinances or codes.

The proposed request complies with the town ordinances and codes, except in regard to the deviation to increase the FAR.

(4) For planned development rezonings, see [§ 34-216](#) of this chapter for additional findings.

Sec. 34-216 Findings:

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

The uses are allowed in this location.

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

Sufficient safeguards are provided for the public interest.

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

All conditions are related to the impacts on the public interest.

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

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

It is not in the "mixed residential" category, 4-B-4 is not applicable. 4-C-3: An expansion of commercial use is proposed but it is not in the "mixed residential" category.

However, the expansion is unlikely to cause increased impacts because conditions are in place which limit hours of operation and live music. Additionally, the seating area is not being increased with the expansion.

2. Policies 4-B-5 and 4-C-3 on commercial rezonings in the "boulevard" category.

It is not in the "boulevard" category.

3. Policy 4-C-4 on building heights taller than the standard height limit.

Not applicable.

4. Policy 4-C-8 on density transfers.

Not applicable.

5. Policy 4-E-1 on pre-disaster buildback.

Not applicable.

6. Policy 7-J-2 on traffic impact analyses and potential design improvements that could offset traffic impacts.

The proposed development does not provide parking for bar patrons and is unlikely to cause any additional traffic impacts. The seating area will not expanded.

Findings for Deviation Requests:

Per Sec. 34-216(4) all deviations must be approved, approved with modification or rejected based upon a finding that:

a. Each item enhances the achievement of the objectives of the planned development; and

The requested deviations allows a 1,660 square foot larger structure on the site than would be allowed without the CPD deviation.

b. The general intent of this chapter to protect the public health, safety and welfare will be preserved and promoted; and

The proposed deviations does not have any impact on public health, safety and welfare.

c. Each deviation operates to the benefit, or at least not to the detriment, of the public interest; and

The deviations are not a detriment to the public interest.

d. Each deviation is consistent with the Fort Myers Beach Comprehensive Plan.

The deviations are consistent with the comprehensive plan in that the plan allows up to 2.5 FAR in the pedestrian commercial future land use. It does, however, indicate that larger structures should not be promoted but does not provide a size reference for that policy.

III. RECOMMENDATION

At the June 11, 2024 LPA hearing James Boan made a motion to approve the request with conditions recommended by staff, John McLean seconded the motion. The LPA unanimously voted to approve the request.

Staff finds that the CPD with deviations meets the criteria set forth in Sec. 34-85(b) and (c) and 34-216(2) of the LDC and recommends approval of DCI20240143 with the attached conditions. Staff notes that the previous zoning approvals from Lee County included conditions and that staff recommends these conditions continue to be enforced. These conditions are listed and include the reference to the corresponding case.

IV. CONDITIONS OF APPROVAL

1. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
2. The proposed development must be substantially in compliance with the Master Concept Plan attached to the ordinance.
3. A Landscaping Plan and Photometric Plan must be approved prior to CO.
4. From BZA-88-339: The commercial use shall be limited to the retail sales of beach-oriented convenience items, including packaged food and beverage and beach recreational rentals; and
5. From BZA-88-339: Public access shall be limited to the beach on Gulf side of the business.
6. From 95-10-173: The Special Permit for consumption on premises in conjunction with outdoor seating is limited to the use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited.

However, this does not prohibit the sale of draft beer or wine which is poured from a large bottle, so long as it is consumed only in the designated locations. There will be no waiter or waitress service: the customers must order their drinks from inside the premises and directly from the person who pours the drinks.

7. From 95-10-173: The location of the Special Permit for consumption on premises in conjunction with outdoor seating is limited to the outdoor deck area (approximately 10 feet by 40 feet as shown on Attachment B to the Staff report) which separates the retail use from the beach area, and on the first 50 feet of the beach which extends south from the deck area toward the water. The seating for both areas may not exceed 75 seats. The alcohol consumption portion of the beach area will be clearly marked.
8. From 95-10-173: Hours of operation for the outdoor seating area are limited to 10:00 a.m. to 10:00 p.m., daily.
9. From 95-10-173: Live entertainment is limited to the hours of 10 a.m. to 8 p.m., daily.
10. The conditions of Resolution No. BZA-88-339 and from Special Permit 95-10-173 will remain in full force and effect to the extent that they are not in conflict with this ordinance.

Staff Report Exhibits:

A – Master Concept Plan

B – Schedule of Uses, Approved Deviations, & Conditions of Approval

C – Special Permit Case 95-10-173

D – BZA-88-339

E – Architectural Plan

F – Application

Exhibit B

Schedule of Uses

- Dwelling unit, single-family
- Administrative Office
- Commercial Accessory Uses
- ATM
- On-Premises consumption of alcoholic beverages – existing conditions
- Bar or Cocktail Lounge – existing conditions
- Retail Store, Small – existing conditions

Deviation

Request to deviate from 34-675(c)3 that states, “Floor area ration (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District” to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675(c)(2).

Conditions

1. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
2. The proposed development must be substantially in compliance with the Master Concept Plan attached to the ordinance.
3. A Landscaping Plan and Photometric Plan must be approved prior to CO.
4. From BZA-88-339: The commercial use shall be limited to the retail sales of beach-oriented convenience items, including packaged food and beverage and beach recreational rentals; and
5. From BZA-88-339: Public access shall be limited to the beach on Gulf side of the business.
6. From 95-10-173: The Special Permit for consumption on premises in conjunction with outdoor seating is limited to the use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited. However, this does not prohibit the sale of draft beer or wine which is poured from a large bottle, so long as it is consumed only in the designated locations. There will be no waiter or waitress service: the

customers must order their drinks from inside the premises and directly from the person who pours the drinks.

7. From 95-10-173: The location of the Special Permit for consumption on premises in conjunction with outdoor seating is limited to the outdoor deck area (approximately 10 feet by 40 feet as shown on Attachment B to the Staff report) which separates the retail use from the beach area, and on the first 50 feet of the beach which extends south from the deck area toward the water. The seating for both areas may not exceed 75 seats. The alcohol consumption portion of the beach area will be clearly marked.
8. From 95-10-173: Hours of operation for the outdoor seating area are limited to 10:00 a.m. to 10:00 p.m., daily.
9. From 95-10-173: Live entertainment is limited to the hours of 10 a.m. to 8 p.m., daily.
10. The conditions of Resolution No. BZA-88-339 and from Special Permit 95-10-173 will remain in full force and effect to the extent that they are not in conflict with this ordinance.

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

SPECIAL PERMIT: CASE 95-10-173.02S
APPLICANT: MURRAY CARSLAKE, rep. by LINDA KANE, in ref. to TIKI KLUB
HEARING DATE: December 7, 1995

I. APPLICATION:

Filed by LINDA KANE, 12140 Siesta Dr., Ft. Myers Beach, FL 33931 (Applicant); MURRAY CARSLAKE, 5770 Estero Blvd., Ft. Myers Beach, FL 33931 (Owner); CARLETON RYFFEL, AICP, 6309 Corporate Ct., #207, Ft. Myers, FL 33919 (Agent).

Request is for a Special Permit in the C-1 (Commercial) district for consumption on premises with outdoor seating per Land Development Code Section 34-1264(a).

The subject property is located at 1668 I Street, Fort Myers Beach (over Sky Bridge to Estero Blvd., south to Ave E [just beyond Hooters] turn right to I St., building is on Gulf, directly to the right of public access), in S19-T46S-R24E, Lee County, FL. (District #3)

The Strap # as furnished by the Applicant is: 19-46-24-07-0000B.0110

II. STAFF RECOMMENDATION:

The Department of Community Development Staff Report was prepared by Mike Pavese. The staff report is incorporated herein by this reference.

III. HEARING EXAMINER DECISION:

The undersigned Lee County Hearing Examiner APPROVES the Applicant's request and GRANTS a Special Permit in the C-1 (Commercial) district for consumption on premises with outdoor seating per Land Development Code Section 34-1264(a) for the real estate described in Section VIII. Legal Description WITH THE FOLLOWING CONDITION(S):

1. The Special Permit for consumption on premises in conjunction with outdoor seating is limited to the use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited. However, this does not prohibit the sale of draft beer or wine which is poured from a large bottle, so long as it is consumed only in the designated locations. There will be no waiter or waitress service; the customers must order their drinks from inside the premises and directly from the person who pours the drinks.
2. The location of the Special Permit for consumption on premises in conjunction with outdoor seating is limited to the outdoor deck area (approximately 10 feet by 40 feet as shown on Attachment B to the Staff Report) which separates the retail use from the beach area, and on the first 50 feet of the beach which extends south from the deck area toward the water. The seating for both areas may not exceed 75 seats. The alcohol consumption portion of the beach area will be clearly marked.
3. Hours of operation for the outdoor seating area are limited to 10:00 a.m. to 10:00 p.m., daily.
4. Live entertainment is limited to the hours of 10:00 a.m. to 8:00 p.m., daily.
5. The conditions of Resolution No. BZA-88-339 will remain in full force and effect to the extent that they are not in conflict with this Special Permit.

IV. HEARING EXAMINER DISCUSSION:

The Applicant, Murry Carslake, represented by Linda Kane, in reference to the Tiki Klub, is requesting a Special Permit in the C-1 (Commercial) zoning district to allow consumption of beer and wine on the premises which is located at 1668 I Street, Fort Myers Beach.

The Staff is recommending approval of the request with four conditions which would limit the location of the alcohol consumption and the hours of operations of the outdoor portion of the business.

The Applicant objected to the stringent nature of the conditions, and put on testimony which was designed to loosen them somewhat without eliminating them completely.

The Tiki Klub is located in a 2-story building which contains a combination of commercial and residential uses. The upper portion of the building contains two residential units and the lower portion contains a small retail store which sells beach related convenience items and packaged food and beverages. There is also a portion of the lower floor which is used for storage. Ancillary uses which occur on the site include jet ski and parasail rentals and ultralight rides. It was also noted that the beach area behind the building is often used for volleyball games.

The retail business on the site has had a (2 APS) license since 1981, which permits the sale of beer and wine for off-site consumption. The site was also the subject of a variance in 1988 which reduced the number of parking space to zero, and which limited the public access to the beach; it also limited the use to the sale of those items enumerated above.

The subject site and the properties surrounding it are in the C-1 zoning category. It was pointed out that this is an area of the beach which is tourist and entertainment oriented and which caters, primarily, to a transient, younger clientele. As such the requested use is not an intrusion into a more sedate area.

The Staff was of the opinion that the sale of beer and wine for on premise consumption would be proper, but they were also of the opinion that the use of kegs of beer (rather than cans and bottles), and the sale of wine by the drink (rather than by the bottle), would be too intense a use for the location. Therefore, the difference from what is being requested and what the Staff is recommending is one of degree. However, it was not clear to this Hearing Examiner what the difference would be if drinks were sold by the glass rather than by the can or bottle. Rather, it would appear that beer and wine sold by the glass would be safer and cleaner than by beer and wine sold by the can or bottle because there would be less trash as a result of the discarding of the cans and bottles.

Testimony was offered by the Applicant which demonstrated that entertainment already existed at the subject location, and that the condition recommended by the Staff to prohibit live entertainment would be taking something away from the Applicant which has never been a problem at this location.

Given the resort oriented character of the properties around the subject location, and given the already existing sale of alcohol and the existence of live entertainment on those surrounding properties, it is this Hearing Examiner's opinion that the requested use, as conditioned, is not contrary to the public's interest nor does it pose a public health, safety, comfort, convenience or welfare threat to the citizens of the County.

Therefore, the Special Permit, as conditioned is approved.

V. FINDINGS AND CONCLUSIONS:

Based upon the staff report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

A. There is no negative impact on the intent of the Land Development Code as a result of the granting of the Special Permit, conditioned as set out above.

B. That the granting of the Special Permit, conditioned as set out above, is consistent with the goals, objectives, policies and intent of the Lee Plan, as last amended.

C. That the Special Permit, conditioned as set out above, meets or exceeds all performance and locational standards set forth for the proposed use.

D. That the Special Permit, conditioned as set out above, is consistent with the densities, intensities and general uses set forth in the Lee Plan.

E. That granting the Special Permit, conditioned as set out above, will protect, conserve and preserve environmentally critical areas and natural resources.

F. That the Special Permit, conditioned as set out above, will be compatible with existing or planned uses and will not cause damage, nuisance, hazard or other detriment to persons or property.

G. That the location of the requested Special Permit does not place undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the use(s) which will be developed in conjunction with the Special Permit.

H. That the requested use is in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth in the Land Development Code, as last amended.

I. That granting the requested Special Permit, conditioned as set out above, is not contrary to the public interest, public health, public safety, public convenience or public welfare of the citizens of Lee County.

VI. PRESENTATION SUMMARY:

After the Hearing Examiner placed all witnesses under oath, Mike Pavese, Division of Zoning and Development Services, presented the Staff Report in this request for a Special Permit in the C-1 (Commercial) district for consumption on premises (COP) with outdoor seating. The subject property is located on I Street, on the Gulf side of Estero Boulevard, Fort Myers Beach.

The subject property is developed with a 2-story building that was constructed in 1966. The existing structure is a combination of residential and commercial uses. There are two residential units upstairs while a portion of the first floor is used as a small retail operation specializing in the sale of beach related convenience items, and packaged food and drink to go.

The property was previously the subject of a variance request in 1988. The Applicant purchased the property approximately one year before that and attempted to obtain an occupational license for basically the same type of retail use. At that time he attempted to obtain a license for an existing shed which was located between the existing structure and the Gulf of Mexico. Because the County determined the existing use was non-conforming, the application for an occupational license was denied.

As a resolution to the Applicant's problem, the County suggested that he apply for a variance and attempt to relocate the retail use that had previously been located in the shed to the ground floor of the commercial structure. This caused a problem from the standpoint that, in order to relocate to the other building, he would have to provide the appropriate

parking for the use. At that time there was no parking available on site; therefore, a variance from the minimum requirement of 10 spaces, to zero spaces was requested and approved.

In approving the variance request the Board of Zoning Adjustments applied two conditions. The first condition provided that the commercial use would be limited to the retail sales of beach oriented convenience items including package food and beverage and beach recreational rentals. The second condition was that public access to the commercial use would be limited to the beach on the Gulf side of the business.

The instant request is for a 2-COP license. The proposed outdoor seating area is a 10-foot by 40-foot deck which is located at the rear of the building, and facing the Gulf of Mexico.

Staff has recommended approval of the request with five conditions. Condition 1 states that the COP is limited to use in conjunction with the existing retail use. The use of a bar/service bar on this property is prohibited. Condition 2 limits the proposed outdoor seating area to the 10-foot by 40-foot deck located to the rear of the existing structure. Condition 3 limits the hours of operation of the outdoor seating area to the hours of 10:00 a.m. to 10:00 p.m., daily. Condition 4 states that live entertainment is prohibited; and Condition 5 states that the conditions of resolution number BZA 88-339 is to remain in full force and effect.

The surrounding zoning is C-1. The existing uses surrounding this property are primarily residential, but they are of a seasonal rental nature. There are some commercial uses in the general vicinity that are located closer to Estero Boulevard.

Staff felt that the request, as conditioned, was consistent with the Lee Plan and with the surrounding zoning and land uses; therefore, they recommended approval.

The Hearing Examiner noted that Staff was keeping the other conditions in place and that there was a provision in the old resolution that limited the request to packaged food and beverage. He asked if there would be a conflict since this request, if approved, would allow outside consumption? Mr. Pavese stated that there could be a conflict if the Applicant was planning on selling draft beer which is not sold in a factory sealed container. The Hearing Examiner asked if Staff would object if he changed the language to state that the other resolution was in effect to the extent that it is not in conflict with this resolution, and Mr. Pavese replied that would be acceptable.

The Hearing Examiner asked why this request was not handled administratively? Mr. Pavese replied that these types of requests were done administratively in conjunction with a restaurant use; however, this use was not a restaurant, it is a retail operation.

Matt Uhle, the Applicant's attorney, referenced the last sentence of Condition 1 which states that "the use of a bar/service bar on this property is prohibited." He questioned the Staff about the differences between selling wine and beer by the bottle or can, as opposed to selling it by the glass. Staff indicated that their concern was that, if beer and wine were sold by the glass, it might create a "bar" situation. The existing use is a retail use. The proposed uses are specifically restricted by a previous resolution that permits only packaged food and beverages for sale. To allow draft beer to be served from a keg, or wine to be served by the glass, would go against the conditions approved in that resolution.

After further discussion the Hearing Examiner asked what the Applicant would be allowed to do on the property if approval of the 2-COP license is granted. Mr. Pavese stated that they would be allowed to sell beer and wine in factory sealed containers, and people would be allowed to consume it on premises in the designated area.

Mr. Uhle asked what public interest would be served by selling packaged liquor, as opposed to non-packaged liquor, to which Mr. Pavese stated that he didn't feel the subject location was appropriate for a bar, in that it is surrounded by predominantly residential uses. In response to further questioning by Mr. Uhle, Mr. Pavese stated that Staff was concerned that people would tend to stay at the site longer if non-package liquor was sold.

Mr. Uhle referenced Condition 2 and stated that the outdoor seating area included the deck and the private beach located contiguous to the deck. He noted that the Staff Report did not make reference to the private beach area, and questioned what the rationale for this limitation was, to which Mr. Pavese replied that this also related to the intensity of the use. The County could not control how much seating is on the beach and how far it extends out into the area that is traversed by the public. In response to Mr. Uhle's question as to why Staff couldn't impose a setback condition, Mr. Pavese stated that the amount of seating is easier to control within an existing building or deck. This goes back to the intensity of the use. Staff also had to consider parking. The previous variance issued was conditioned to allow a certain type of use on this property. To allow the COP to encroach out into the beach area changes the intended use of the property. Mr. Uhle noted that the LDC does not require any particular parking for outdoor seating.

Mr. Uhle referred to the issue of the enforceability of the condition and asked Mr. Pavese if he has been to the beach lately, to which Mr. Pavese replied yes. He agreed that there are roped off areas indicating boundaries of property in this area and throughout the beach, and that this could be done fairly easily on the subject site. This would be an objective standard and could be enforceable if a setback of a particular distance was established.

Mr. Pavese agreed that the sandy beach area would be further away from the adjacent uses than the deck currently is, whether it was extended or not. However, as proposed by the Applicant, it is closer.

In response to further questioning by Mr. Uhle, Mr. Pavese confirmed that the beach area is frequently used for volleyball games, and for live entertainment. The impacts caused by someone consuming alcohol at a table on the surrounding areas is greater than the impact created by live music at the same location.

He also confirmed that the Applicant already has a license to sell alcohol off-site. Mr. Uhle asked Mr. Pavese if he could make the distinction in the regulations between "off-premises" and "on-premises"? Mr. Pavese stated that with regard to the licenses issued by the State, a 2 APS license permits the sale of alcoholic beverages (beer and wine) for consumption off the licensed premises. A 2-COP allows for the sale of beer and wine for consumption on the licensed premises.

Mr. Uhle stated that he really was asking for the definition of "on the premises." He noted that the building has residential units on the second floor. He asked if it would be considered "on-premises" if someone were to come down and buy a beer in a can and then go up to their residence and drink it, assuming the Applicant didn't have a COP at this location. Mr. Pavese replied, literally, this would be on-premises consumption, but with respect to the Zoning Ordinance, and the subject case, that was not really relevant. The on-premises consumption that Staff was referring to was on a licensed premises. Mr. Uhle stated that this was merely a hypothetical question. He asked if it would be a violation of the County regulations for someone to do that, to which Mr. Pavese replied no.

Mr. Uhle asked, hypothetically, if it would be considered "off-premises" if someone from one of the adjacent cottages were to walk over to the subject property, buy a beer, and walk back to their own property and drink it, to which Mr. Pavese replied yes.

Mr. Uhle asked if it would be a violation of County regulations for someone to buy a beer at the subject property, and drink next door assuming

they had permission to do, to which Mr. Pavese replied he believed it may be a violation of the open container law. Mr. Uhle stated that it would be private property; therefore, he did not believe the open container law would apply. He asked if selling beer to somebody who is consuming it on-premises would be a violation in terms of the zoning regulations, to which Mr. Pavese replied no.

In response to Mr. Uhle's questions with regard to Condition 4, Mr. Pavese confirmed that he was aware that live entertainment has been on the premises in the past. This particular condition would actually require the property owner to give up something he already has. The subject property is approximately 500 feet from the Lani Kai Resort. To the best of his knowledge the Lani Kai does have outdoor seating and COP. He was not sure if they had live entertainment.

With regard to the live entertainment on the subject property in the past, Mr. Pavese was not aware of outstanding allegations of code violations, or Noise Ordinance violations.

Mr. Uhle asked if a permit was required to have live entertainment on a piece of property, to which Mr. Pavese replied that he was not aware of any ordinance that would prohibit someone from playing a guitar or singing on a piece of property, if they weren't being compensated for it. Mr. Uhle asked if the condition would prohibit an adjacent property owner from having live entertainment. Mr. Pavese stated that he did not know of any ordinance that would prohibit an adjacent property owner from playing music on their property, unless they were charging admission.

Mr. Uhle asked if Condition 3 would also limit the hours of operation for live entertainment if live entertainment was allowed. Mr. Pavese stated that Condition 3 would not limit the hours for live entertainment because the time limitation is only related to the outdoor seating area. Mr. Uhle asked if it would be possible to write a condition that would limit the hours of outdoor entertainment if, in fact, the tranquillity of the neighborhood at night is one of Staff's concerns, to which Mr. Pavese replied yes. Mr. Uhle asked if the tranquillity of the neighborhood was one of Staff's concern, to which Mr. Pavese replied it was a minimal concern. The main reasoning for the condition related to the existing use and its intensity. Mr. Uhle noted that the intensity of the existing use involved live entertainment. Mr. Pavese stated that the County could not really control live entertainment being performed on the property if the people are not being charged admission, or the performers are not being compensated.

The Hearing Examiner asked if Staff was proposing that the Applicant be allowed to sell sealed containers of wine and beer to customers who will be allowed to drink them on the deck, to which Mr. Pavese replied yes. Staff has limited the hours of operation for the deck and prohibited live entertainment. This was a very minimal increase in the intensity of the use of the property. Staff believed that anything beyond that would be too great of an increase in intensity.

Carleton Ryffel, for the Applicant, stated that the subject property is located in a high activity level area near the Times Square area on the beach. Some adjacent and nearby uses include Gulf front seasonal rentals, a Hooters Restaurant, offices, and a variety of retail uses. The Lani Kai is approximately nine lots away from the subject property. Most of the lots along the gulf are 50-foot-wide lots, therefore, as Mr. Uhle stated, the subject property is approximately 500 feet away from the subject property.

The Applicant and/or his wife own six cottages immediately to the west of the subject property. To the east are other cottages which are seasonal rentals. The owner of the Tiki Klub lives in the cottage (under separate ownership) immediately adjacent to the subject property. Most of the cottages in the area cannot be rented on an annual basis due to the high level of activity in the area. This particular area of the island caters to young people and tourists. Most of the cottages are rented on a short

term basis. The ambiance of this area is a "party" atmosphere. This is where jet ski and other water sports abound, and volleyball is a common activity among younger people. The entire area is zoned C-1.

The Hearing Examiner stated that it might help him to know what the Applicant would like and why they believe their request should be approved. Mr. Ryffel stated that the Applicant would like to continue with the outdoor entertainment, which is something they already have. Mr. Uhle stated that the Applicant would also like to be allowed to use the private sandy beach area, located immediately south of the deck, for outdoor seating. He noted that he would be proposing an alternative condition to address this issue in the event the Hearing Examiner believed such a condition was necessary.

In terms of the sale of alcohol, the Applicant did not need a physical structure for a bar. However, they would like permission to be able sell draft beer out of kegs and to be able to keep wine in a refrigerator and pour into cups and be able to serve it. The Hearing Examiner asked if the Applicant wanted to have alcohol in bulk rather than individual containers, to which Mr. Uhle replied that was correct. The Hearing Examiner asked if there would be any indoor seating or area for patrons to consume alcohol, to which Mr. Uhle replied no.

Mr. Ryffel stated that there were several reasons the Applicant wanted to serve wine out of the bottle, however, as a practical matter, he has never seen wine come in a can. Serving wine or wine coolers in a bottle would mean there would be glass containers on the beach which is not appropriate for the type of activity in the area.

The property has evolved in use over the years. Long ago it was a duplex, and it remains a duplex upstairs. The downstairs was made into a beach clothing store, and then it became and remains the home base of jet ski, ultra-light boat rentals, sale of beach convenience items, i.e., sun glasses, T-shirts, suntan oil, and the package liquor store. In addition to these activities volleyball is played by anyone who walks by the property on the beach side. Televisions are available on the lower deck to watch sporting events. Live musical entertainment is provided on most weekends.

Mr. Ryffel submitted and reviewed several photographs (Applicant's Exhibits 1 through 13). These pictures depicted the front of the subject building, the view of Estero Boulevard (taken from the subject building), the upper and lower portions of the building, the sales counter and convenience items, the deck area, the television and scoreboard, and the outdoor seating area on the beach. He noted that Applicant's Exhibits 14 and 15 were also photographs which would be discussed later.

The Applicant has asked for 75 outdoor seats for COP which is reasonable considering the present activity level of the property. Some of the seating will be on the deck; the remainder on the sand. The Applicant intends to have the seating area on the sand within 50 feet of the back deck of the subject building. Mr. Ryffel submitted an as-built survey (Applicant's Exhibit 16) and pointed out the location where the Applicant wanted to have the outdoor seating.

As depicted on the as-built survey, the property line is 186 feet from the mean high tide to the road right-of-way of I Street. Between the existing building, and the 50-foot-wide area proposed for the outdoor seating on the sand, there is an additional 90 feet of private property before the water's edge. Even though the 90-foot-wide area is private property, the Applicant would limit the seating to the 50-foot-wide area. The 90-foot-wide area would not have any seating.

Mr. Ryffel submitted two photographs (Applicant's Exhibits 14 and 15) which depicted the 50-foot-wide area of sandy beach that will be used for seating. He referenced his letter to Pam Houck, dated October 15, 1995 (submitted with the application), and noted that it described the Applicant's response to the review criteria for a Special Permit. His letter states "the number of seats requested is 75, of which about 20 would be

on the adjoining ground level deck" As a correction to this statement Mr. Ryffel noted that, given the size of the deck, there would be room for approximately ten tables (40 seats). Therefore, Applicant did not want to be limited as to how many of the 75 seats they could put on the deck.

With regard to the second criteria of whether there are "changed or changing conditions which makes approval of the application appropriate," Mr. Ryffel noted that outdoor seating has become increasingly popular especially in tourist and beach areas which is the instant case. This would be considered a changing condition and one which would be consistent with this premise.

With regard to the question of whether the request is consistent with the goals, objectives, policies and intent of the Lee Plan. Mr. Ryffel noted that his letter lists approximately ten policies that the request is consistent with. With regard to Policy 18.2.1, his letter states:

Since the nature of the business and its outward appearance will not change, i.e., it was and continues to be a mixed commercial use, it will not be an intrusion into any residential neighborhood. In fact there really is no owner occupied neighborhood near the present use. The proposed use should be considered as a logical adjunct to the existing use of the property.

He referred to the criteria of whether the requested use will be compatible with the existing or planned uses, and stated that the property is in a mixed use area and it will, therefore, be compatible with other uses.

The location of the project will not place a greater burden upon existing transportation facilities than it has in the past. Allowing the uses may actually reduce trips. Moreover, the proposed use is intended to primarily serve customers already on the property. The Applicant has no advertising from Estero Boulevard. They do not intend to draw automobile traffic, in that parking would be a problem in this area. The Applicant's business relies on the pedestrian traffic along the beach.

With regard to Condition 2 which limits the outdoor seating to the outdoor deck area, the Applicant feels that there is no logical reason to not permit outdoor seating on a private beach owned by an individual. There is seating already provided during the daylight hours. People use these tables and chairs to watch sporting activities at the property, especially volleyball.

Outdoor seating with a COP occurs nearby at Jimmy B's (with outdoor entertainment) and at the Lani Kai where there is sometimes more than one band. The Lani Kai has approximately four bars, jet ski rentals, retail stores, and beach convenience items. Jimmy B's and the Lani Kai sell hard liquor, while the Applicant will only sell beer and wine. The recently approved application for the Jewell Real Estate property will allow outdoor seating and COP, and was approved for outdoor entertainment. The Applicant was not proposing a physical bar; they merely wanted to dispense beer and wine.

He referred to Condition 4 and stated that, given the location and the activity level of the area, there is no reason to prevent outdoor entertainment. There have been no noise complaints against this property to the best knowledge of the Applicant. There were no letters of opposition from neighbors, but rather letters of support. He asked "What then are we protecting?"

He submitted a map of the subject property (Applicant's Exhibit 17) which showed the location and names of all adjoining property owners. He noted that the following letter was written by the Applicant and signed by all the adjacent property owners. (See Section VIII.)

I am requesting a Special Permit in the C-1 (Commercial) district for consumption on premises with outdoor seating per Land Development Code Section 34-1264(a), at the above stated premises. I currently hold an alcohol license at this location,

I am simply expanding the usage. Because you are adjacent and/or very near to our operation, we are asking for your support.

The only property owner who did not sign the letter was the owner of the Outlaws Steakhouse. Mr. Ryffel believed that the only reason they didn't sign the letter was because they couldn't be found. He believed they would have signed because they were former clients of his.

Due to the support from all of the neighbors, outdoor entertainment should not be a problem. Outdoor entertainment has been an ongoing activity in the neighborhood. The Applicant will comply with the County Noise Ordinance, and wants to be treated as anyone else would. It should be noted that outdoor entertainment does not require permission or public hearings; just compliance with the law. The Applicant has agreed to limit the hours of outdoor entertainment from 10:00 a.m. to 10:00 p.m., as stated in the Staff Report. As a practical matter, the Applicant could set up a band on his adjacent property and have the same effect, because Staff's condition only applies to the subject property.

It was Mr. Ryffel's understanding that Special Permits are not discretionary unless a public harm is found. In this case Staff sees outdoor seating and music on a private beach as public harm. The Applicant feels that these things are a public good in that these activities are part of the beach lifestyle in this particular area. It probably wouldn't be appropriate in more purely residential areas away from this busy area. However, in a place where this type of activity is commonplace, it makes no sense to impose conditions that serve no purpose and are easily circumvented. In short, the young people and tourist guests need these types of places to recreate and socialize without these obstructions.

In response to Mr. Uhle's questions Mr. Ryffel stated that the subject property and surrounding properties are zoned C-1. Mr. Ryffel did not agree with Mr. Pavese's earlier statement that consumption on premises would have a greater impact than volleyball games and live music on surrounding uses. Volleyball games get fairly vocal since people cheer on the players. He did not think that sitting down and drinking a beer is a very noisy thing to do.

Mr. Ryffel confirmed that the location of the project would not place an undue burden on existing transportation facilities because the property is not readily visible from Estero Boulevard. It is a very integrated use of the property and it is well known. People normally come to this type of establishment on the weekends. To keep it "one stop shopping" would limit traffic impacts overall on the island.

Mr. Ryffel was not aware of any greater impact to the public if alcohol is poured into containers as opposed to being sold in packaged containers.

The Hearing Examiner asked if there was anything prohibiting outdoor seating at the subject property at this time, and whether the only difference in approval would be that people could drink alcohol in the outdoor seating area. Mr. Pavese replied that there are no regulations that prohibit people from sitting in chairs outside on the property at this time. There is also no prohibition against there being live entertainment.

Pam Houck, Division of Zoning and Development Services, referred to Mr. Ryffel's earlier statement and asked if there was a package store existing or anticipated at this site, to which Mr. Ryffel stated that, at this time, the Applicant has a package license and they sell beer in cans. Mrs. Houck noted that a package store has different regulations. While it may be permitted in this district, it does have a specific 500-foot setback requirement from residential uses, day-care centers, churches, etc., and would not be allowed unless a variance were granted. A variance has not been requested for the subject property in the past or in this case. She wanted to make it clear whether or not a package store was indeed on the premises or anticipated. Mr. Ryffel stated that the

Applicant sells canned beer which is in a cooler. Mrs. Houck stated that the Applicant would be allowed to have incidental sales of packaged alcoholic beverages.

The Hearing Examiner asked Mrs. Houck if she was making the distinction between a liquor store or package store that sells primary beer and wine, as opposed to one that sells it in conjunction with other items. Mr. Ryffel noted that the Applicant has a package license, rather than a package store. Mrs. Houck pointed out that this was specifically defined in Section 34-1263, the Zoning Ordinance portion of the LDC.

Case 95-05-101.02S (Jimmy B's) was specifically approved as a bar. Case 95-07-161.02S (Jay Ursoleo) was specifically approved as a restaurant. Staff's primary concern, and the reason they limited the subject request by conditions, was because this case was heard previously and granted variance for specific uses. Staff's primary concern related to changing the use of the property to a bar or a restaurant, in that there was no place for parking at the site. The approved variances were not in place for these uses and variances have not been requested.

The Hearing Examiner stated that if the Applicant had come in for a variance, or just consumption on premises, there is no parking requirement for outdoor seating. Mrs. Houck stated that Staff's concern related to a change of use. If the use is changed to a bar, although there would be no parking requirements, a Special Permit would be required for a bar. The Hearing Examiner asked if Staff believed the use would be considered a bar if there was outdoor seating on the beach and on the deck area, but not inside the premises, to which Mrs. Houck replied not necessarily.

In response to the Hearing Examiner's question, Mrs. Houck confirmed that it was possible due to the increase in the use of alcohol on the premises a variance would be required. The Hearing Examiner stated that the concern was that normally a variance would be needed to obtain the other permission. This may be inadvertently intensifying the use of the property to the level where a variance would have been required, and it has not been required in this case.

Mr. Ryffel stated that the use is not intended to be a bar. The Applicant would be selling beer and wine like they would sell sunglasses or another convenience item. The activity includes volleyball and music and he did not feel the request would make any change in intensity at all. If there is an area that should be intense, this was it. Intense uses had to be somewhere, and he could not see why Staff would try to diminish that at this point in the area's history.

Mr. Uhle noted that the variety of mix of uses on the parcel would remain essentially the same. There was no obvious distinction in terms of the impacts with regard to how the alcohol is sold to people walking on the beach or people living in the beach cottages. He did not believe there was any credible evidence to indicate there was any distinction. In addition, the Applicant has established that outdoor seating does not require any additional parking. Furthermore, there is every reason to believe that, if there is an increase in use of this parcel, it is probably going to be caused by people walking along the beach because the parcel is not readily visible from Estero Boulevard and there is no signage on Estero Boulevard. Approval of this request would not result in a tremendous change in the character of the area.

Mr. Uhle stated that he has heard concerns from the Staff, but he has not heard any specific facts or specific LDC requirements that causes the problem that they are concerned about.

The Hearing Examiner asked if a customer would have go into the store to get a drink, or if someone would be serving them outside, and Mr. Uhle stated there would be no service outside. The Hearing Examiner noted that, if he were to approve the request, he would place this type of prohibition on the use. Mr. Ryffel stated that there would be no wait staff.

In response to the Hearing Examiner's question, Mrs. Houck stated that someone would be prohibited from bringing alcohol onto the subject property that they bought elsewhere. Even though it is private property, the Applicant is not licensed for consumption on premises and the use is a retail outlet rather than a private home.

Mr. Uhle stated that County regulations regarding this point are not particularly clear. One of the reasons he asked the hypothetical questions of Mr. Pavese was to indicate that a number of anomalies could come up that really don't have any bearing in terms of the actual impacts of the proposed use on the surrounding neighborhood.

In response to the Hearing Examiner's questions regarding the conditions, Mr. Uhle stated that the Applicant would like to be able to operate their business in the manner describe earlier with the sale of wine and beer by the glass. They would like to keep bottles of wine in a refrigerator and have kegs of beer. They were not asking for a physical structure or for permission to have outside service.

With regard to Condition 2 the Applicant would like a condition that would basically permit the outdoor seating to take place, not simply within the deck, but in an area with the northern boundary being the southernmost boundary of the deck, and then extending 50 feet to the south of that. The Applicant would not have a problem marking that area off. This was an objective standard and one that could be enforced.

If the Staff believes that Condition 3 is not clear enough as to its applicability to outdoor music, the Applicant did not have a problem limiting the hours from 10:00 a.m. to 10:00 p.m. However, Condition 4, needs to be deleted, in that it is "costing" the Applicant a use that they already have. In response to the Hearing Examiner's question, Mr. Uhle stated that it would be appropriate to add language stating that the subject conditions would not conflict with the conditions of the previous variance approval.

Gerald Crowley, property owner of a cottage located approximately 200 feet from the subject property, stated that he believed the COP would be more suitable than the current way the property operates. Currently, people who buy beer at the premises go over to his yard and throw the empty cans over their head. If the consumption was constricted to the area of purchase, this would not happen.

With regard to the hours for outdoor entertainment, he believed 10:00 p.m. was a bit late. He rents to older couples three to four months out of the year. The County shuts down the beach at sunset. There are signs at the access that state that the beach closes at sunset. Therefore, sunrise to sunset would seem like more suitable hours for live entertainment. The Hearing Examiner stated that the hours of sunrise and sunset would vary on the season, to which Mr. Crowley replied yes. Someone might want to go to bed at 8:00 p.m. when the sun goes down at 5:00 p.m.

The Hearing Examiner asked Mr. Crowley if the people staying at this place had any problem with the noise, to which he replied currently his place is not rented. However, last Sunday he was sitting approximately 200 feet from the band and he could not listen to a football game on his television. He had the volume all the way up and he could not hear it. He never received one of the letters that Mr. Ryffel referenced.

Lonnie Clark, Applicant's partner, stated that they did not want to create any noise problem for any of the neighbors. They would be happy to work with any suggestions to correct any problems. Within the immediate vicinity, including Mr. Crowley's property, all the owners have jet ski businesses. These type of businesses allow for motors to be run on the beach. All of the jet ski businesses create noise situations. He did not believe that the music situation would create any additional problem than what is currently going on. He enjoyed having Mr. Crowley as a neighbor and he would certainly be willing to comply with conditions that would create a situation where everyone would be happy.

Mr. Pavese concurred with Mrs. Houck's previous statement. To Staff's knowledge there is no package store existing at the subject location. The uses at Jimmy B's and the Lani Kai are really not comparable to the use on the subject property; they are totally different. The intensity is also not comparable.

The Hearing Examiner asked Mr. Pavese if he prepared the Staff Report, and if it accurately reflected his position at the time he prepared it, to which Mr. Pavese replied yes. He asked Mr. Pavese if anything he had heard during the hearing would change his mind about his recommended conditions, and Mr. Pavese replied no. This included the live entertainment condition, especially in light of what Mr. Crowley has stated.

Mr. Uhle submitted copies of the Hearing Examiner's Decisions for cases 95-05-101.02S and 95-07-161.02S (Applicant's Exhibits 18 and 19), both of which permit outdoor entertainment, but restrict the hours in a way that is consistent to what has been proposed. The Applicant has also indicated that she would not object to limiting the hours of outdoor entertainment to 8:00 p.m., but not the hours of operation.

He could understand where the Staff was coming from in this case, but he believed they were talking about an abstract regulatory kind of problem rather than a practical problem. As depicted in the photographs, this is an area of very intense uses. He did not think that the Staff's proposed conditions address any significant legal or practical problems that would be created by the use of this location.

Mr. Ryffel stated that he had never had a case where there has been so much neighborhood cooperation. No one objected, and he felt that this spoke for itself. He asked if they could have the Hearing Examiner's Decision in as timely a manner as possible, given the situation at the beach, specifically by December 31, 1995.

The Hearing Examiner stated that he did not see a big distinction between the sale of beer and wine in bulk as opposed to in an individual container. He would, however, visit the site before making his final decision.

Mr. Ryffel noted that the property owner had cleaned up the property considerably since he bought it. He has placed 22 garbage cans, even on property that wasn't his, as a way of keeping the area clean. The owners are very good and competent people. He felt they would cooperate with any problems the neighbors may have and he felt they were an asset to the beach. The Hearing Examiner pointed out, however, that the property owner could sell the property and the next people who come in may not be so nice. This was a consideration since any approval would run with the land.

Mr. Ryffel submitted a copy of his presentation and notes (Applicant's Exhibit's 20) for the record.

VII. PUBLIC PARTICIPATION: The following persons appeared at the hearing or became "parties of record" in this case by submitting written materials:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. Matt UHLE, Esquire, c/o Humphrey & Knott, P.A., 1625 Hendry St., Ft. Myers, FL 33901
Testimony: See Section VI. Presentation Summary

ADDITIONAL COUNTY STAFF:

1. Joseph M. MADDEN, Jr., Assistant County Attorney, Lee County, P.O. Box 398, Ft. Myers, FL 33902-0398

2. Pam HOUCK, Division of Zoning and Development Services, Lee County, P.O. Box 398, Ft. Myers, FL 33902-0398

FOR:

1. Terry HILL, 1600 Estero Blvd., Ft. Myers Bch., FL 33931
2. ESTERO ISLAND HARDWARE, 1741 Estero Blvd., Ft. Myers Bch., FL 33931
3. H. E. TRACY, 71 Ave. E., Ft. Myers Bch., FL 33931
4. Jeffery M. WILLICH, 4870 Dolphin Ln., Ft. Myers Bch., FL 33931
5. Marc WOODARD, 4265 Bay Beach Ln., Ft. Myers Bch., FL 33931
6. Kenny CATHERS, 1830 Estero Blvd., Ft. Myers Bch., FL 33931
7. SPORTS ADDICTION, 1801 Estero Blvd., Ft. Myers Bch., FL 33931
8. Antonina RIGBY, 307 Fairweather Ln., Ft. Myers Bch., FL 33931
9. GLORIA SHORTLIDGE ESTATE, 70 Ave. E., Ft. Myers Bch., FL 33931
10. FT. MYERS BEACH SCOOTERS, INC., 1698 Estero Blvd., Ft. Myers Bch., FL 33931

AGAINST: NONE

GENERAL:

1. Robert MOFFA, 37728 Lois Dr., Sterling Heights, MI 48310
2. Denise FAIR, c/o Humphrey & Knott, P.A., 1625 Hendry St., Ft. Myers, FL 33901
3. Richard CROWLEY, 808 Sunset Vista Dr., Ft. Myers Bch., FL 33931
Testimony: See Section VI. Presentation Summary.

VIII. LEGAL DESCRIPTION:

Lot 11, Block B, CRESCENT BEACH SUBDIVISION, as recorded in Plat Book 4, Page 45 of the Public Records of Lee County, Florida, lying in Section 19, Township 46 South, Range 24 East, Lee County, Florida.

IX. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff, any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in any proposed or pending matter relating to appeals, variances, special permits, rezonings, special exceptions, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation [Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the hearing examiner or any county commissioner [or their staff] [LDC Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication ... [may] be subject to civil or criminal penalties which may include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit variance, special exception or rezoning granted as a result of the hearing examiner action which is the subject of the unauthorized communication. [LDC Section 34-52(b)(1)b.2.]; OR

A fine not exceeding \$500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [LDC Section 1-5(c)]

X. APPEALS:

This Decision becomes final on the date rendered. A Hearing Examiner Decision may be appealed to the Circuit Court in Lee County. Appeals must be filed within thirty (30) days of the date the Hearing Examiner Decision is rendered.

XI. COPIES OF TESTIMONY AND TRANSCRIPTS:

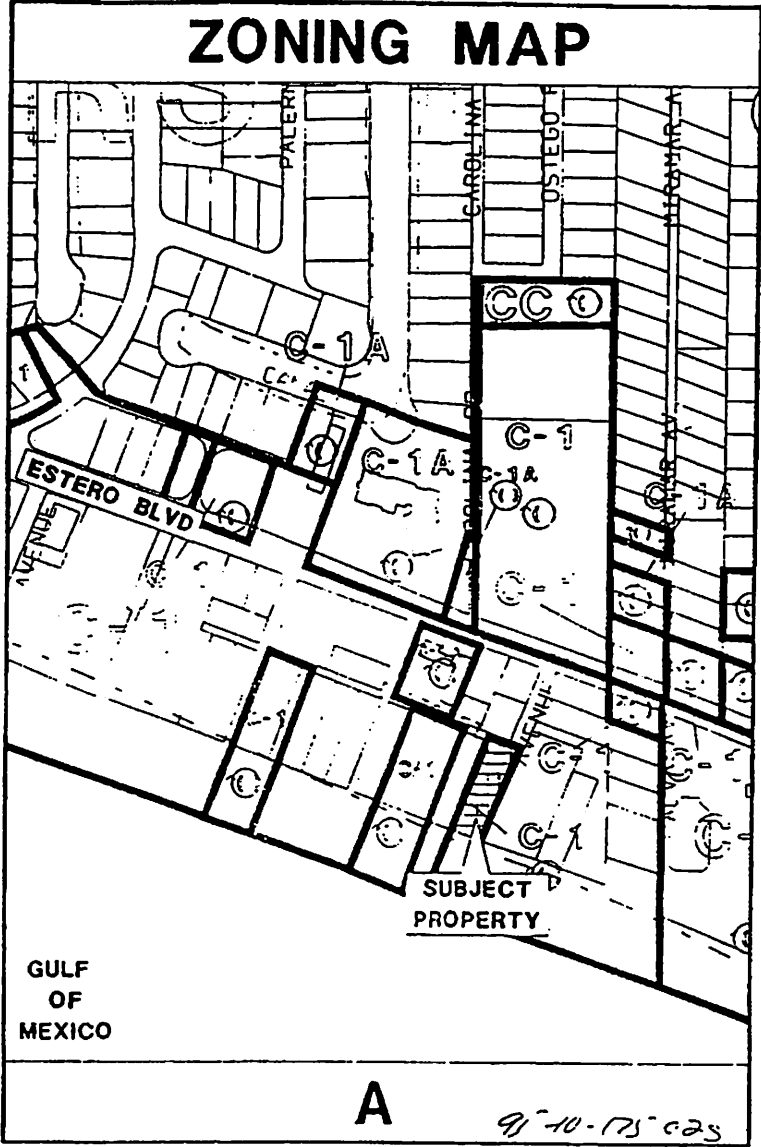
A. A complete verbatim transcript of the testimony presented at the hearing can be purchased from the Official Court Reporter, 20th Judicial Circuit, Lee County Justice Center, Fort Myers, Florida. The original documents and original file in connection with this matter are located at the Lee County Department of Community Development, 1831 Hendry Street, Fort Myers, Florida.

B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

This decision is rendered this 18th day of December, 1995. Copies of this decision will be delivered to the offices of the Lee County Board of County Commissioners.



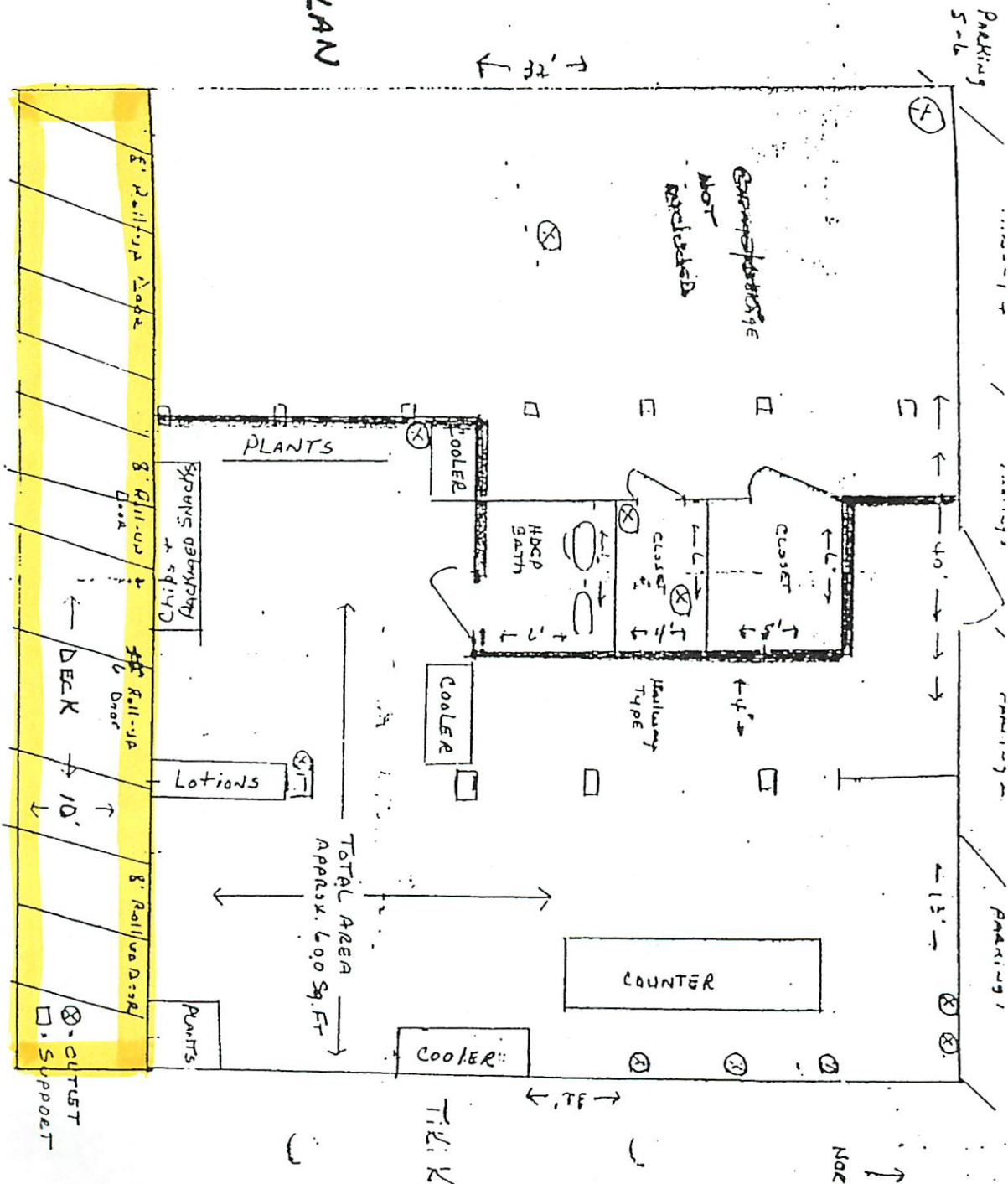
SALVATORE TERRITO
LEE COUNTY HEARING EXAMINER
2269 Bay Street
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 941/338-3190



91-10-175-025

SC 00-01-01

GROUND FLOOR FLOOR PLAN



10.50
BILLED

Prepared by:

N. Gluck, Zoning and
Development Review Division
P.O. Box 398
Fort Myers, FL 33901

2568964

RESOLUTION NUMBER BZA-88-339

RESOLUTION OF THE BOARD OF ZONING ADJUSTMENTS
OF LEE COUNTY, FLORIDA

WHEREAS, Murray Carslake has properly filed an application for a variance in the C-1 district from the minimum required 10 parking spaces, to zero (0) parking spaces; and

WHEREAS, the subject property is located at 1668 "I" Street, Fort Myers Beach, described more particularly as:

LEGAL DESCRIPTION: In Section 19, Township 46 South, Range 24 East, Lee County, Florida:

Lot 11, Block B, Crescent Beach Subdivision, as recorded in Plat Book 4, Page 45, of the Public Records of Lee County, Florida.

WHEREAS, the applicant has indicated the property's current STRAP number is 19-46-24-07-0000B.0110; and

WHEREAS, proper authorization has been given to Neale E. Montgomery of Pavese, Garner, Haverfield, et al., The Fowler Company, and Gregory E. Fox of Century 21 - AAIM Realty Group, Inc., by Murray Carslake, the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of Zoning Adjustments; and

WHEREAS, in the hearing process the Lee County Board of Zoning Adjustments gave full and complete consideration to the recommendations of the staff, the documents on file with the county, and the testimony of all interested persons.

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: H. FERNSTROM, D.C.

OR2036

P64731

LEGISLATIVE HISTORY:

Staff recommended approval with conditions. The recommendation is based on the analysis contained in the summary report dated November 21, 1988. The request was found to be consistent with the Lee Plan as it does not conflict with the goals, objectives and policies of the Lee Plan. The Board concurred with staff's recommendations and granted approval with conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE LEE COUNTY BOARD OF ZONING ADJUSTMENTS that the Board of Zoning Adjustments does hereby APPROVE with conditions a variance in the C-1 district from the minimum required 10 parking spaces, to zero (0) parking spaces; and

This approval is conditioned to the following:

1. The commercial use shall be limited to the retail sales of beach oriented convenience items, including packaged food and beverage and beach recreational rentals; and
2. Public access shall be limited to the beach on Gulf side of the business.

The foregoing Resolution was adopted by the Lee County Board of Zoning Adjustments upon a motion by Board Member Jennie Daniel, and seconded by Board Member Douglas Morgan and, upon being put to a vote, the result was as follows:

Jennie Daniel	Aye
Marjorie Berry	Aye
Ellen Peterson	Aye
Douglas Morgan	Aye
Marie Keohane	Aye

DULY PASSED AND ADOPTED this 21st day of November, A.D., 1988.

APPROVED AS TO FORM

BY:

Paul W. Cloyd
Office of the
County Attorney

BOARD OF ZONING ADJUSTMENTS
OF LEE COUNTY, FLORIDA

BY:

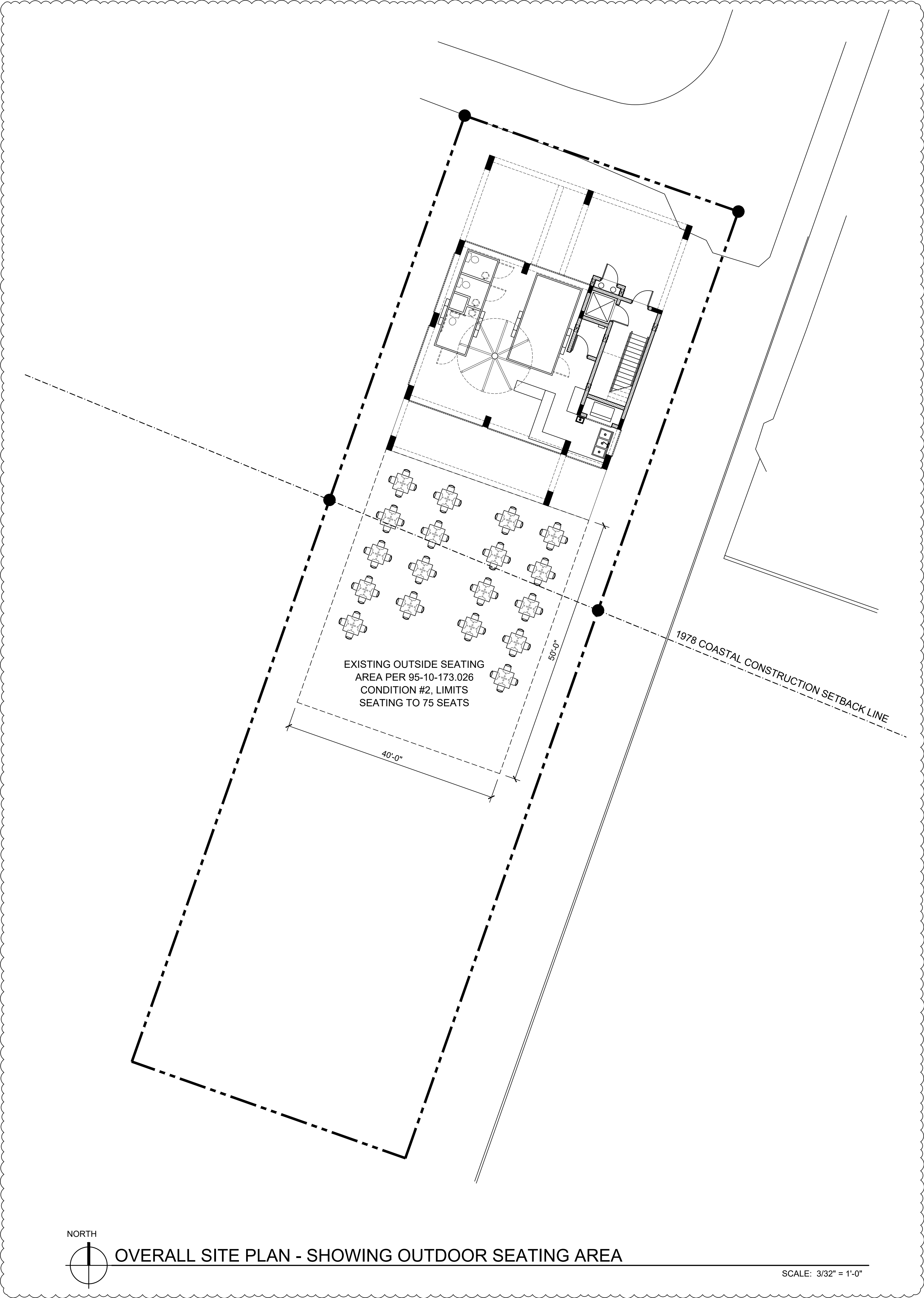
Marie Keohane
Chairman

OR2036

P64732

DEC 21 1988

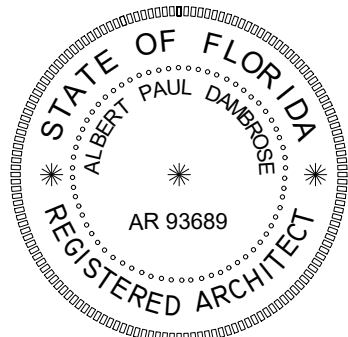
RECORDED & RETURNED



A NEW BUILDING FOR:
THE BEACH BAR HOUSE

1668 1 STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:



ALBERT DAMBROSE
AR93689

Digitally signed by
Albert Dambrose AR
93689 State of Florida
DN: C=US,
E=apd@studioad.net,
O=Studio A.D.,
CN=Albert Dambrose
AR 93689 State of
Florida
Date: 2024.04.15
10:18:09-0400

DATE ISSUED: 20 FEB 2024

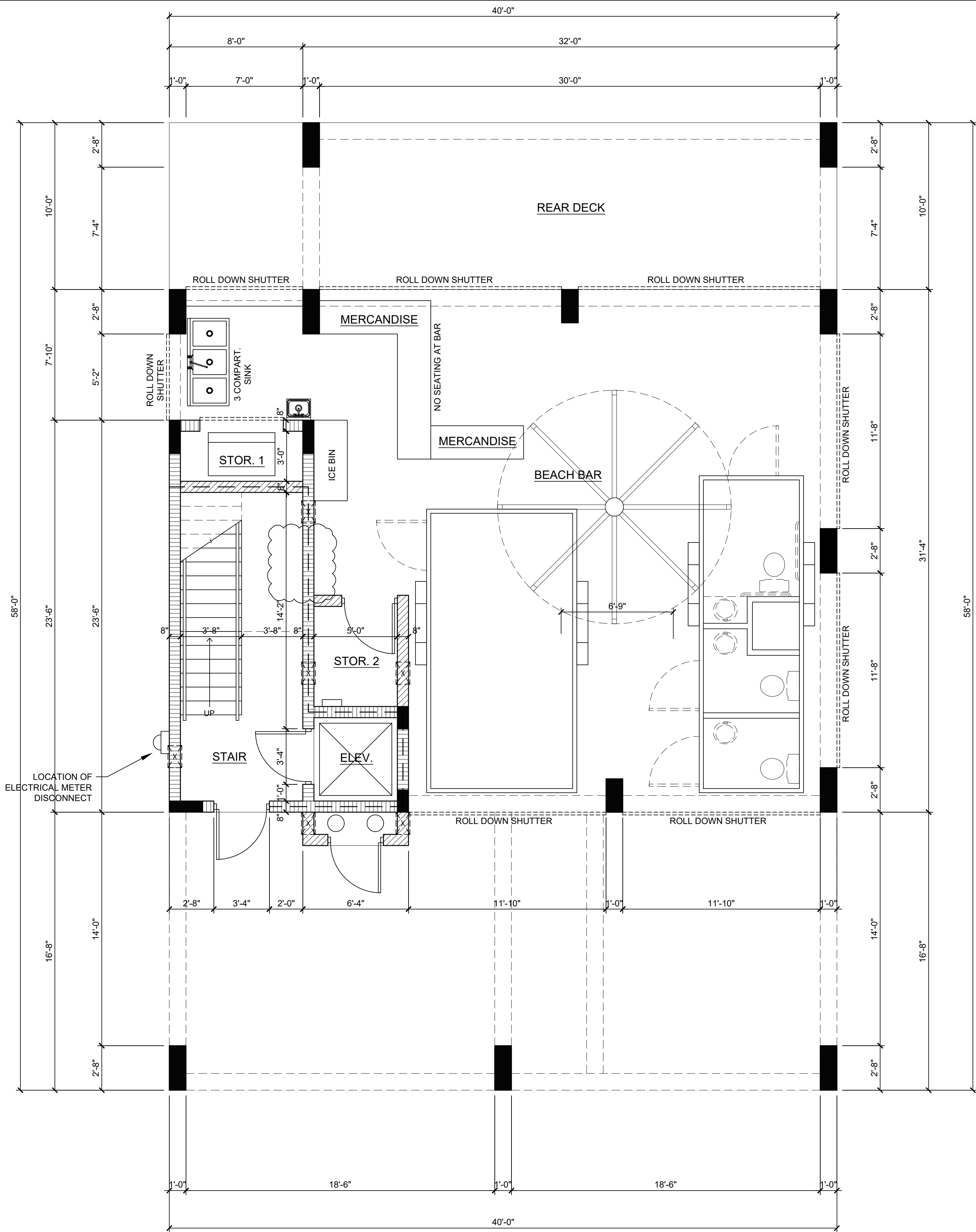
REVISIONS:

1 9 APRIL 2024

SHEET

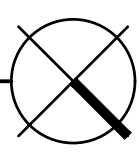
C

OF 1



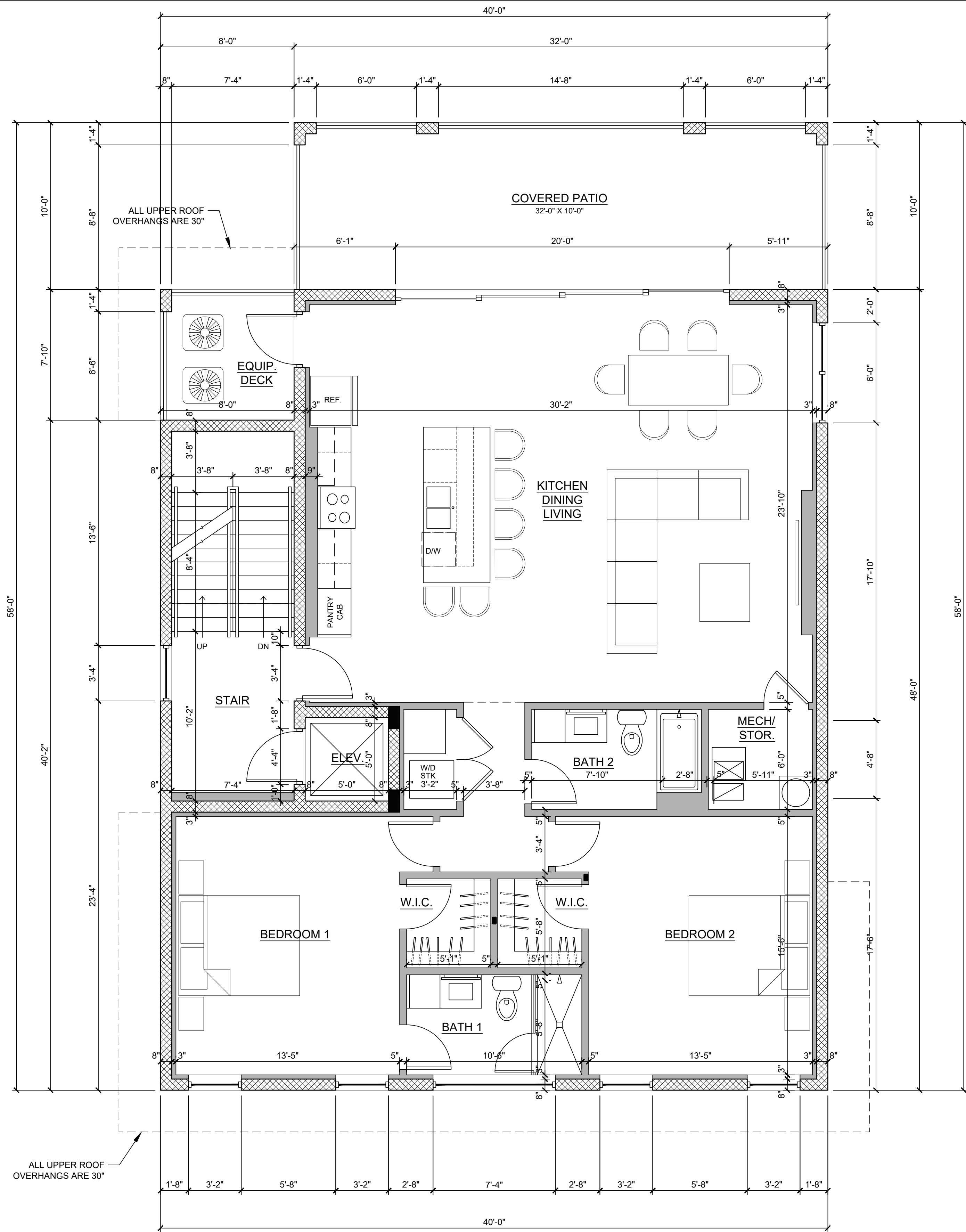
1ST FLOOR SCHEMATIC FLOOR PLAN

SCALE: 1/4" = 1'-0"



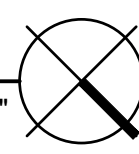
WALL SYMBOL LEGEND

- 8" BREAK-AWAY CMU WALL STRUCTURE - REFER TO WALL SECTIONS AND STRUCTURAL SHEETS.
- 8" REINFORCED CONCRETE SHEAR WALL STRUCTURE - REFER TO WALL SECTIONS AND STRUCTURAL SHEETS.
- 8" REINFORCED CMU WALL STRUCTURE - REFER TO WALL SECTIONS AND STRUCTURAL SHEETS.
- 8" REINFORCED CMU PERIMETER WALL W/ 3/4" THICK (R-5) EXTRUDED POLYSTYRENE RIGID INSULATION (RUN UP TO TOP OF CMU WALL) W/ 1/2" THICK, LIGHT TEXTURE FINISH, GYPSUM BOARD ON 1-5/8" METAL FURRING. REFER TO WALL SECTIONS.
- INTERIOR 3-5/8" OR 6" METAL STUD FRAME WALL W/ 1/2" THICK, LIGHT TEXTURE FINISH, GYPSUM BOARD. REFER TO WALL SECTIONS.
- INDICATES LOCATION OF TWO HOUR FIRE RATED CMU BLOCK WALL UP TO FIRST CONCRETE DECK - REFER TO TABLE 722.3.2 AT SHEET A5.
- INDICATES CAST-IN PLACE CONCRETE COLUMN - REFER TO STRUCTURAL PLANS.
- INDICATES STRUCTURAL STEEL COLUMN - REFER TO STRUCTURAL PLANS.



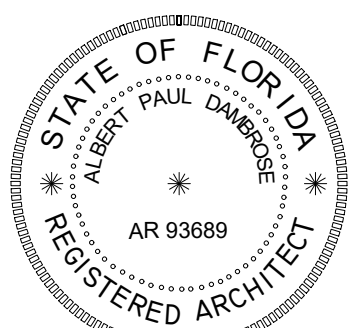
2ND FLOOR SCHEMATIC FLOOR PLAN

SCALE: 1/4" = 1'-0"



A NEW BUILDING FOR:
THE BEACH BAR HOUSE
1668 1 STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:



ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

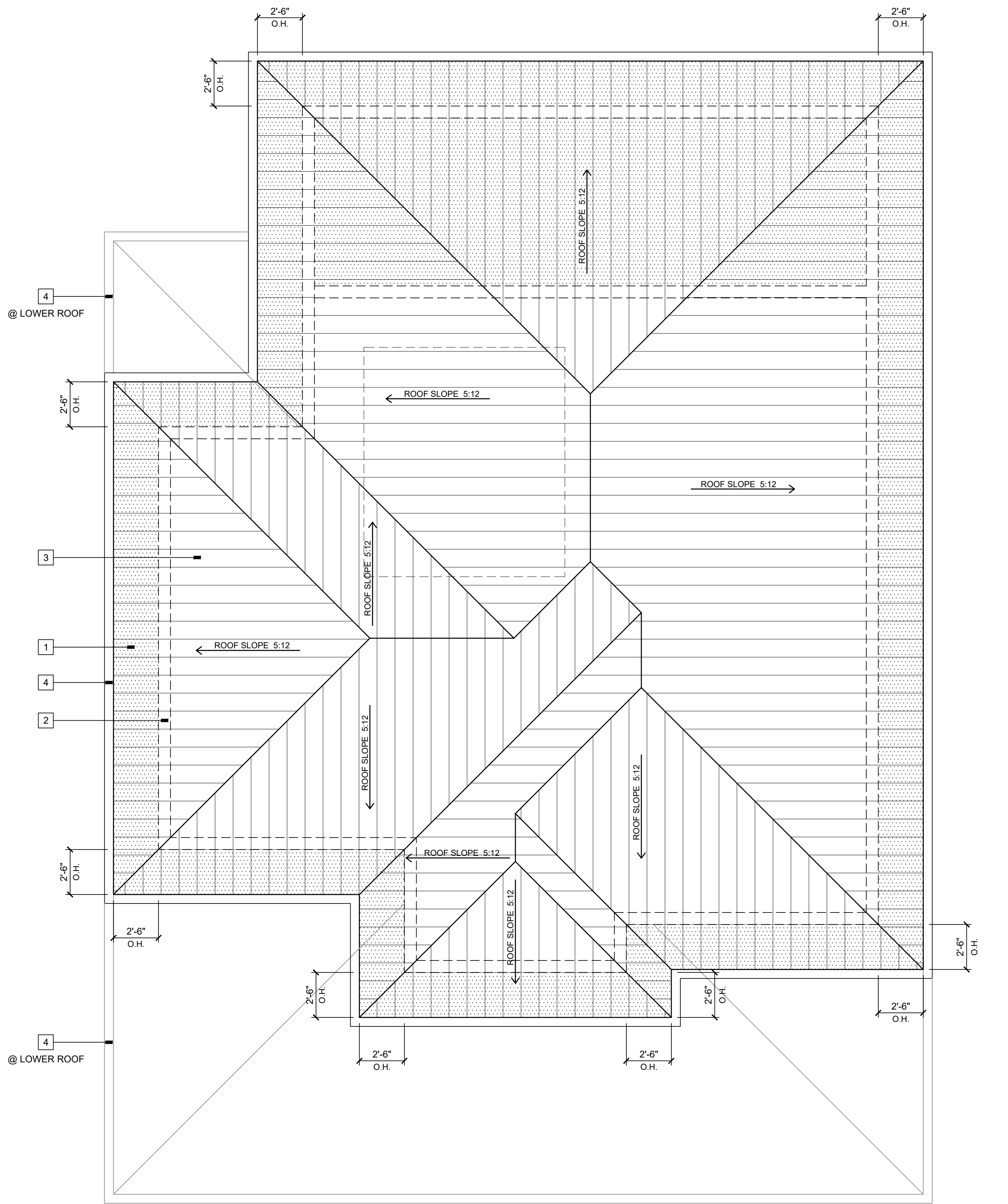
REVISIONS:

1 9 APRIL 2024

SHEET

A1

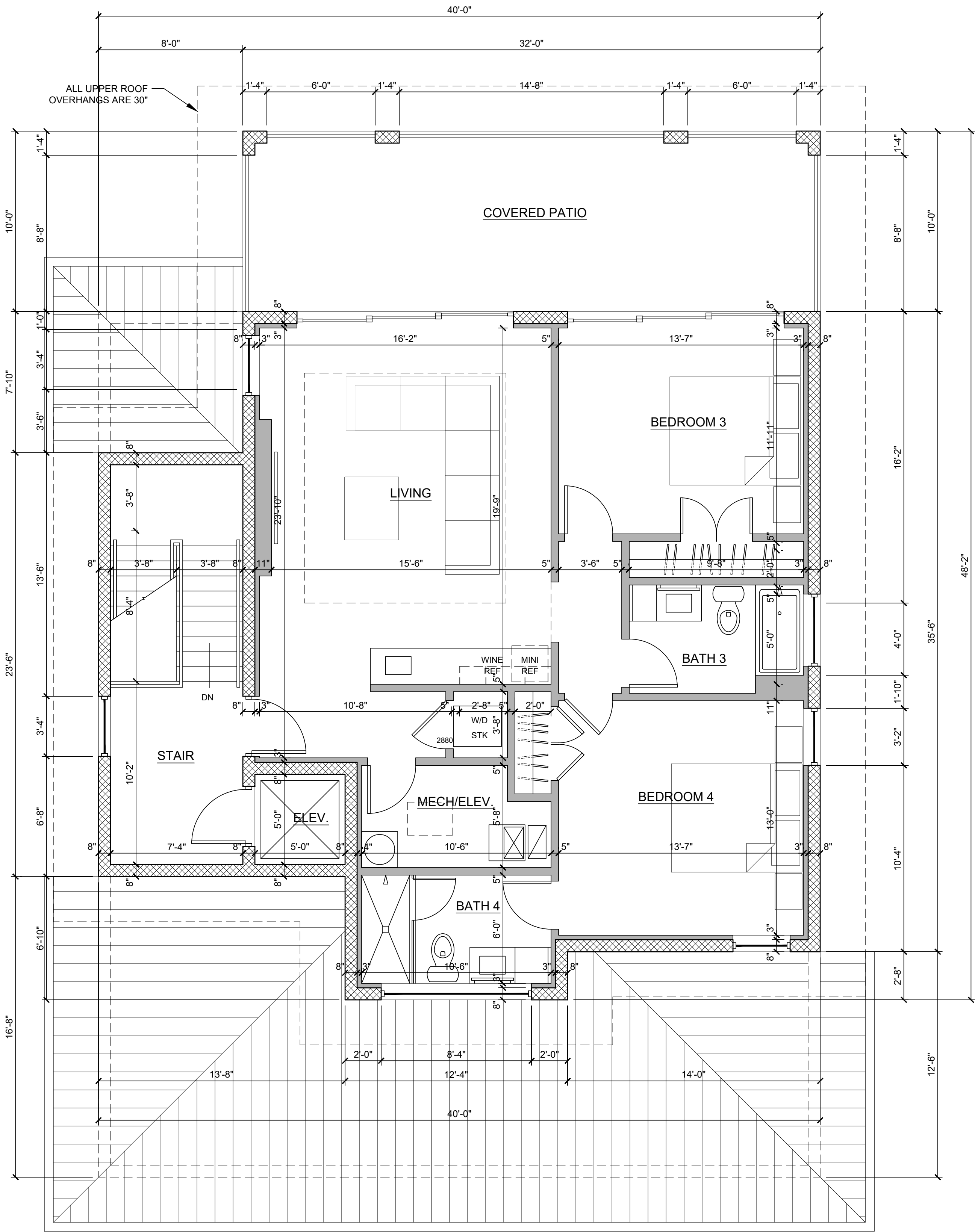
OF 6



SCHEMATIC UPPER ROOF PLAN

SCALE: 1/4" = 1'-0" NORTH

- KEYNOTES
- 1 INDICATES HARDIE BOYS ELEMENTS STAIN SERIES PVC, V-GROOVE SOFFIT PANELS
 - 2 INDICATES PERIMETER 8" CMU WALL OR CONCRETE BEAM BELOW.
 - 3 PROVIDE & INSTALL STANDING SEAM, ALUMINUM ROOFING PANELS W/ 16" WIDE PANELS.
 - 4 INDICATES PERIMETER ROLLED FORMED ALUMINUM GUTTER AT ALL ROOF EDGES AT ALL LEVELS. ALL TIED INTO STORMWATER SYSTEM DESIGN PER CIVIL ENGINEER.

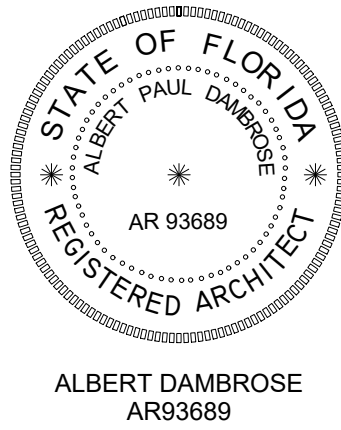


3RD FLOOR SCHEMATIC FLOOR PLAN

SCALE: 1/4" = 1'-0" NORTH

A NEW BUILDING FOR:
THE BEACH BAR HOUSE
1688 1 STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:



ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

REVISIONS:

SHEET

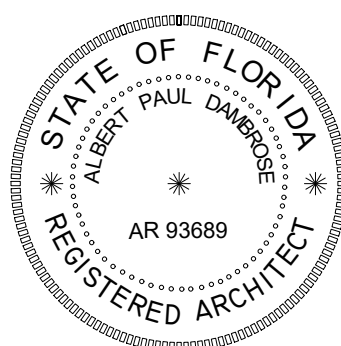
A2

OF

A NEW BUILDING FOR:
THE BEACH BAR HOUSE

1668 1 STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:



ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

REVISIONS:

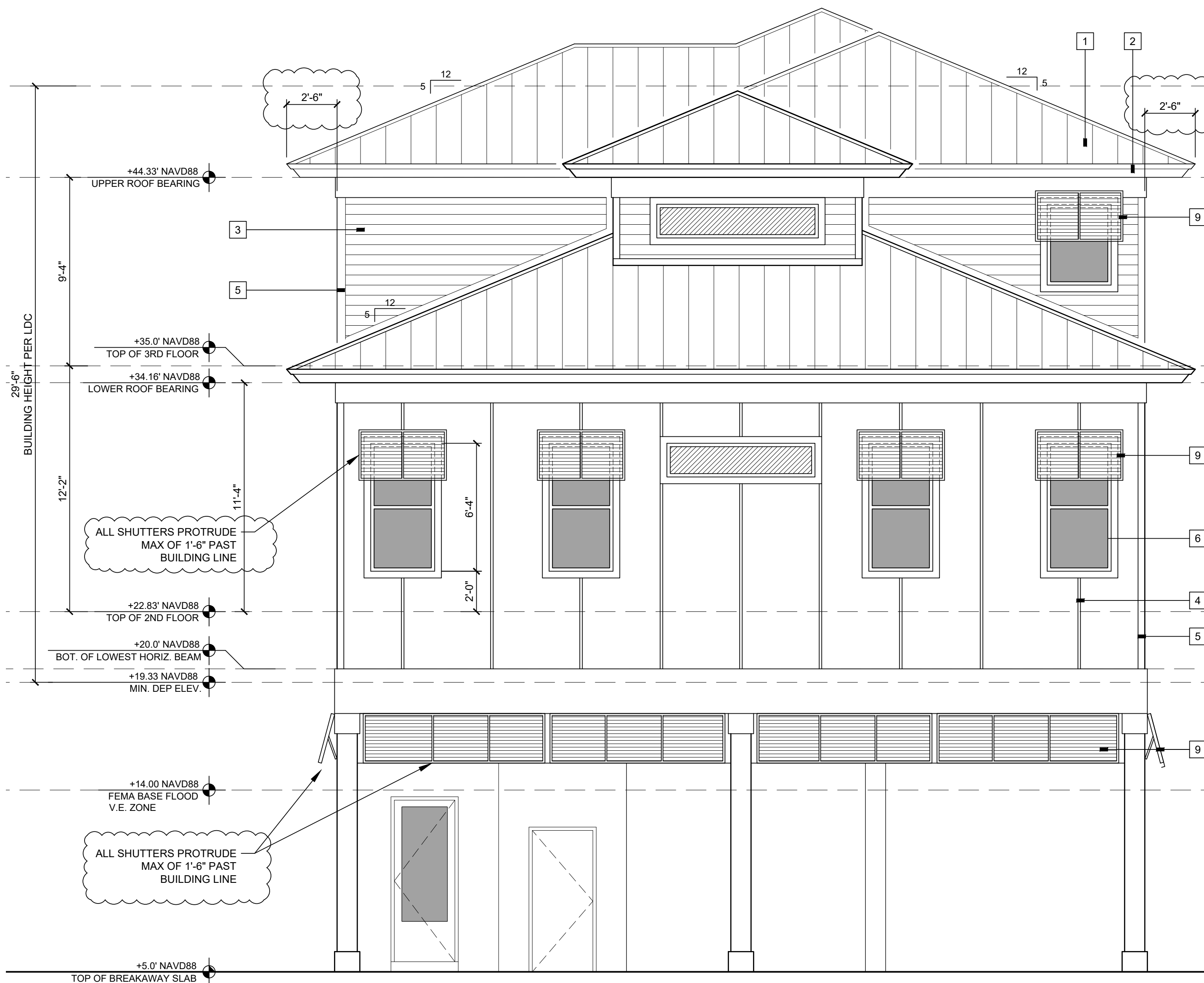
1 9 APRIL 2024

SHEET

A3

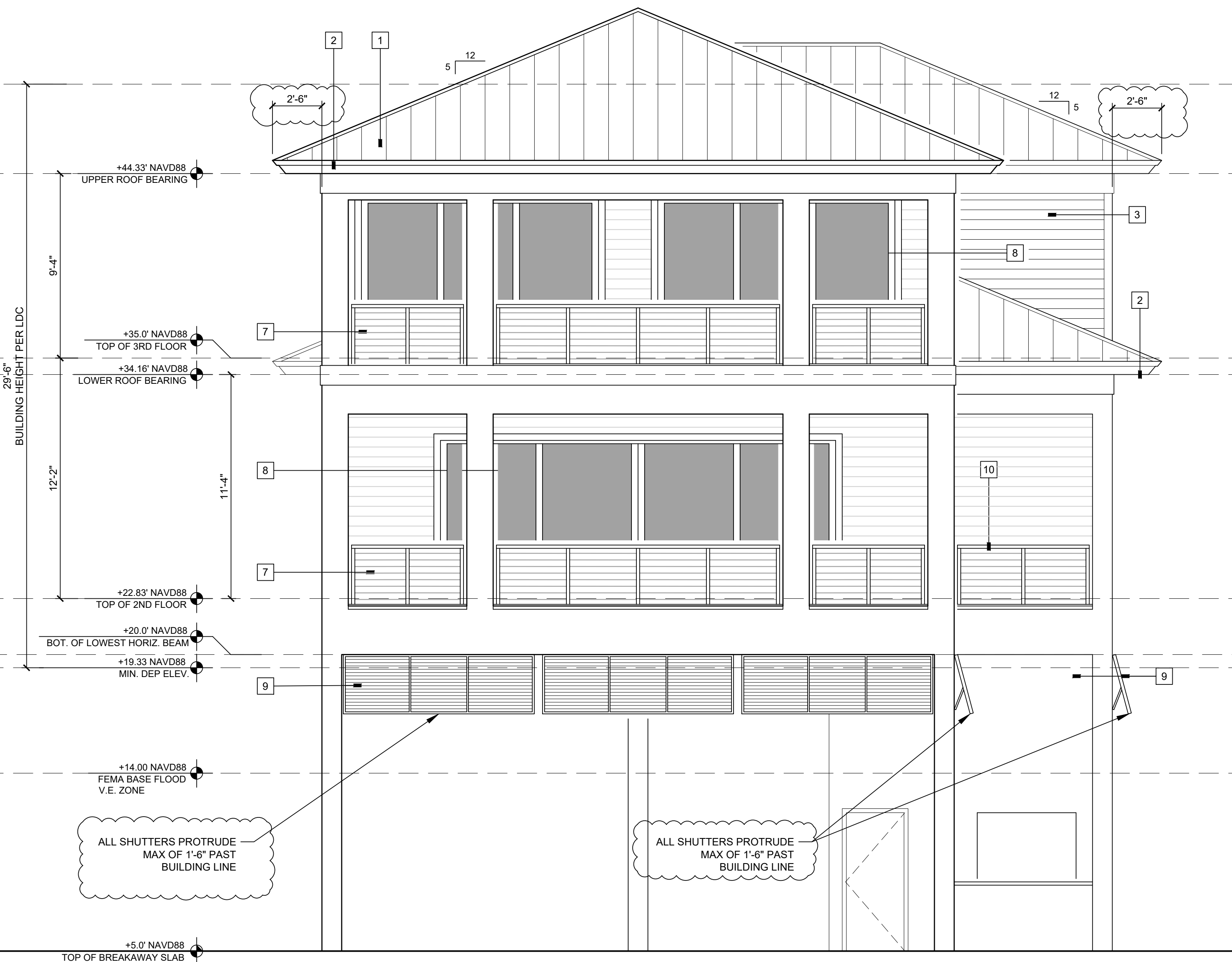
OF

6



FRONT (NORTH EAST) ELEVATION

SCALE: 1/4" = 1'-0"



REAR (SOUTH WEST) ELEVATION

SCALE: 1/4" = 1'-0"

FLORIDA SEA TURTLE NOTE

ALL NEW WINDOWS/DOORS WITH GLAZING SHALL BE TINTED WITH .45 VISIBLE LIGHT TRANSMITTANCE VALUE OR LESS TO COMPLY WITH THE FLORIDA SEA TURTLE PROTECTION CODE.

KEYNOTES

- 1 PROVIDE & INSTALL OWNER SELECT COLOR, ALUMINUM STANDING SEAM METAL ROOFING PANELS W/ 16" WIDE PANELS.
- 2 CONTINUOUS PRE-PAINTED GALVANIZED STEEL DRIP STRIP ON PAINTED 1 X 8 CEMENTITIOUS FASCIA ON 2X SUB-FASCIA.
- 3 SIMULATED SIDING. STUCCO VENEER ON TOP OF CMU BLOCK WALL.
- 4 SIMULATED BOARD AND BATTEN, STUCCO VENEER ON TOP OF CMU BLOCK WALL.
- 5 4" WIDE THICKENED STUCCO BAND TO SIMULATE CORNER TRIM BOARDS. PROVIDE SAME AROUND WINDOWS AND DOORS.
- 6 IMPACT RESISTANT ALUMINUM WINDOW SYSTEM
- 7 36" HIGH POWDER COATED ALUMINUM GUARDRAIL
- 8 IMPACT RESISTANT ALUMINUM SLIDING GLASS DOOR SYSTEM
- 9 POWDER COATED ALUMINUM BAHAMA SHUTTER
- 10 POWDER COATED ALUMINUM GUARDRAIL W/ LOUVERS TO CONVEAL A/C CONDENSER UNITS.

3/28/24, 5:19 PM

BXUV,J995 | UL Product iQ

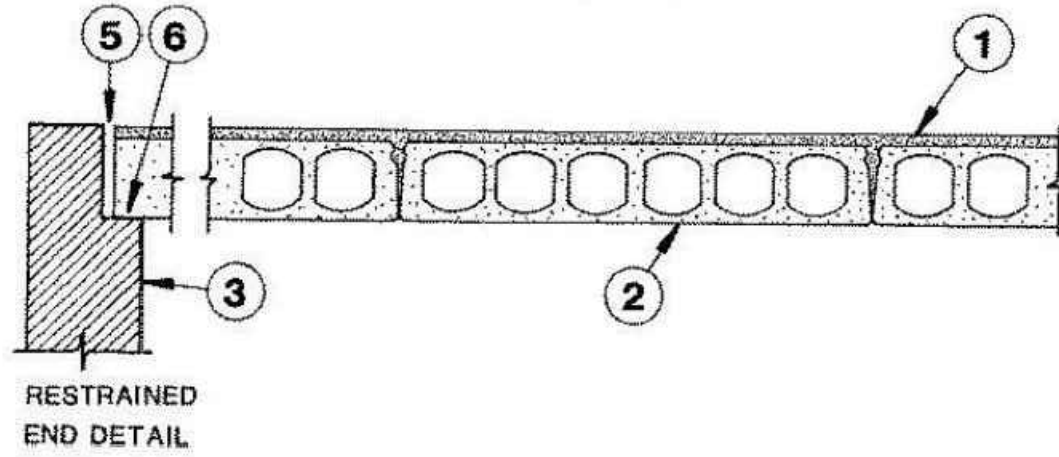
Design No. **J995**

June 8, 2023

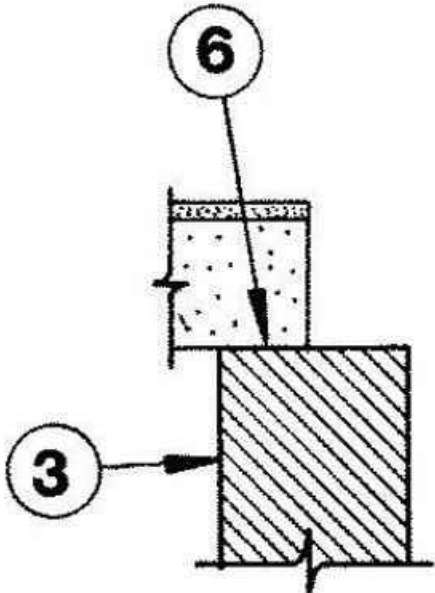
Restrained Assembly Ratings — 2, 3 and 4 Hr.
Unrestrained Assembly Rating — 2 Hr.

This design was evaluated using a load design method other than the Limit States Design Method (e.g., Working Stress Design Method). For jurisdictions employing the Limit States Design Method, such as Canada, a load restriction factor shall be used — See Guide [BXUV](#) or [BXUV7](#).

* Indicates such products shall bear the UL or cUL Certification Mark for jurisdictions employing the UL or cUL Certification (such as Canada), respectively.



RESTRAINED
END DETAIL



UNRESTRAINED END DETAIL

1. Concrete Topping — 3000 psi compressive strength, 110 to 153 pcf unit weight.

Assembly Rating Hr	Min Topping Thkns In.
2	0

<https://iq.ulprospector.com/en/profile?e=14228>

1/2

3/28/24, 5:19 PM

BXUV,J995 | UL Product iQ

3	1-1/2
4	2-5/8

2. Precast Concrete Units* — Nom 8, 10 or 12 in. deep by 4 ft wide units. Carbonate aggregate, cross-section similar to above illustration.

CORES LAB STRUCTURES INC

COUNTY MATERIALS CORP

GAGE BROS CONCRETE PRODUCTS INC

KERKSTRA PRECAST INC

LARRY E KNIGHT INC

OLDCASTLE PRECAST INC

SAY-CORE INC

3. End Detail — Restrained and Unrestrained.

4. Joint (not shown) — Grouted full length with sand-cement grout unless concrete topping is used.

Note: A 3/8 in. wide lateral expansion joint to be provided the full length and depth of the slabs for each 14 ft of width. Expansion obtained with noncombustible, compressible material, for example 6 sheets of 1/8 in. thick ceramic fiber paper.

5. End Clearance — Clearance for expansion at each end of slab shall be equal to (L/17) x (1/4 +/- 1/16) in. where "L" is equal to length of span in ft.

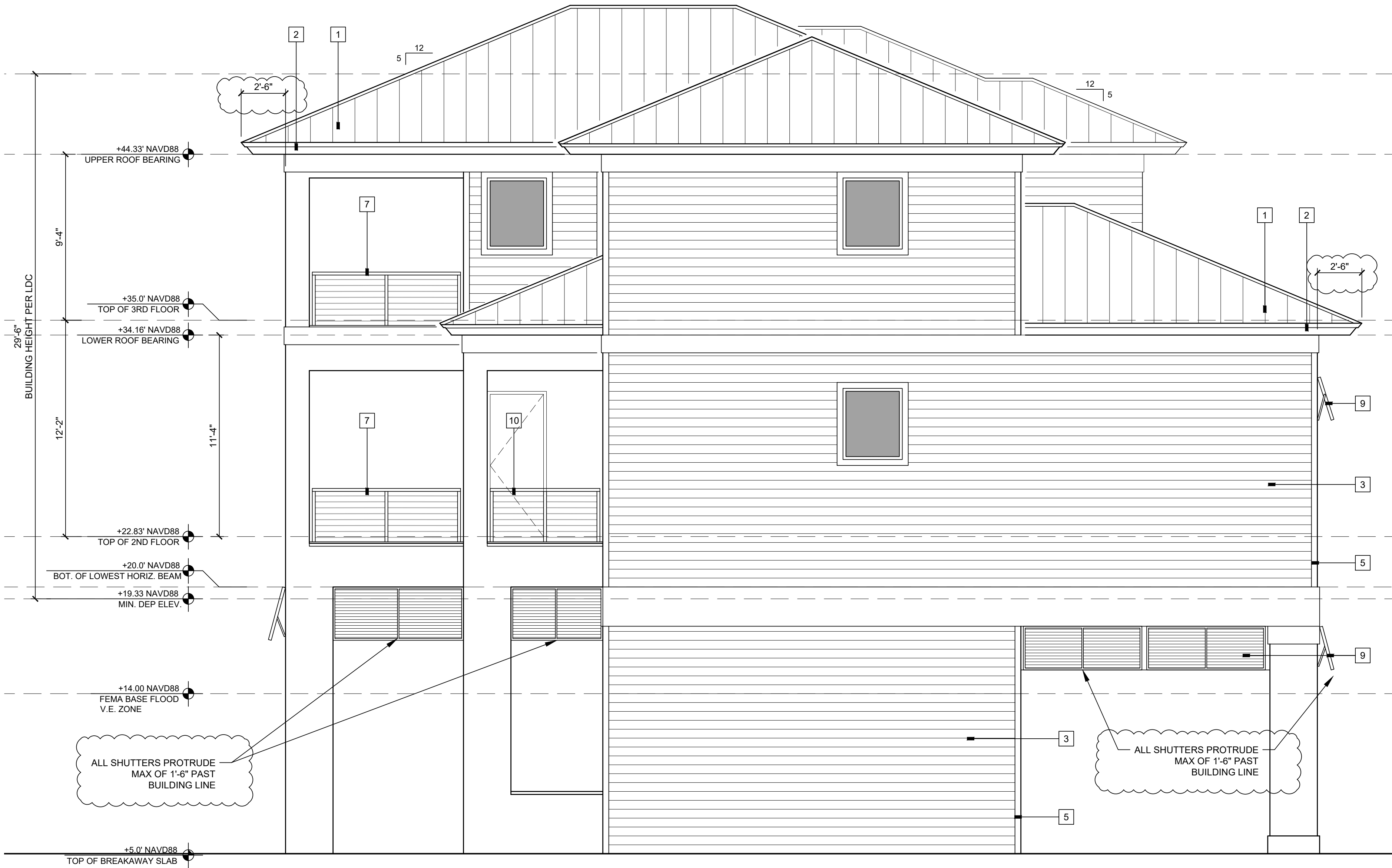
6. Min Bearing — 1-1/2 in. for assembly rating of 3 Hr. or less and 3 in. for assembly rating of 4 Hr.

* Indicates such products shall bear the UL or cUL Certification Mark for jurisdictions employing the UL or cUL Certification (such as Canada), respectively.

Last Updated on 2023-06-08

<https://iq.ulprospector.com/en/profile?e=14228>

2/2



LEFT (SOUTH EAST) ELEVATION

SCALE: 1/4" = 1'-0"

FLORIDA SEA TURTLE NOTE

ALL NEW WINDOWS/DOORS WITH GLAZING SHALL BE TINTED WITH .45 VISIBLE LIGHT TRANSMITTANCE VALUE OR LESS TO COMPLY WITH THE FLORIDA SEA TURTLE PROTECTION CODE.

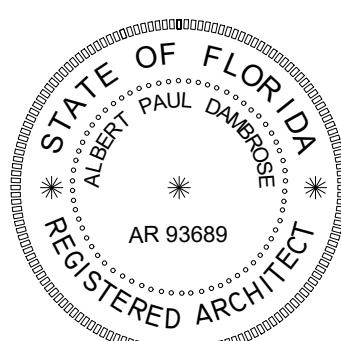
KEYNOTES

- 1 PROVIDE & INSTALL OWNER SELECT COLOR, ALUMINUM STANDING SEAM METAL ROOFING PANELS W/ 16" WIDE PANELS.
- 2 CONTINUOUS PRE-PAINTED GALVANIZED STEEL DRIP STRIP ON PAINTED 1 X 8 CEMENTITIOUS FASCIA ON 2X SUB-FASCIA.
- 3 SIMULATED SIDING. STUCCO VENEER ON TOP OF CMU BLOCK WALL.
- 4 SIMULATED BOARD AND BATTEN. STUCCO VENEER ON TOP OF CMU BLOCK WALL.
- 5 4" WIDE THICKENED STUCCO BAND TO SIMULATE CORNER TRIM BOARDS. PROVIDE SAME AROUND WINDOWS AND DOORS.
- 6 IMPACT RESISTANT ALUMINUM WINDOW SYSTEM
- 7 36" HIGH POWDER COATED ALUMINUM GUARDRAIL
- 8 IMPACT RESISTANT ALUMINUM SLIDING GLASS DOOR SYSTEM
- 9 POWDER COATED ALUMINUM BAHAMA SHUTTER
- 10 POWDER COATED ALUMINUM GUARDRAIL W/ LOUVERS TO CONVEAL A/C CONDENSER UNITS.

A NEW BUILDING FOR: THE BEACH BAR HOUSE

1668 1 STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:



ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

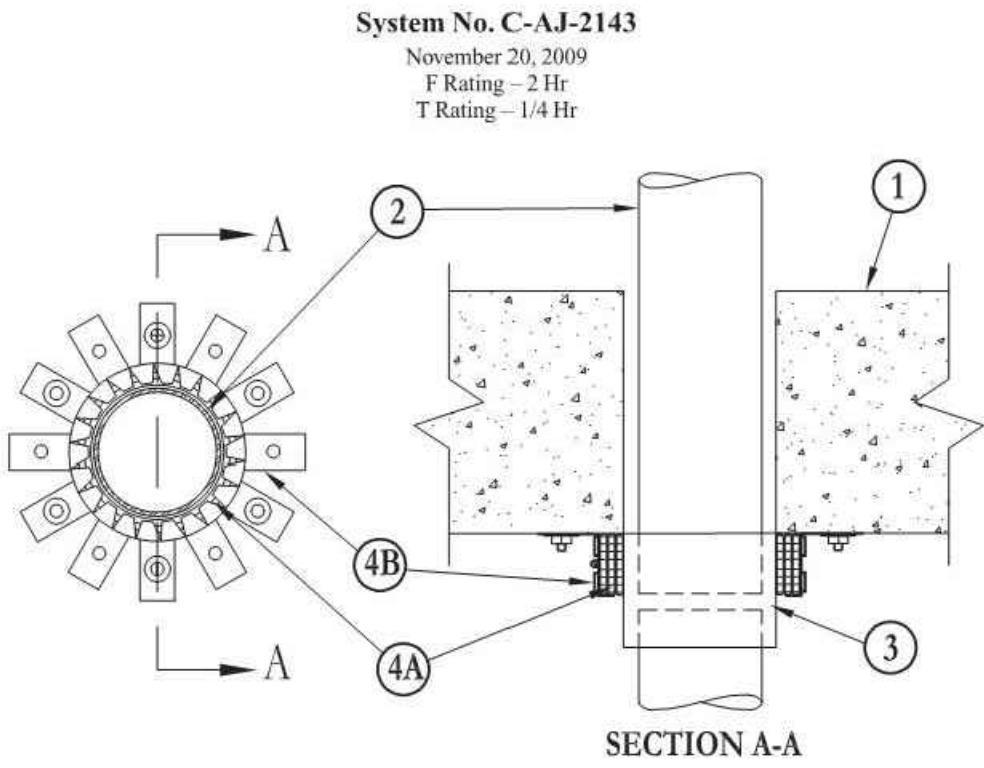
REVISIONS:

1 9 APRIL 2024

SHEET

A4

OF 6



- Floor or Wall Assembly** – Min 4-1/2 in. (114 mm) thick lightweight or normal weight (100-150 pcf or 1600 - 2400 kg/m³) concrete. Wall may also be constructed of any UL Classified **Concrete Blocks***. Diam of opening through floor or wall to be 1/2 to 5/8 in. (13 to 16 mm) larger than the outside diam of through-penetrant (Item 2). Max diam of opening is 5 in. (127 mm). See **Concrete Blocks (CAZT)** category in the Fire Resistance Directory for names of manufacturers.
- Through Penetrants** – One nonmetallic pipe or conduit centered in the through opening. Pipe or conduit to be rigidly supported on both sides of floor or wall assembly. The following types and sizes of nonmetallic pipes or conduits may be used.
 - Polyvinyl Chloride (PVC) Pipe** – Nom 4 in. (102 mm) diam (or smaller) Schedule 40 solid core PVC pipe for use in closed (process or supply) or vented (drain, waste or vent) piping system.
 - Rigid Nonmetallic Conduit** – Nom 4 in. (102 mm) diam (or smaller) Schedule 40 PVC conduit installed in accordance with Article 347 of the National Electrical Code (NEC, No. 70).
 - Chlorinated Polyvinyl Chloride (CPVC) Pipe** – Nom 4 in. (102 mm) diam (or smaller) SDR13.5 CPVC pipe for use in closed (process or supply) piping systems.
- Nonmetallic Pipe Coupling** – Nom 4 in. (102 mm) diam (or smaller) Schedule 40 PVC pipe coupling or nom 4 in. (102 mm) diam (or smaller) SDR13.5 CPVC pipe coupling installed such that the top of the coupling is flush with the bottom surface of the floor assembly or flush with either side of the wall assembly and extending outward.
- Firestop System** – The details of the firestop system shall be as follows:
 - Fill, Void or Cavity Materials* - Wrap Strip** – Nom 1/4 in. (6 mm) thick intumescent elastomeric material faced on one side with aluminum foil, supplied in 2 in. (51 mm) wide strips. Min four layers of wrap strips tightly wrapped around nonmetallic pipe coupling (foil side exposed) with the top edges butted against the underside of the floor. In wall assemblies, a min four layers of wrap strips tightly wrapped around nonmetallic pipe coupling (foil side exposed) and butted tightly against outer surface of wall. For the pipe or conduit on the side of the wall opposite the pipe coupling, the wrap strips shall be wrapped tightly around the pipe or conduit and butted tightly against outer surface of wall. For nom 1/2 in. (13 mm) to nom 1-1/2 in. (38 mm) diam pipes or conduits, a min of one layer of wrap strip is required. For nom 2, 2-1/2 and 3 in. (51, 64 and 76 mm) diam pipes or conduits, a min of two layers of wrap strip is required. For nom 3-1/2 and 4 in. (89 and 102 mm) diam pipes or conduits, a min of three layers of wrap strip is required. Each layer of wrap strip to be installed with butted seams, with butted seams in successive layers staggered. Wrap strip layers temporarily held in position using aluminum foil tape, steel wire tie or equivalent.
3M COMPANY – FS-195+
 - Steel Collar** – Nom 2 in. (51 mm) deep collar with 1-1/4 in. (32 mm) wide by 2 in. (51 mm) long anchor tabs and min 1/2 in. (13 mm) long tabs to retain wrap strip. Coils of precut min 0.016 in. (0.41 mm) thick (28 gauge) galv sheet steel available from wrap strip manufacturer. As an alternate, collar may be field-fabricated from min 0.016 in. (0.41 mm) thick (28 gauge) galv sheet steel in accordance with instruction sheet supplied by wrap strip manufacturer. Collar, with anchor tabs bent outward 90 degrees, wrapped tightly around wrap strip with min 1 in. (25 mm) overlap at seam and compressed around wrap strip(s) using a min 1/2 in. (13 mm) wide by min 0.028 in. (0.71 mm) thick stainless steel band at the collar midheight. Collar anchor tabs pressed tightly against floor or wall surface(s) and secured to floor or wall surface(s) with 1/4 in. (6 mm) diam by min 1-1/2 in. (38 mm) long steel expansion bolts or equivalent in conjunction with steel nuts and min 1-1/4 in. (32 mm) diam steel fender washers. Min of five anchor bolts used for collar installed around pipe coupling. For the collars installed around pipes or conduits in wall assemblies on the side opposite the pipe coupling, a min of two anchor bolts are required for nom 1/2 to 2 in. (13 to 51 mm) pipes or conduits, a min of three anchor bolts for nom 2-1/2 and 3 in. (64 and 76 mm) pipes or conduits and a min of four anchor bolts for nom 3-1/2 and 4 in. (89 and 102 mm) pipes or conduits, symmetrically located. Retainer tabs bent 90 degrees toward pipe to lock wrap strip(s) in position.

3M Fire Protection Products
www.3m.com/firestop

C-AJ-2143 • 1 of 2

Product Support Line
1-800-328-1687

System No. C-AJ-2143 *continued*

- Fill, Void or Cavity Materials* - Caulk, Sealant or Putty** (Optional, not required) – Bead of caulk or putty may be applied to outer perimeter of steel collar at its interface with floor or wall surface(s). In floor assemblies, a bead of caulk may be used within the annular space on the top side of the floor.
3M COMPANY – CP-WB+ caulk, FB-3000 WT sealant, MP+ Stix putty, IC 15WB+ caulk or FireDam 150+ caulk.
(Note: CP 25WB+ and FireDam 150+ not suitable for use with CPVC pipes.)

*Bearing the UL Classification Marking

Reprinted from the Online Certifications Directory with permission from Underwriters Laboratories Inc.
Copyright © 2011 Underwriters Laboratories Inc.®

Through Penetrations

Non-Metallic Pipes

2000 Series

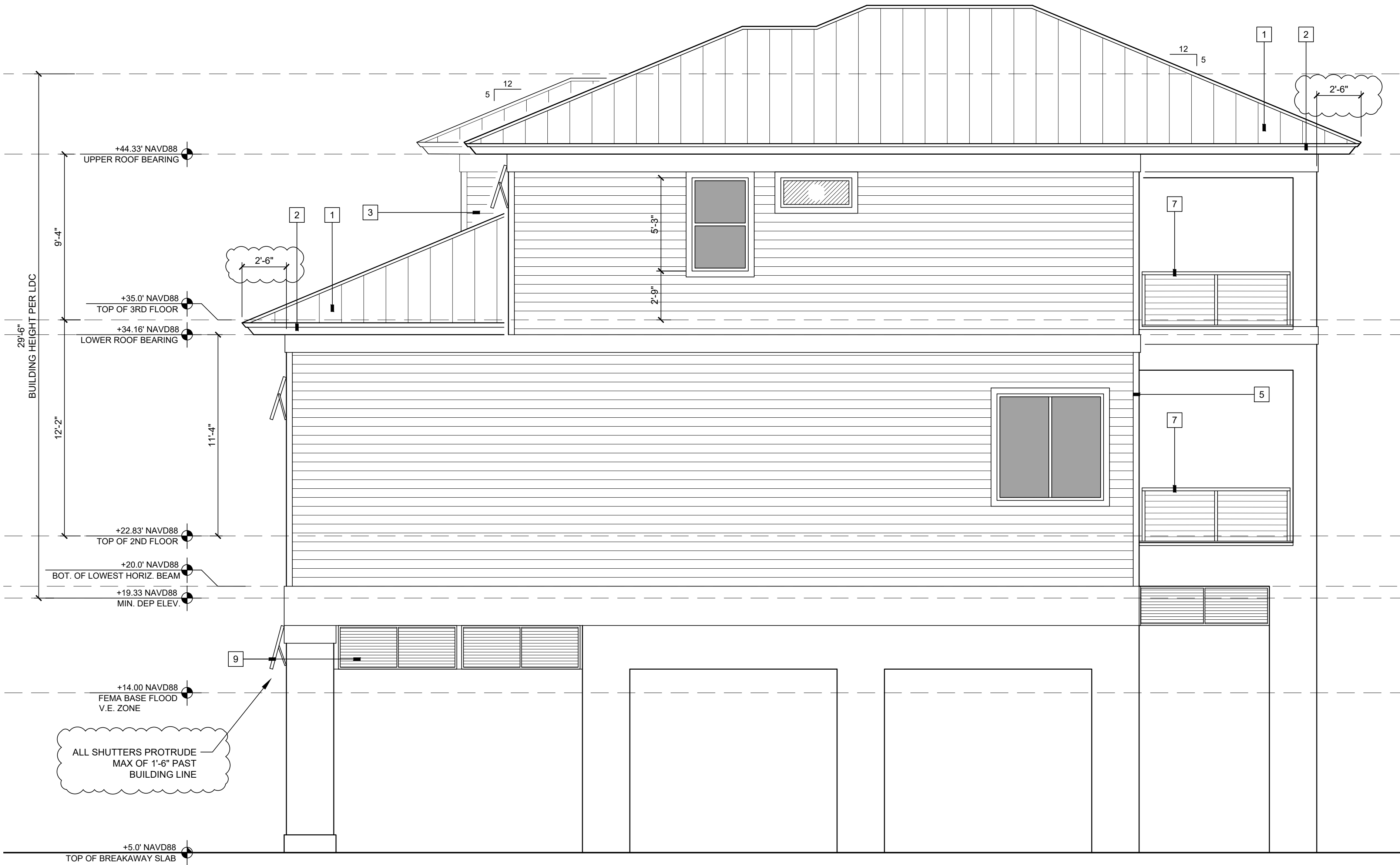
Concrete

CAJ

3M Fire Protection Products
www.3m.com/firestop

C-AJ-2143 • 2 of 2

Product Support Line
1-800-328-1687



RIGHT (NORTH WEST) ELEVATION

SCALE: 1/4" = 1'-0"

FLORIDA SEA TURTLE NOTE

ALL NEW WINDOWS/DOORS WITH GLAZING SHALL BE TINTED WITH .45 VISIBLE LIGHT TRANSMITTANCE VALUE OR LESS TO COMPLY WITH THE FLORIDA SEA TURTLE PROTECTION CODE.

KEYNOTES

- PROVIDE & INSTALL OWNER SELECT COLOR, ALUMINUM STANDING SEAM METAL ROOFING PANELS W/ 16" WIDE PANELS.
- CONTINUOUS PRE-PAINTED GALVANIZED STEEL DRIP STRIP ON PAINTED 1 X 8 CEMENTITIOUS FASCIA ON 2X SUB-FASCIA.
- SIMULATED SIDING. STUCCO VENEER ON TOP OF CMU BLOCK WALL.
- SIMULATED BOARD AND BATTEN, STUCCO VENEER ON TOP OF CMU BLOCK WALL.
- 4" WIDE THICKENED STUCCO BAND TO SIMULATE CORNER TRIM BOARDS. PROVIDE SAME AROUND WINDOWS AND DOORS.
- IMPACT RESISTANT ALUMINUM WINDOW SYSTEM
- 36" HIGH POWDER COATED ALUMINUM GUARDRAIL
- IMPACT RESISTANT ALUMINUM SLIDING GLASS DOOR SYSTEM
- POWDER COATED ALUMINUM BAHAMA SHUTTER
- POWDER COATED ALUMINUM GUARDRAIL W/ LOUVERS TO CONVEAL A/C CONDENSER UNITS.

TABLE 722.3.2
MINIMUM EQUIVALENT THICKNESS (inches) OF BEARING OR NONBEARING CONCRETE MASONRY WALLS^{1a,d}

TYPE OF AGGREGATE	FIRE-RESISTANCE RATING (hours)															
	1/2	3/4	1	1 1/4	1 1/2	1 3/4	2	2 1/4	2 1/2	3	3 1/4	3 1/2	3 3/4	4		
Pumice or expanded slag	1.5	1.9	2.1	2.5	2.7	3.0	3.2	3.4	3.6	3.8	4.0	4.2	4.4	4.5	4.7	
Expanded shale, clay or slate	1.8	2.2	2.6	2.9	3.3	3.4	3.6	3.8	4.0	4.2	4.4	4.6	4.8	4.9	5.1	
Limestone, cinders or unexpanded slag	1.9	2.3	2.7	3.1	3.4	3.7	4.0	4.3	4.5	4.8	5.0	5.2	5.5	5.7	5.9	
Calcareous or siliceous gravel	2.0	2.4	2.8	3.2	3.6	3.9	4.2	4.5	4.8	5.0	5.3	5.5	5.8	6.0	6.2	

For ST: 1 inch = 25.4 mm.

a. Values between those shown in the table can be determined by direct interpolation.

b. Where combustible members are framed into the wall, the thickness of solid material between the end of each member and the opposite face of the wall, or between members set in from opposite sides, shall not be less than 95 percent of the thickness shown in the table.

c. Requirements of ASTM C 55, ASTM C 73, ASTM C 90 or ASTM C 744 shall apply.

d. Minimum required equivalent thickness corresponding to the hourly fire-resistance rating for units with a combination of aggregate shall be determined by linear interpolation based on the percent by volume of each aggregate used in manufacture.

STUDIO
AD
ARCHITECT

6202 Presidential Ct Suite D
Fort Myers, FL 33919
T: 239.292.4098
F: 888.804.0339

apd@studiodad.net
www.studiodad.net

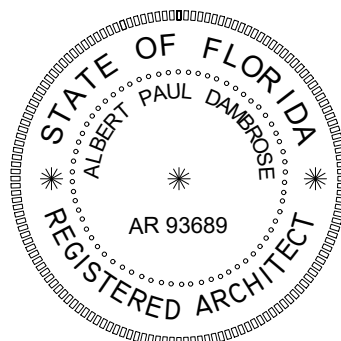
FL LIC # AA-26001437

Studio A.D. hereby reserves its common law copyright & other property rights in these plans, ideas & designs. These ideas, designs & plans 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 Studio A.D.

A NEW BUILDING FOR:
THE BEACH BAR HOUSE

1668 1 STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:



ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

REVISIONS:

1 9 APRIL 2024

SHEET

A5

OF

6

Through Penetrations

Metallic Pipes

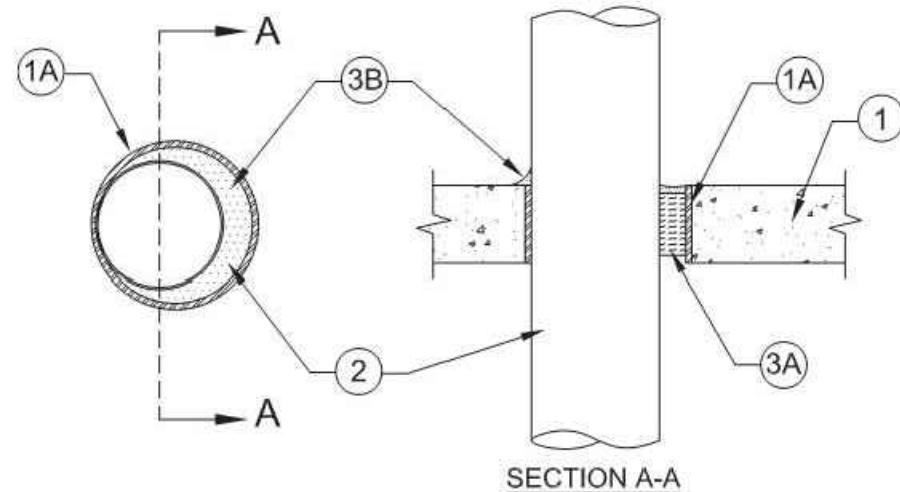
1000 Series

Concrete

CAJ

60

System No. C-AJ-1427
March 05, 2007
F Rating - 3 Hr
T Rating - 0 Hr
W Rating - Class I (See Item 3)



- Floor or Wall Assembly** - Min 2-1/2 in. (64 mm) thick reinforced lightweight or normal weight (100-150 pcf or 1600 - 2400 kg/m³) concrete floors or min 3 in. (76 mm) thick reinforced lightweight or normal weight concrete walls. Floor assembly may also be constructed of any min 6 in. (152 mm) thick UL Classified hollow-core **Precast Concrete Units***. Wall may also be constructed of any UL Classified **Concrete Blocks***. Max diam of opening 12-3/4 in. (324 mm). Max diam of opening in floors constructed of hollow-core concrete is 7 in. (78 mm). See **Concrete Blocks (CAZT)** and **Precast Concrete Units (CFTV)** categories in Fire Resistance Directory for names of manufacturers.
- Steel Sleeve** - (Optional) - Nom 12 in. (305 mm) diam (or smaller) Schedule 10 (or heavier) steel sleeve cast or grouted into floor or wall assembly. Steel sleeve may be installed flush or may project max 2 in. (51 mm) beyond the floor or wall surfaces. As an alternate, nom 12 in. (305 mm) diam (or smaller) sleeve fabricated from nom 0.019 in. (0.48 mm) thick galv steel cast or grouted into floor or wall assembly flush with floor or wall surfaces.
- Through Penetrant** - One metallic pipe, conduit, tubing or flexible metal piping installed concentrically or eccentrically within opening. Annular space between penetrant and periphery of opening or sleeve shall be min of 0 in. (0 mm) (point contact) to max 2 in. (51 mm). Penetrant to be rigidly supported on both sides of floor or wall assembly. The following types and sizes of penetrants may be used:
 - Steel Pipe** - Nom 10 in. (254 mm) diam (or smaller) Schedule 10 (or heavier) steel pipe.
 - Iron Pipe** - Nom 10 in. (254 mm) diam (or smaller) cast or ductile iron pipe.
 - Conduit** - Nom 6 in. (152 mm) diam (or smaller) steel conduit or nom 4 in. (102 mm) diam (or smaller) steel electrical metallic tubing.
 - Copper Tubing** - Nom 4 in. (102 mm) diam (or smaller) Type L (or heavier) copper tubing.
 - Copper Pipe** - Nom 4 in. (102 mm) diam (or smaller) Regular (or heavier) copper pipe.
 - Through Penetrating Product*** - **Flexible Metal Piping** - The following types of steel flexible metal gas piping may be used:
 - Nom 2 in. (51 mm) diam (or smaller) steel flexible metal gas piping. Plastic covering on piping may or may not be removed on both sides of floor or wall assembly.
OMEGA FLEX INC
 - Nom 1 in. (25 mm) diam (or smaller) steel flexible metal gas piping. Plastic covering on piping may or may not be removed on both sides of floor or wall assembly.
GASTITE, DIV OF TITFLEX
 - Nom 1 in. (25 mm) diam (or smaller) steel flexible metal gas piping. Plastic covering on piping may or may not be removed on both sides of floor or wall assembly.
WARD MFG INC
- Firestop System** - The details of the firestop system shall be as follows:
 - Packing Material** - Min 2 in. (51 mm) thickness of min 4 pcf (64 kg/m³) mineral wool batt insulation firmly packed into opening as a permanent form. Packing material to be recessed from top surface of floor or top edge of sleeve or from both surfaces of wall or both ends of sleeve as required to accommodate the required thickness of fill material. In floors constructed of hollow-core concrete, packing material to be recessed from top and bottom surfaces of floor or sleeve as required to accommodate the required thickness of fill material.
 - Fill, Void or Cavity Materials*** - **Caulk or Sealant** - Min 1/2 in. (13 mm) thickness of caulk applied within the annulus, flush with top surface of floor or top edge of sleeve or with both surfaces of wall or both ends of sleeves. In floors constructed of hollow-core concrete, min 1/2 in. (13 mm) thickness of caulk applied within the annulus, flush with top and bottom surfaces of floor or sleeve. Min 1/4 in. (6 mm) diam bead of caulk applied to the penetrant/concrete or penetrant/sleeve interface at the point contact location on the top surface of floor or both surfaces of wall or hollow-core.
3M COMPANY - IC 15WB+, CP 25WB+ caulk or FB-3000 WT sealant
(Note: W Rating applies only when FB-3000 WT is used.)

*Bearing the UL Classification Mark.

This material was extracted and drawn by 3M Fire Protection Products from the 2007 edition of the UL Fire Resistance Directory. © UL

3M Fire Protection Products
www.3m.com/firestop

C-AJ-1427 • 1 of 1

Product Support Line 1-800-328-1687
Choose option 4 for FAX ON DEMAND



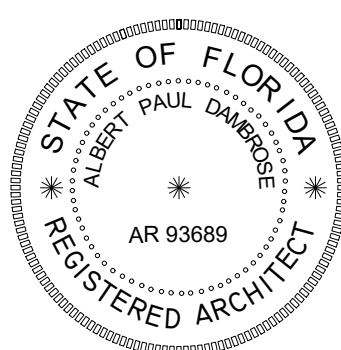
STUDIO
AD
ARCHITECT

6202 Presidential Ct Suite D
Fort Myers, FL 33919
T: 239.292.4098
F: 888.804.0339
apd@studioad.net
www.studioad.net
FL LIC # AA-26001437

Studio A.D. hereby reserves its common law copyright & other property rights in these plans, ideas & designs. These ideas, designs & plans 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 Studio A.D.

A NEW BUILDING FOR:
THE BEACH BAR HOUSE
1668 1 STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:



ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

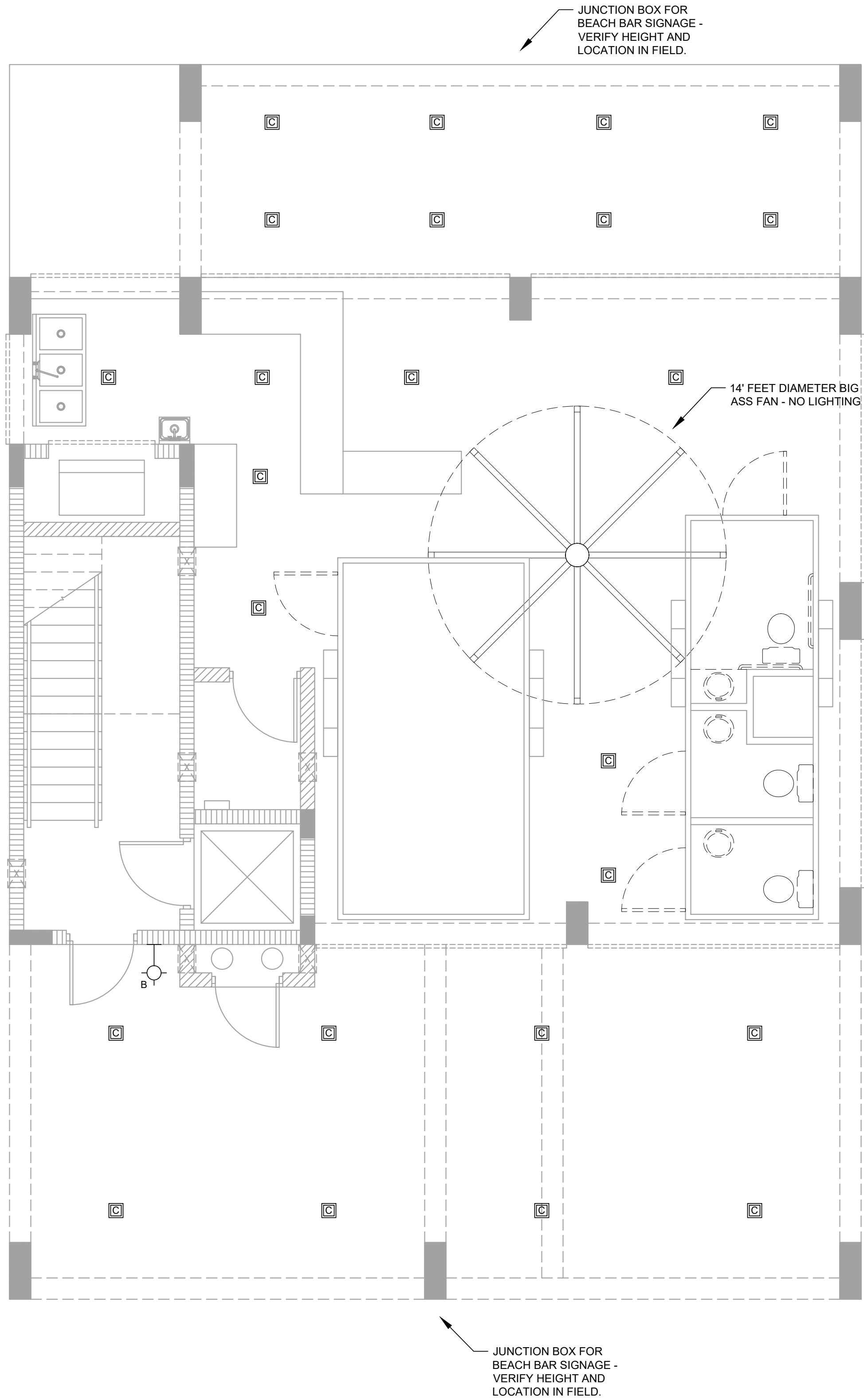
REVISIONS:

1 9 APRIL 2024

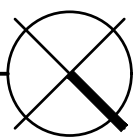
SHEET

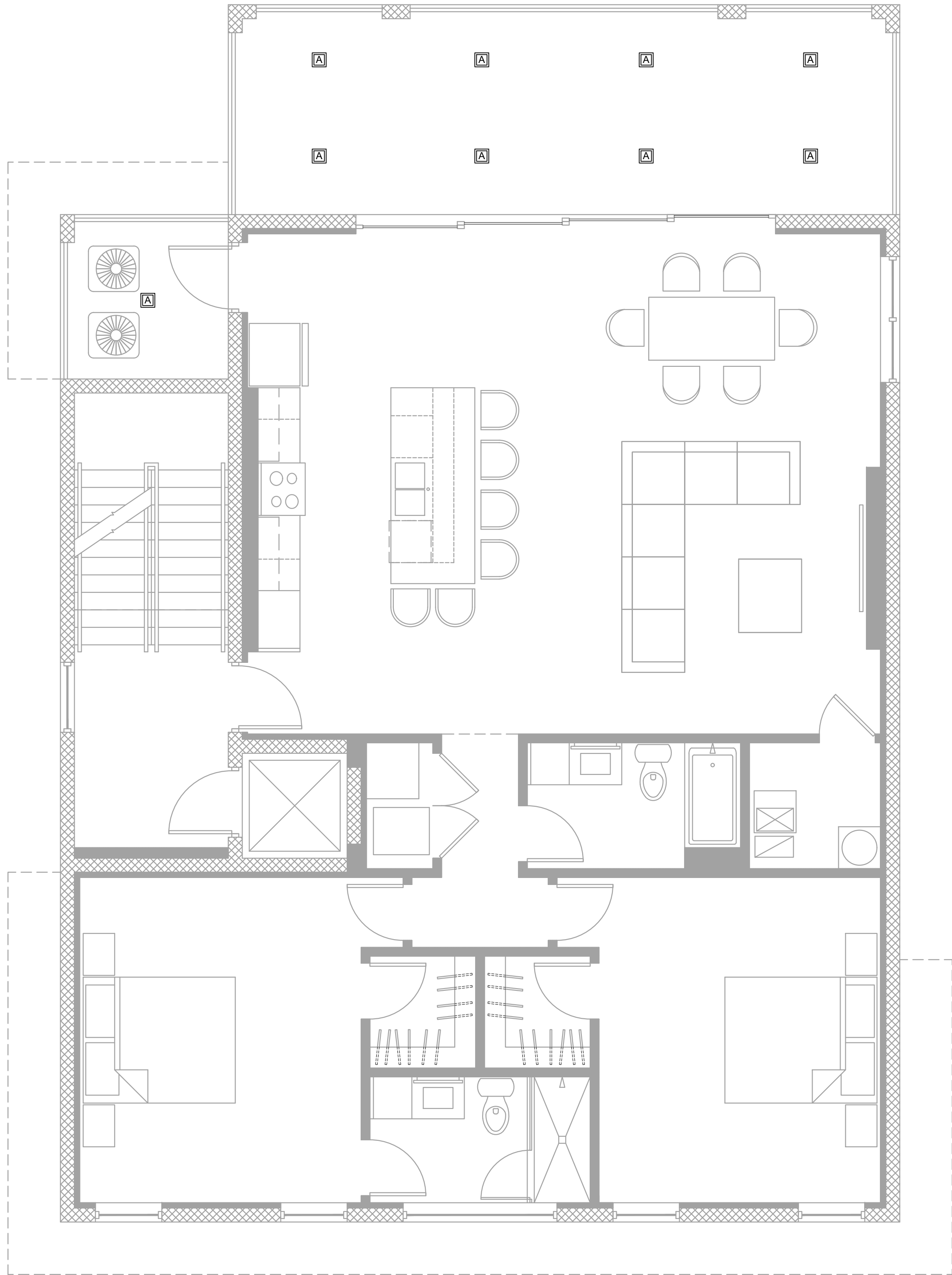
A6

OF 6

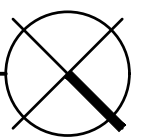


1ST FLOOR ELECTRICAL EXTERIOR LIGHTING PLAN

SCALE: 1/4" = 1'-0"  NORTH



2ND FLOOR ELECTRICAL EXTERIOR LIGHTING PLAN

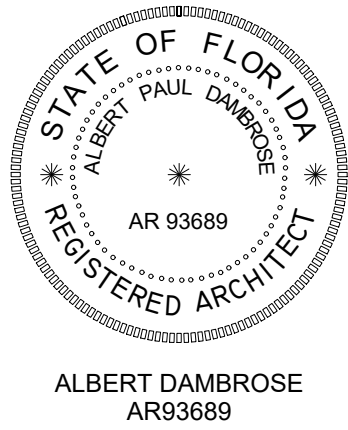
SCALE: 1/4" = 1'-0"  NORTH

- ELECTRICAL SYMBOL LEGEND**
-  4" SQUARE RECESSED LED CEILING LIGHT BY BEVELED LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.
 -  6" DIA. WALL SCONCE LED LIGHT BY LUMINIS LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.
 -  8" ROUND SURFACE MOUNTED CYLINDER LED CEILING LIGHT BY LUMINIS LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.

**A NEW BUILDING FOR:
THE BEACH BAR HOUSE**

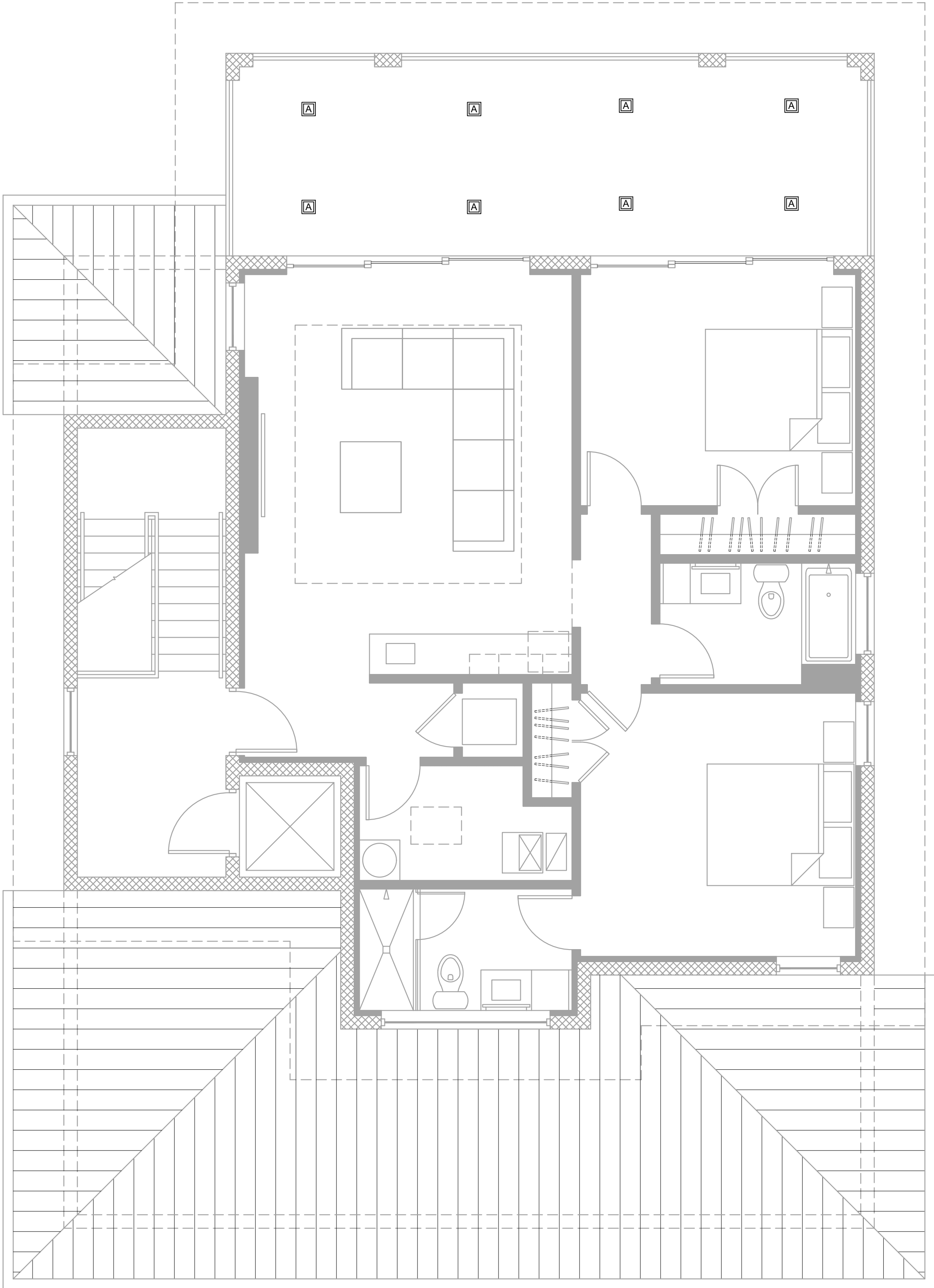
1668 1 STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:

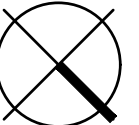


DATE ISSUED: 20 FEB 2024
REVISIONS:

1	9 APRIL 2024



3RD FLOOR ELECTRICAL EXTERIOR LIGHTING PLAN

SCALE: 1/4" = 1'-0"  NORTH

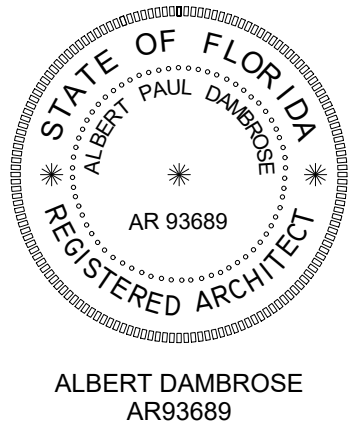
ELECTRICAL SYMBOL LEGEND

-  4" SQUARE RECESSED LED CEILING LIGHT BY BEVELED LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.
-  6" DIA. WALL SCONCE LED LIGHT BY LUMINIS LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.
-  8" ROUND SURFACE MOUNTED CYLINDER LED CEILING LIGHT BY LUMINIS LIGHTING (AMBER LED DOWNLIGHT) - REFER TO SPECIFICATIONS AT SHEET E3.

A NEW BUILDING FOR:
THE BEACH BAR HOUSE

1668 1 STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:



ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

REVISIONS:

 9 APRIL 2024

SHEET

E2

OF 3

BeveLED[®] COLORS - AMBER



PROJECT INFORMATION

PROJECT: Beach Bar
DATE: December 2023
TYPE: Fixture 'A'

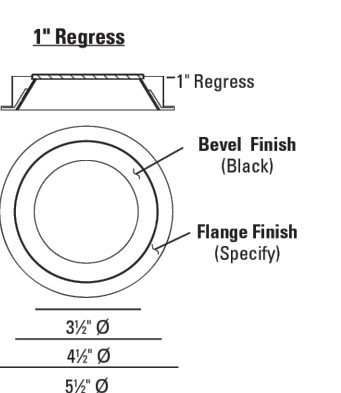
DOWNLIGHT 302A



BeveLED Colors - Amber Recessed Downlight - USAI Lighting's sea turtle-safe lighting series is designed to promote and preserve existing nesting and hatching patterns of endangered sea turtles on the North American coastline. The light output is specifically selected to have minimal impact on the sea turtle's vision in a dark environment, ensuring that the ocean will always be the brightest sight in their field of view. Specify these products to meet Florida Fish and Wildlife Conservation sea turtle lighting requirements and give baby sea turtles their best chance of survival.

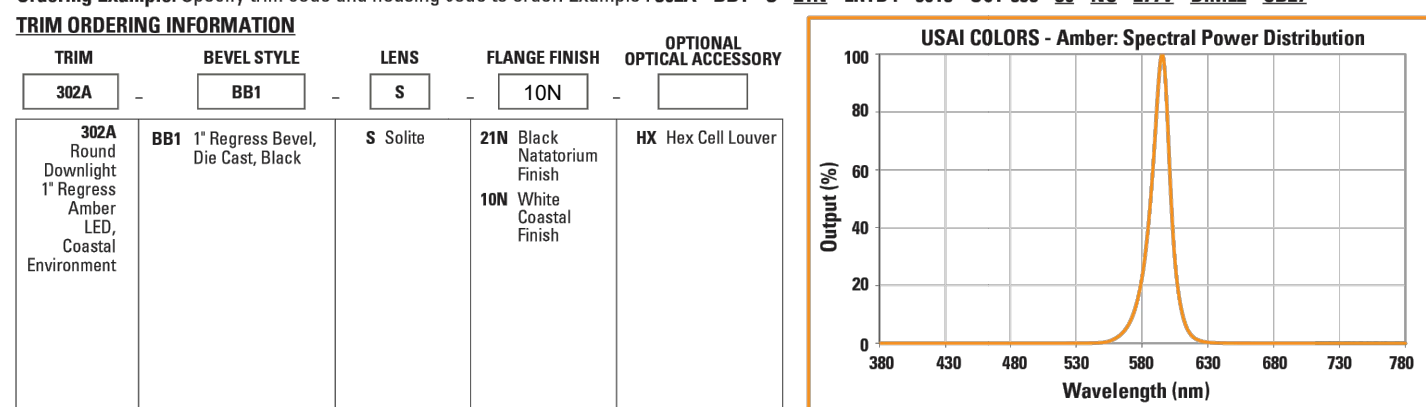
DELIVERED PERFORMANCE

BeveLED COLORS AMBER DOWNLIGHT	15 Watts
Lumens per Watt	32
Source Lumens	800
Delivered Lumens	475



HOW TO SPECIFY

Ordering Example: Specify trim code and housing code to order: Example: 302A - BB1 - S - 21N - LRTD4 - 9015 - UC1-595 - 30 - NC - 277V - DIML2 - CB27



HOUSING CODE	WATTAGE	ENGINE CODE	REFLECTOR	HOUSING TYPE	VOLTAGE	DIMMING DRIVER	ACCESSORIES
LRTD4	9015	UC1-595	50	NC	120V	DIML2	CB27
LRTD4	9015	15W LED	UC1-595 Monochromatic 900nm Amber Light Engine	NC New Construction FT Flat Housing New Construction	120V 277V	DIML2 0-10V dim, 10% (provided standard) DIML6A 0-10V/10K/1%, logarithmic/Lutron controls DIML8 0-10V/10K/1%, logarithmic/Lutron controls DIML6 0-10V/10K/1%, logarithmic/Lutron controls DIML7 0-10V/10K/1%, linear controls DIML8 0-10V/10K/1%, linear controls DIML9 Phase 2-wire dimming, 1% 100V only	CB27 27° C Channel Bars CB28 52° C Channel Bars

USAI[®]
Lighting

www.usailighting.com
info@usailighting.com

1126 River Road
New Windsor, NY 12553

T 846-586-8500
F 846-561-1130

©2014, USAI, LLC.
All rights reserved.
All designs protected by copyright.
Revised 10/12/2022

LUMINIS[®]

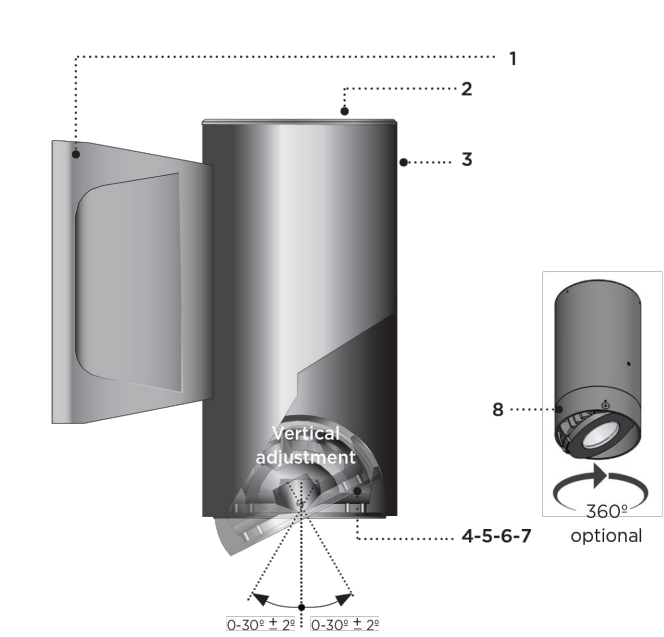
Beach Bar

December 2023
Fixture 'B'

SY600 SERIES SYRIOS

8" WALL UP OR DOWN LIGHT

TYPE:	QUANTITY:	PROJECT:
CATALOG NUMBER:	SY600	L1L3K2A
FIXTURE SUFFIX:	R30	120V
REFLECTOR VOLTAGE:	GRT-MG	OPTION
OPTION	OPTION	OPTION



- Cast aluminum driver housing. Includes galvanized steel wall mount pressure plate.
- Cast aluminum ventilated top cover.
- Seamless extruded aluminum cylindrical housing.
- Fully sealed cast aluminum light assembly.
- Sealed cast aluminum lens frame.
- Clear tempered glass lens.
- Faceted specular aluminum reflector.
- Optional 360° adjustable rotation.

All stainless steel hardware.

Syrios light module is designed with a tilting mechanism allowing forward and back light adjustability. The 430° directional module allows to aim the light beam in the desired direction, without disturbing the luminaire mounting. The module can be secured using the built in locking mechanism. Fully adjustable 360° rotation also available, see option A360.

Other adjustment factory set positions are available. Please consult factory.

MATERIALS

Syrios is made of corrosion resistant 356 aluminum alloy with a copper (CU) content of less than 0.1%. The main housing is made of seamless extruded aluminum, with an integrally sealed LED light module designed for optimal heat dissipation, and lighting performance. Syrios is standard with a unique proprietary design allowing the sealed LED module to tilt within the cylindrical housing. The top cast aluminum cover includes ventilation slots allowing air circulation and cooling of assembly. Syrios SY600 series is standard with 30° optic. See options section for alternate selection.

ELECTRICAL DRIVER

Standard driver is 0-10V dimming-ready (dims to 10%) with: 120-277 multi-volt compatibility (50-60Hz), operating temperature range of -40°C/-40°F to 55°C/131°F, output over voltage protection, output over current protection and output short circuit protection with auto-recovery. Standard 4000K/80CRI. Optional 2700K, 3000K & 3500K. Optional Amber LED for turtle sensitive areas. Wavelengths: 584.5nm to 597nm.

LIFE

60,000hrs L₇₀B₅₀ (based on IESNA TM-21 Test Method and LM-80 data). Up to 70,000hrs L₇₀B₅₀ (calculated projection from LM-80 data).

FINISH

Five-stage preparation process including preheating of cast aluminum parts for air extraction, and an environmentally friendly alloy sealant. Polyester powder coating is applied through an electrostatic process and oven cured for long term finish.

LUMINIS | Toll free: 866.586.4647 Fax: 514.683.8872 Email: info@luminis.com
260 Labrosse, Pointe-Claire (QC) Canada H9R 5L5

Luminaires may be altered for design improvement or discontinued without prior notice.

LUMINIS.COM

1

LUMINIS[®]

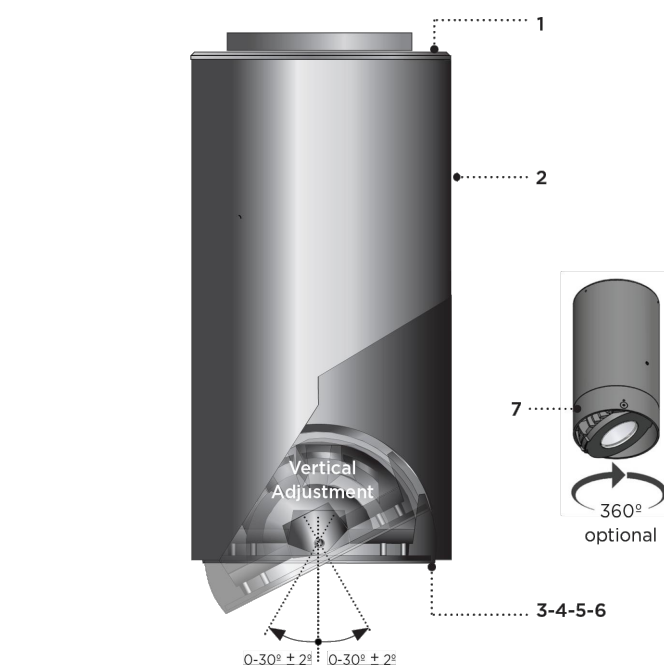
Beach Bar

December 2023
Fixture 'C'

SY810 SERIES SYRIOS

8" SURFACE CEILING DOWN LIGHT

TYPE:	QUANTITY:	PROJECT:
CATALOG NUMBER:	SY810	L1L3K2A
FIXTURE SUFFIX:	R30	120V
REFLECTOR VOLTAGE:	GRT-MG	OPTION
OPTION	OPTION	OPTION



- Cast aluminum ventilated top cover with ceiling mounting plate.
- Seamless extruded aluminum cylindrical housing.
- Fully sealed cast aluminum down light assembly.
- Sealed cast aluminum lens frame.
- Clear tempered glass lens.
- Faceted specular aluminum reflector.
- Optional 360° adjustable rotation.

All stainless steel hardware.

Syrios light module is designed with a tilting mechanism allowing forward and back light adjustability. The 430° directional module allows to aim the light beam in the desired direction, without disturbing the luminaire mounting. The module can be secured using the built in locking mechanism. Fully adjustable 360° rotation also available, see option A360.

MATERIALS

Syrios is made of corrosion resistant 356 aluminum alloy with a copper (CU) content of less than 0.1%. The main housing is made of seamless extruded aluminum, with an integrally sealed LED light module designed for optimal heat dissipation, and lighting performance. Syrios is standard with a unique proprietary design allowing the sealed LED module to tilt within the cylindrical housing. The top cast aluminum cover includes ventilation slots allowing air circulation and cooling of assembly. Syrios SY810 series is standard with 28° optic. See options section for alternate selection.

ELECTRICAL DRIVER

Standard driver is 0-10V dimming-ready (dims to 10%) with: 120-277 multi-volt compatibility (50-60Hz), operating temperature range of -40°C/-40°F to 55°C/131°F, output over voltage protection, output over current protection and output short circuit protection with auto-recovery. Standard 4000K/80CRI. Optional 2700K, 3000K & 3500K. Optional Amber LED for turtle sensitive areas. Wavelengths: 584.5nm to 597nm.

LIFE

60,000hrs L₇₀B₅₀ (based on IESNA TM-21 Test Method and LM-80 data). Up to 70,000hrs L₇₀B₅₀ (calculated projection from LM-80 data).

FINISH

Five-stage preparation process including preheating of cast aluminum parts for air extraction, and an environmentally friendly alloy sealant. Polyester powder coating is applied through an electrostatic process and oven cured for long term finish.

LUMINIS | Toll free: 866.586.4647 Fax: 514.683.8872 Email: info@luminis.com
260 Labrosse, Pointe-Claire (QC) Canada H9R 5L5

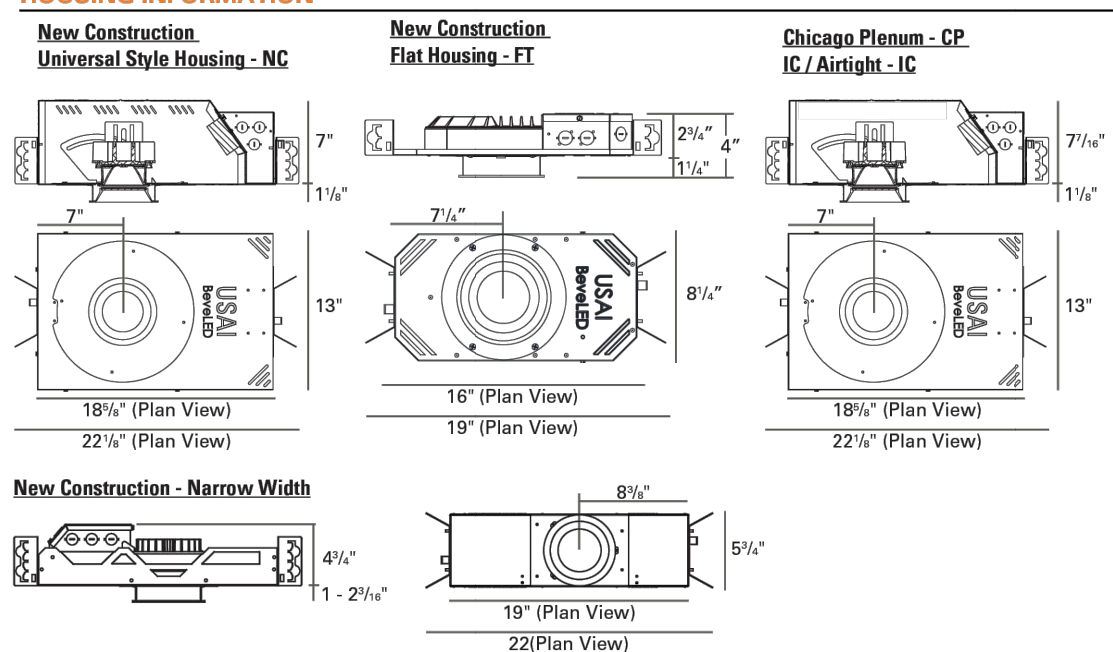
Luminaires may be altered for design improvement or discontinued without prior notice.

LUMINIS.COM

1

BeveLED[®] COLORS - AMBER

HOUSING INFORMATION



NEW CONSTRUCTION - NARROW WIDTH



SPECIFICATIONS

TRIM: 4-1/2" round aperture with a 1" regressed bevel and 1/2" flange, retained by two mounting clips. Die cast aluminum bevel is painted black for brightness control. Flange is available in either black or white contrast painted finish. Trim is gasketed and triple-coated with a corrosion-resistant natorium finish for coastal environments.

TRIM LENS: Trim is shipped with integral solite lens standard. **REFLECTOR:** Interchangeable precision injection molded specular polycarbonate reflector optimized for 30°, 50° or 80° beam distribution.

FIELD REPLACEABLE LIGHT ENGINE: Available in a 15W light engine. Engine is field replaceable through the aperture without tools.

COLOR: BeveLED Colors Amber is available in the optimal spectral power distribution for preservation of endangered sea turtle populations, with a light output that is outside the range of sea turtles' visual sensitivity. LEDs are tightly binned for future-to-future color consistency.

RATED LIFE: Based on IESNA LM80-2008 50,000 hours at 70% lumen maintenance (L70). **THERMAL MANAGEMENT:** Proprietary high performance aluminum die cast heatsink for maximum LED life. Ambient temperatures at fixture location should not exceed 40°C during normal operation. **FIELD REPLACEABLE DRIVER:** 0-10V, 100% - 10% dim, solid state electronic constant current driver with a high power factor provided standard. DIML2 dimming driver sources 2mA. Specify 120V or 277V. Driver complies with IEEE C62.41 surge protection.

DIMMING OPTIONS: Multiple dimming drivers available. See compatibility chart attached. Some on time delay may be experienced depending on control system used. Note: DIML6A and DIML6B logarithmic control are intended for use with Lutron control systems; DIML6B and 6F linear control are intended for use with non Lutron controls. DIML6 dimming drivers source 2mA.

HOUSING: Fabricated of 20 ga. galvanized steel with thru wire J-box, 4 in 4 out at min. 80°C, #12 AWG thru branch circuit wiring.

MAXIMUM CEILING THICKNESS: As per drawings above.

CEILING CUT OUT: 5-1/16"

LISTINGS: Dry/Damp/Wet location listed. NRTL/CSA-US tested to UL standards. Florida Fish and Wildlife Certified - Certification #2017-302. IBCW union made. All USAI Lighting products are Buy American Act (BAA) compliant.



WARRANTY: 5 years

NOTES:
• Use of pressure washer voids warranty.

USAI[®]
Lighting

www.usailighting.com
info@usailighting.com

1126 River Road
New Windsor, NY 12553

T 846-586-8500
F 846-561-1130

©2014, USAI, LLC.
All rights reserved.
All designs protected by copyright.
Revised 10/12/2022

LUMINAIRE SELECTION

MODEL#	LED LIGHT SELECTION	REFLECTORS*	VOLTAGE	FINISH
SY600	SUFFIX ☐ L1L15 1599 15W ☐ L1L25 2543 26W ☐ L1L40 4102 46W AMBER LED ☒ L1L3K2A 263 11W AMBER	☐ R15 Narrow optics 15° ☐ R27 Flood optics 30° (standard) ☐ R55 Wide flood optics 52° *Depending on direction fixture is installed and U (the uplight) or D (the downlight) to suite for all reflectors listed above. (i.e. R55U is 52° uplight)	☐ 120V ☐ 277V Optional ☐ 347V	STANDARD COLORS* ☐ WH1 Snow white ☐ BKT Jet black ☐ BZT Bronze ☐ LSL Matte silver ☒ GRT Titanium gray ☐ DGT Gun metal ☐ CHT Champagne ☐ SGT Steel gray ☐ BGT English cream OPTIONAL COLORS ☐ CS Custom color ☐ RAL RAL# color ENVIRONMENT ☐ MG Marine grade* ☐ NT Natorium™ *Refer to color chart
	VERY NARROW DISTRIBUTION ☐ L1L20NR 1690 31W OPTION ☐ R9 Very narrow optics 9° Field angle 18° (46,151 candela)			

OPTIONS

ELECTRICAL
☐ FS Fuse
☐ PH Photocell¹
☐ MS PIR motion sensor (Device is located at bottom of luminaire wall box)⁴
REML2-50 7W remote emergency battery backup for LED, 90 min. Remote mount 50ft - 12" (305mm) square enclosure with access cover¹

FAUX WOOD COLORS*
☐ ADG American douglas
☐ BRC Birch
☐ CHN Chestnut
☐ CRY Cherry
☐ KNP Knotty pine
☐ MPL Maple
☐ OFL Oak
☐ RSW Rosewood
☐ TEK Teak
☐ WLN Walnut
ACCESSORIES
☐ HL Hexcell louver
☐ SL Solite lens (light loss factor [LLF]: 0.9)
☐ LSL Linear spread lens (Asymmetric lens distribution is achieved when light module is tilted)
MOUNTING
☐ SWK Adaptor box for surface 3/4" conduit feed (4 sides plus back entry)
☐ UP Option required for upright installation
☐ UH Uniform height matching SY602*

For IDA certification compliance, luminaire must be ordered with 3000K or warmer.

NOTES
 1- Photocell (PH) not available with REML2-50 option.
 2- The remote enclosure must be interior.
 3- Cylindrical housing extended by 1" (25.4mm) for increased cut-off.
 4- PIR motion sensor (MS) not available with REML2-50 option.
 5- 347V not compatible with Amber LED L1L3K2A.
 6- K27 and K35 options not available with the R9 optics.
 7- Faux wood finish not applied to driver housing, lens frame or accessories.
 8- For UH and A360 and/or RG consult factory.
 9- For harsh, coastal environment and exposure to salt water. Longer lead time may apply please contact factory for info.
 10- Only available in WH1 and BKT.

LUMINIS[®]

LUMINIS | Toll free: 866.586.4647 Fax: 514.683.8872 Email: info@luminis.com
260 Labrosse, Pointe-Claire (QC) Canada H9R 5L5

Luminaires may be altered for design improvement or discontinued without prior notice.

LUMINIS.COM

2

SY600 SERIES SYRIOS

LUMINAIRE SELECTION

MODEL#	LED LIGHT SELECTION	REFLECTORS*	VOLTAGE	FINISH
SY810	SUFFIX ☐ L1L20 2157 22W ☐ L1L35 3572 40W ☐ L1L50 5357 55W ☐ L1L75 7440 77W AMBER LED ☒ L1L4K2A 440 11W AMBER	☐ R15 Narrow optics 12° ☐ R30 Flood optics 28° (standard) ☐ R40 Wide flood optics 38° ☐ R55 Wide flood optics 55°	☐ 120V ☐ 277V Optional ☐ 347V	STANDARD COLORS* ☐ WH1 Snow white ☐ BKT Jet black ☐ BZT Bronze ☐ LSL Matte silver ☒ GRT Titanium gray ☐ DGT Gun metal ☐ CHT Champagne ☐ SGT Steel gray ☐ BGT English cream OPTIONAL COLORS ☐ CS Custom color ☐ RAL RAL# color ENVIRONMENT ☐ MG Marine grade* ☐ NT Natorium™ *Refer to color chart
	VERY NARROW DISTRIBUTION ☐ L1L30NR 2954 50W OPTION ☐ R9 Very narrow optics 9° Field angle 27° (64,940 candela)			

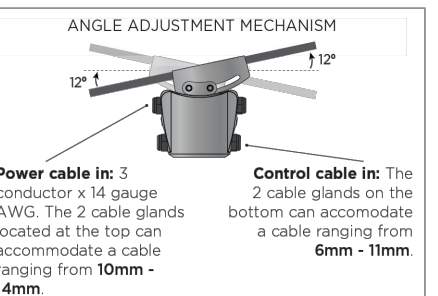
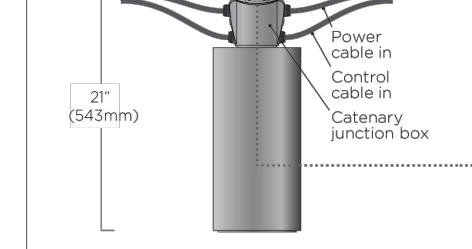
OPTIONS

ELECTRICAL
☐ FS Fuse
☐ 347L Step down transformer for 347V input
REML2-50 7W remote emergency battery backup for LED, 90 min. Remote mount 50ft - 12" (305mm) square enclosure with access cover¹

FAUX WOOD COLORS*
☐ ADG American douglas
☐ BRC Birch
☐ CHN Chestnut
☐ CRY Cherry
☐ KNP Knotty pine
☐ MPL Maple
☐ OFL Oak
☐ RSW Rosewood
☐ TEK Teak
☐ WLN Walnut
ACCESSORIES
☐ HL Hexcell louver
☐ SL Solite lens (light loss factor [LLF]: 0.9)
☐ LSL Linear spread lens (Asymmetric lens distribution is achieved when light module is tilted)
MOUNTING
☐ SWK Adaptor box for surface 3/4" conduit feed (4 sides plus back entry)
☐ UP Option required for upright installation
☐ UH Uniform height matching SY602*

For IDA certification compliance, luminaire must be ordered with 3000K or warmer.

NOTES
 1- The remote enclosure must be interior.
 2- Cylindrical housing extended by 1" (25.4mm) for increased cut-off.
 3- L1L75 Lumen is unavailable in 347V.
 4- K27 and K35 options not available with the R9 optics.
 5- Faux wood finish not applied to lens frame, accessories or catenary parts (if selected).
 6- For harsh, coastal environment and exposure to salt water. Longer lead time may apply please contact factory for info.
 7- Only available in WH1 and BKT.



CAT3 Cast aluminum catenary junction box with 4 sealed connectors by Luminis and pre-inserted into housing. Ready to accept 1/4" or 1/2" stainless steel suspension cable. Weight: 24 lbs (10.9 kg). (Structural design, power cable, control cable, stainless steel catenary cable, cable fittings, and fittings for mounting to support structure provided by others.)

POWER CABLE IN: 2 cable glands on the bottom catenary cable. Power cable, control cable, and fittings for mounting to support structure provided by others.

LUMINIS | Toll free: 866.586.4647 Fax: 514.683.8872 Email: info@luminis.com
260 Labrosse, Pointe-Claire (QC) Canada H9R 5L5

Luminaires may be altered for design improvement or discontinued without prior notice.

LUMINIS.COM

2

STUDIO A.D. ARCHITECT

6202 Presidential Ct Suite D
Fort Myers, FL 33919
T: 239.292.4098
F: 888.804.0339

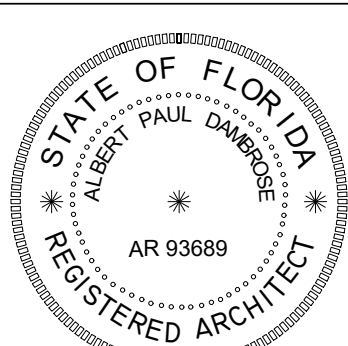
apd@studioad.net
www.studioad.net
FL LIC #AA-26001437

Studio A.D. hereby reserves its common law copyright & other property rights in these plans, ideas & designs. These ideas, designs & plans 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 Studio A.D.

A NEW BUILDING FOR: THE BEACH BAR HOUSE

1668 I STREET
FORT MYERS BEACH, FLORIDA

CONSULTANT:



ALBERT DAMBROSE
AR93689

DATE ISSUED: 20 FEB 2024

REVISIONS:

9 APRIL 2024

SHEET
E3



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: 1668 I Street
STRAP Number: 19-46-24-W4-0070B.0110
Applicant: B&B Properties of Fort Myers Phone: _____
Contact Name: Greg Boyd Phone: (845) 234-5006
Email: beachbeerboyd@gmail.com Fax: _____
Current Zoning District: Downtown
Future Land Use Map (FLUM) Category: Pedestrian Commercial
FLUM Density Range: FAR 2.5 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*: B&B Properties of Fort Myers Phone: (845) 234-5006
**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: 21050 Saint Peters Drive, Fort Myers Beach, FL 33931
Email: beachbeerboyd@gmail.com Fax: _____
Contact Name: Greg Boyd Phone: (845) 234-5006



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: James Ink c/o Ink Engineering Inc Phone: (239) 940-2504
Address: 2055 West First Street, Ft Myers FL 33901
Email: jink@inkengineeringinc.net Fax: _____

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

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

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

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☒ Planned Development
- ☒ Rezoning from Downtown 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: 34-212(6) Description: Requested
waiver for Traffic Impact Statement

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

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

Signature [Handwritten Signature]

Printed Name Gregory J. Boyd

STATE OF Florida COUNTY OF Lee

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

presence OR ☐ online notarization, this 16th day of MAY, 2024, by

Gregory J. Boyd ☐ who is personally known to me OR ☒ who has produced

Drivers License as identification.



LEROY LEWIS
Notary Public
State of Florida
Comm# HH366302
Expires 2/26/2027

[Handwritten Signature]
Notary Public Signature

PART V

Property Ownership (Multiple Owners)

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

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

DISCLOSURE OF OWNERSHIP INTEREST

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

Name and Address

Percentage Ownership



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Name, Address and Office

Percentage of Stock

Gregory Boyd, 21050 St Peters Dr, Ft Myers Beach, FL 33931

Madeline Boyd, 604 Hudson St #2, Hoboken, NJ 07030

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

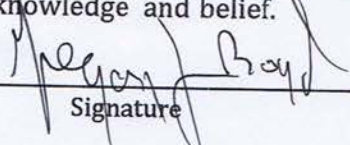
Date of Contract: 5/16/24

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

Gregory S. Boyd
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, Greg Boyd (name), as Manager (title)
of B + B Properties of Fort Myers Beach, LLC (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

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



COMMUNITY DEVELOPMENT DEPARTMENT
APPLICATION for PUBLIC HEARING

B + B Properties of Fort Myers Beach, LLC

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

Signature

Gregory Boyd

Typed or Printed Name

Manager

Title

Date

5/17/24

STATE OF Florida COUNTY OF Lee

The foregoing instrument was certified and subscribed before me by means of ___ physical presence OR ☐ online notarization, this 17th day of MAY, 2024, by Gregory S. Boyd ☐ who is personally known to me OR ☒ who has produced Drivers License as identification.

Seal



LEROY LEWIS
Notary Public
State of Florida
Comm# HH366302
Expires 2/26/2027

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 19-46-24-W4-0070B.0110

Property Address: 1668 I Street

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: Crescent Beach

Book: 4 Page: 45 Unit: _____ Block: B Lot(s): 11

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) 54 feet
Depth (please provide an average width if irregular in shape) 186 feet
Frontage on street: 54 feet. Frontage on waterbody: 54 feet
Total land area: 0.23 ☒ acres ☐ square feet

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

South on Estero Blvd, Right of Avenue E, subject property as intersection
of Avenue E and I Street fronting the Gulf of Mexico

☒ 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 |



THE BEACH BAR

AMENDMENT #1 FOR DESIGN AND PERMITTING

Summary

This document is an agreement amendment for professional services for providing entitlement services for the design and permitting site and building layout at 1668 I Street, Fort Myers Beach, FL 33931



INK ENGINEERING INC.
CONSULTING ENGINEERS • PLANNING

2055 WEST FIRST STREET
FORT MYERS, FL 33901
JINK@INKENGINEERINGINC.NET

Project Intent:

This document is to serve as an amendment to the existing development agreement for the design and permitting for the site and proposed building at the subject site. The included concept plan includes, but not limited to consistency with the following:

- Town of Fort Myers Beach Comprehensive Plan
- Town of Fort Myers Beach Land Development Code
- Florida Department of Environmental Protection, Coastal Construction Control Line Program
- FEMA Technical Bulletins on construction in a coastal zone.

This work will include application, support and representation for a Commercial Planned Development rezoning action.

Client:

Name: B & B Properties of Fort Myers, LLC
Address: 21050 Sanit Peters Drive
Fort Myers Beach, FL 33931

Parcel Information:

Lot 11, Block B Crescent Beach Subdivision as recorded in Plat Book 4 Page 45 of the official records of Lee County, FL

Strap 19-46-24-W4-0070B.0110

Scope:

The scope of work is to petition the Town of Fort Myers Beach for rezoning the subject property from Downtown to a commercial planned development to increase the allowable Floor Area Ratio from 1.0 to 1.4. This will require a deviation to omit the ground floor parking from the FAR calculations.

Tasks:

The scope of work includes the following tasks:

Task Four – Outside Documents

\$3,500 TM

- Obtain an Attorney Title Opinion per Fort Myers Beach Land Development Code for rezoning requests.
- Update existing boundary survey to reference Attorney Title Opinion.

Task Five – Commerical Planned Development Application

\$5,000 FF

- Prepare application for a rezoning application from Downtown to Commercial Planned Development. Application to include:
 - Application
 - CPD Supplemental application
 - Compliance with Comprehensive Plan Narrative
 - Compliance with Design Standards Narrative
 - Compliance with Decision making standards Narrative.
 - Schedule of Deviations and justification Narrative
 - Traffic Impact Statement Waiver request
 - Coordination of other required documents
 - Upload to Town permit portal.

Task Six – Support Application for Sufficiency

\$1,500 FF

- Prepare documents as required to respond to staff comments to reach sufficiency. Sufficiency is where all information as required by staff has been submitted to prepare a staff report and schedule public hearings.

Task Seven – Public Hearing LPA

\$1,500 FF.

- Prepare and present petition before the LPA. Note the LPA meets only the third Tuesday of each month. LPA will recommend their findings to Town Council.

Task Eight – Public Hearing Town Council

\$2,000 FF.

- Prepare and present petition before Town Council for case determination. This is up to two public hearings. Note the Town Council meets only the first and third Monday of each month and not in July.

FF = Fixed Fee, adjusted for allowance reductions
TM = Time and Materials, not to exceed without written authorization

○ **Fee Schedule for additional services, if required and approved**

○ Professional Engineer	\$320.00 per hour
○ Planner	\$250.00 per hour
○ Design Manager	\$200.00 per hour
○ CADD/Project Management	\$175.00 per hour
○ Clerical	\$75.00 per hour
○ Materials	Cost plus 10%

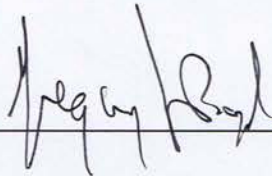
THE ABOVE AGREEMENT HAS BEEN READ AND UNDERSTOOD AND I HEREBY AUTHORIZE the performance of the services as described herein and agrees to pay the charges resulting thereby as identified above. I warrant and represent that I am authorized to enter this agreement.

Accepted this 16 day of May, 2024.

CLIENT –

CONSULTANT – Ink Engineering, Inc

Sign: _____



Name
Title

Sign: _____



Name James Ink P.E.
Title – President

Terms and Conditions

The following standard contractual paragraphs are provided and shall form a basis of this agreement.

Work not specified.

Work not specified in the above proposal items will not be performed without your prior knowledge and written approval. We will provide a fixed fee for additional services, if required. INK ENGINEERING, INC has no control over regulatory changes. Proposal is based on regulations and codes at time of agreement execution unless noted in agreement. You will be notified as soon as it becomes known of any regulatory changes which affect our ability to perform our services at the agreed upon fees. Should this occur, we would negotiate any additional costs that may occur.

Liability

INK ENGINEERING, INC maintains professional liability insurance in the course of business activities. Any damages suffered by the claimant are solely economic in nature and do not include personal injuries or damage to property that is not subject to this contract.

PER FLORIDA STATUTE INDIVIDUAL EMPLOYEE OR AGENTS' MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

Permit Application/ Submittal Fees

The above stated fees do not include the payment of the listed governmental agency submittal or processing fees. Additional fees may be required and will be provided by owner. Details of application fees will be included in task one findings.

Termination

The Client and consultant jointly reserve the right to terminate or suspend this agreement without cause by giving the other party fifteen (15) days written notice. The Client will pay the Consultant for terminated or suspended services through the date of termination or suspension including the cost to terminate or suspend services provided by others.

Sub-consultant Services

The Consultant will rely on this agreement to obtain services of others and make commitments within the Consultant's office to meet the provisions of this agreement. These services may include but not limited to Surveying Services, Environmental Consultants, Traffic Engineering, Landscape Architecture, and other engineering consultants as required performing services. Any additional Services that are not included and may be required that require sub-consultant services will be added to this agreement at direct costs plus 10% upon written approval from Client.

Reimbursable Expenses

The work as defined above will require the reproduction of numerous documents. These costs are included in this agreement. All travel expenses within Lee County shall be included in this agreement. Owner will approve any other travel.

Invoicing and Payment

Work will be invoiced monthly at completion of tasks, on approximately the 25th day of each month based upon a proration of work completed to date, or at time of completion of the project or a task of the work efforts performed. Payment is expected by the 10th of the following month. If payment is not received within 30 days of the invoice date, a late charge may be added to the invoice in an amount not to exceed 1½% per month of the outstanding balance. Accounts over 60 days' delinquent from date of oldest invoice will have services suspended until entire balance is current.

Retainer

No retainer is required with this agreement.

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-D

Additional Required Information for a Planned Development Application

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

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

Project Name: Beach Bar CPD
Authorized Applicant: B&B Properties of Fort Myers
STRAP Number(s): 19-46-24-W4-0070B.0110

Current Property Status: Commercial Bar
Current Zoning: Downtown
Future Land Use Map (FLUM) Category: Pedestrian Commercial
Platted Overlay? ☐ yes, ☒ no FLUM Density Range:

Requested Action:

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

PART I Narrative Statements

A. Comprehensive Plan Amendments (check one)

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

B. Phasing of Construction

☒	The development is to be constructed in a single phase.
☐	The development is to be constructed in phases as follows: (describe proposed phasing below)



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

D. Design Standards Compliance

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

3/30/2021



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

[illegible]

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

[illegible]

G. Administrative amendments to approved Master Concept Plan

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

None

PART 2 Submittal Requirements

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

Required Items

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

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



Beach Bar CPD Supplement PH-D Narrative

The following narrative is information requested in the Additional Required Information for a Planned Development Application.

C: Comprehensive Plan Compliance:

Goal 4: To keep Fort Myers Beach a healthy and vibrant "small town", while capitalizing on the vitality and amenities available in the beach-resort environment and minimizing the damage that a hurricane could inflict.

OBJECTIVE 4-A SMALL-TOWN CHARACTER – Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented "public realm" that allows people to move around without their cars even in the midst of peak-season congestion.

Unfortunately, on September 28, 2022, Hurricane Ian swept ashore with a large storm surge that caused catastrophic damage to the island. In one day, beach structures were significantly damaged or destroyed. The Beach Bar CPD is proposed to build back like the pre-Ian uses, retaining commercial uses, and replacing a two-unit residential area with a single-family residential use. Due to the location and town induced property area restrictions this application requests an increase in FAR from 1.0 to 1.4. The 1.4 FAR is consistent with surrounding properties. The increase does not impact any lower density land use.

POLICY 4-B-6 "PEDESTRIAN COMMERCIAL" A primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villas Santini Plaza..... Commercial activities must contribute to the pedestrian-oriented public realm as described in this comprehensive plan and must meet the design concepts of this plan and the Land Development Code. Where commercial uses are permitted, residential uses are encouraged in upper floors. All "Marina" uses in Policy 4-B-7 are also allowed on parcels that were zoned for marina prior to adoption of this plan. Nonresidential uses (including motels and churches) now comprise 58.9% of the land in this category, and this percentage shall not exceed 90%.

Pedestrian Commercial allows for all intended uses.

POLICY 4-C-2 COMMERCIAL INTENSITY The maximum intensity of allowable commercial development in any category may be controlled by height regulations (see Policy 4-C-4) or by other provisions of this plan and the Land Development Code. Standards in the Land Development Code will encourage more intense commercial uses only in the "Pedestrian Commercial" category. The Land Development Code shall specify maximum commercial intensities using floor-area-ratios (the total floor area of the building divided by the area of the site in the category allowing commercial uses.) The Land Development Code may allow floor-area-ratios in the "Pedestrian Commercial" category as high as 2.5, and in other categories as high as 1.5.



The proposed FAR increase to 1.4 from the allowable 1.0 remains an exceptionally low level from the allowable 2.5 in Pedestrian Commercial Future Land Use.

D: Design Standards Compliance

The Architectural Plans submitted are the same plan set that has been provided with a development order application and have been reviewed with no outstanding comments relating to design standards as required in 34-991 – 34-1010 Land Development Code of the Town of Fort Myers Beach

E: Decision-making compliance

Guidelines for decision-making is found in LDC Section 34-85

The application shall consist of sufficient documentation, plans, and reports such that Town staff can find the application sufficient and prepare a recommendation to the boards having jurisdiction. The application will be heard before the Local Planning Agency to review and determine a recommendation to the Town Council considering substantial competent evidence presented by applicant, staff and public. Town Council will hold two public hearings to hear and consider submitted substantial competent evidence presented by applicant, staff and public. A determination will be issued at the close of the second hearing. Section 34-85 FMBLDC addresses the following requirements. Commentary of compliance is provided.

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

Any errors or ambiguities will be resolved during staff review, LPA hearing and recommendations, and during Town Council public hearings.

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

Hurricane Ian drastically changed the conditions on the island. Prior to the storm the subject property was a two-unit residential structure above a ground level open commercial activity with a bar use per previous entitlement approvals. The rebuilding of the subject property will be a single-family two-story home above the commercial activity use as a walk-up bar. The commercial activity will be same after as pre storm function.

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

Beach Bar CPD is consistent with the Purpose of the zoning chapter by providing needs of the Town and providing safe, healthy, convenient, prosperity and welfare of the citizens of the Town of Fort Myers Beach.

(4) The testimony of the applicant

The applicant will provide a professional presentation at LPA and Town council to present the facts of the case. There will be substantial competent evidence and testimony that will be introduced into the record during the review and public hearing process that will be without question.

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

The application and public hearing testimony of applicant, staff and public will be considered in the recommendations provided by staff and LPA.

(6) The testimony of the public

The public will be afforded an opportunity to comment in the public hearings to voice their opinions. This testimony will be considered, as appropriate, to the request in the decisions and recommendations of the Council and LPA.

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

The rebuilding of the Beach Bar is like the pre-Ian use with only a change from two unit residential to single family use. As presented in Section C of this narrative, commentary has been provided of how the proposed application is consistent with the Comprehensive Plan subject to the adoption of the companion Comprehensive Plan Map amendment.

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

Beach Bar CPD is a rebuild of the commercial bar with a larger single-family use to replace the two-family residential use that existed before Hurricane Ian.

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

Public providers of services of Potable Water, Sanitary Sewer, Solid Waste, Public Transportation, Fire, EMS, and Sheriff have serviced the site for many years.

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

Development is like pre-Ian condition and all structures are within Downtown zoning uplands.



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

Beach Bar is the same use that has existed for years.

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

The service requirement is the same as pre-Ian levels and will not change with the proposed CPD. The site has existing services in place to service the site.

(13) For Planned Development rezonings See 34-216 for additional considerations.

The analysis for this section is included in 34-216(2) as follows:

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

The Schedule of Uses are listed in a specific section of this application narrative. These uses exist in the downtown district.

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

Special Conditions are already restricted by the two previous zoning documents that are to remain.

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

Special Conditions are already restricted by the two previous zoning documents that are to remain.

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

The schedule of uses is the same as existing and the proposed use is the same as pre-Ian. The only proposed change is to increase the FAR to be consistent with the location of property in an intense area of the Pedestrian Commercial Future Land Use.



F: Schedule of Deviations and written Justification

The requested deviation for FAR per 34-675 is attached as a separate document.

Beach Bar CPD Deviation Request and Justification

Deviation Request #1:

Request to deviate from 34-675(c)3 that states, "Floor area ration (FAR). Floor area ratios (see 34-633) of the chapter) shall not exceed: (3) 1.0 for all other properties in the Downtown District" to allow an FAR of 1.4 consistent with properties fronting Estero Blvd per 34-675(c)(2).

Justification:

The subject property was developed as a two unit elevated single story residential structure with a commercial bar facility on the ground level operating under a Lee County Resolution Number BZA-88-339 and Hearing Examiner Case 95-10-173.02s. These entitlements were established before incorporation of the Town of Fort Myers Beach on December 31, 1995. Prior the town incorporating, Lee County did not use Floor Area Ratios to determine density and intensities. The subject property was bound for development by density, setbacks, and heights. The Town adopted their Comprehensive Plan on January 1, 1999. The plan developed Future Land Use categories for determining use and development of the parcels consistent with the Comprehensive Plan. The plan splits the subject property into two future land use categories. They are Pedestrian Commercial and Recreation. Pedestrian Commercial has a maximum Floor Area Ration of 2.5 and Recreation does not allow development. The Town further restricted the use of the subject property with the adoption of the town's Land Development Code setting an allowable FAR of 1.0 on the subject property. These actions changed development rights from development based on density, height, and setbacks to a highly restrictive FAR in a Future Land Use category that is the highest allowable in the Comprehensive Plan. There is only one zoning district (Santos) that allows residential with a FAR of less than the subject property. Santos zoning district is a transitional community that is a buffer between high intensities on Estero Blvd and low-density residential portions of Venetian Gardens Subdivision. The subject property and all lots along Alva Drive and I Street do not provide any transition to a lower density neighborhood. If fact this area is in the heart of Gulf front properties that could support much higher FAR's. This poor planning perspective is further supported in the apparent lack of the town to enforcement of the restrictive FAR at 1560 I Street and 61 Alva Drive.

Beach Bar CPD Development Regulations and Schedule of Uses

SETBACKS:

Front build to line:	0 to 5 feet
Side setback	5 feet
Rear setback	Not seaward of 1978 CCCL
Waterbody	Not Applicable

FAR (max) 1.4

BUILDING COVERAGE: Not Applicable

HEIGHT:

40 feet above design flood elevation (DFE) and no taller than three stories

SCHEDULE OF USES:

The allowable uses shall be the same as the Downtown zoning district as shown in Table 34-2 Use Sub-Groups Permitted in Each Zoning District and 34-1, Land Uses Assigned to Use Groups



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

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

Waiver is requested for items required for:

Public Hearing

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

Administrative Action

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

Name of Project: Beach Bar CPD

Applicant: B&B Properties of Fort Myers

Strap Number: 19-46-24-W4-0070B.0110

Street Address: 1668 I Street

Phone Number: 239-940-2504

Email: jink@nkengineeringinc.net



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Application for Waiver of Submittal Requirements

Specific requirements from which waiver is sought

Section Number	Requirement
34-212(6)	Traffic Impact Statement

Scope of project and reasons for request

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

The existing use before Hurricane Ian was a commercial bar with restrictions and a two unit residential use. Hurricane Ian destroyed the structures. The proposed use is a commercial bar with the same restrictions as pre-Ian and only one single family use. This reduction from two residential uses to one use is a reduction of generated trips and therefore a reduction of intensity to the original pre-Ian use. A TIS would add an unreasonable financial impact to a proposed use that is less than pre-Ian

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

Signature

Date

Director's Decision ☐ Approved ☐ Denied

Comments:

Signature

Date

Revised 1/6/2017

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

Page 2 of 2

SUBMIT



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Town of Fort Myers Beach's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

Ordinance 24-18 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Town of Fort Myers Beach is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the Town of Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

¹ See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Town of Fort Myers Beach hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance is a request by a property owner to allow a higher FAR than is allowed in that zoning district and location.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town of Fort Myers Beach, including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the Town of Fort Myers Beach's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with Ordinance 24-18.

Ordinance 24-18 does not impose any new charge or fee on businesses.

There are no new charges or fees that will be imposed on businesses by the ordinance.

The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

The Town estimates that a one private, for-profit businesses in the Town would potentially be impacted by Ordinance 24-18. The impact should be positive for the business.

4. Additional information the governing body deems useful (if any):

1. **Request:**

Meeting Date: August 19, 2024

1st Reading and Public Hearing on proposed Ordinance 24-19 entitled AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 28-30 "IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES" OF DIVISION 1 "GENERALLY" OF ARTICLE II "STOPPING, STANDING AND PARKING" OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED VEHICLES; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 9, 2024 at 9:00 AM.

Why the action is necessary:

The passage of this ordinance is necessary to prevent the owners of illegally parked and/or immobilized vehicles from disputing the transactions related to illegal parking/immobilization fines and charges with their financial institutions upon release of the vehicles by the Town.

What the action accomplishes:

The proposed ordinance amends the existing language of Section 28-30 "Immobilization and impounding of illegally parked vehicles" of Division 1 "Generally" of Article II "Stopping, Standing and Parking" of Chapter 28 "Traffic and Vehicles" of the Code of Ordinances of the Town of Fort Myers Beach, Florida, restricting the accepted methods of payment of any fines and charges related to illegal parking and immobilization of illegally parked vehicles to a cashier's check or a money order.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Thomas Yozzo, Operations & Compliance Manager

5. **Background:**

The Town staff has encountered an issue with collection of the fines and charges related to illegally parked and/or immobilized vehicles. Specifically, the Town staff noticed that some violators dispute the paid fines and charges with their financial institution as soon as the boot is removed from the vehicle and the vehicle is released to the violator. The Town staff is forced to engage in time- and resource-consuming battles over the funds that it is rightfully entitled to, rendering the enforcement process of the parking regulations within the Town ineffective. The Neighborhood Community Services Department worked with the Town Attorney to amend the Town's Code for the Town Council's consideration to address this issue.

The draft ordinance would amend Section 28-30 of the Town of Fort Myers Beach Code of Ordinances to limit acceptable forms of payment of any fines and charges related to illegally parked and/or immobilized vehicles to a cashier's check or a money order. This change would simplify the payment process and improve collection efforts.

Attachments:

1. 24-19, FMB Illegal Parking
2. 24-19, Business Impact Estimate Illegal Parking

Financial Impact:

None

6. Alternative Action

7. Management Recommendations:

Accept

8. Recommended Approval:

Rileigh Baker, Neighborhood Services Coordinator
Thomas Yozzo, Operations & Compliance Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/8/2024
Approved - 8/8/2024
Approved - 8/9/2024
Approved - 8/13/2024
Approved - 8/13/2024
Final Approval - 8/13/2024

ORDINANCE NO. 24-19

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 28-30 “IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES” OF DIVISION 1 “GENERALLY” OF ARTICLE II “STOPPING, STANDING AND PARKING” OF CHAPTER 28 “TRAFFIC AND VEHICLES” OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED VEHICLES; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER’S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

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

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

WHEREAS, the Town desires to amend the Town Code to include the accepted methods of payment of any fines and charges related to illegal parking and immobilization of illegally parked vehicles; and

WHEREAS, the Town wishes to restrict the accepted methods of payment of any such fines and charges to a cashier’s check or a money order; and

WHEREAS, on the 19th day of August, 2024, the Town Council held a first reading of this Ordinance and gave full and complete consideration to the request of the proposed ordinance, the recommendation of staff, the documents in the record, and the testimony of all interested persons; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town’s website on the ____ day of _____, 2024, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of this Ordinance was published in the _____ on the ____ day of _____, 2024, which is 10 days prior to the second reading of this proposed Ordinance as required by Section 166.041, Florida Statutes; and

WHEREAS, on the ____ day of _____, 2024, the Town Council held a second reading of this Ordinance; and

WHEREAS, the Town Council determined that adoption of the ordinance as provided herein is in the best interests of the health, safety, welfare, and morals of the Town's residents.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH 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. Section 28-30 "Immobilization and impounding of illegally parked vehicles" of Division 1 "Generally" of Article II "Stopping, Standing and Parking" of Chapter 28 "Traffic and Vehicles" of the Code of Ordinances of the Town of Fort Myers Beach, Florida, is hereby amended to read as follows:

Sec. 28-30. – Immobilization and impounding of illegally parked vehicles.

- (a) The town is authorized to attach a device that is capable of immobilizing a motor vehicle so that it cannot be moved under its own power or have the vehicle towed at the owner's expense whenever such a vehicle is found upon a public street or highway, a public parking lot or other public property in the town or parked overnight on public property, provided there are five unpaid and outstanding parking tickets or one unpaid and outstanding disability violation issued to the vehicle.
- (b) The immobilizing device will be attached to the motor vehicle at the location where the vehicle is parked, except that no motor vehicle will be immobilized within the traveled portion of a street or on a portion of a street when immobilization at such location will create a hazard to the public or traffic on the street. At the time the immobilizing device is attached to a motor vehicle, a notice will be affixed to the windshield, the driver side window, or other prominent place on the motor vehicle, where the operator of the vehicle would reasonably be expected to observe it, stating the following:
 - (1) The immobilizing device has been so attached, that the operator should not attempt to operate the motor vehicle while the immobilizing device is attached;
 - (2) The total amount of fines and charges due for illegal parking and immobilization and the methods of payment accepted by the town; and
 - (3) Where the operator may pay the fines to have the immobilizing device removed from the motor vehicle.

Any attempt to remove or otherwise tamper with the immobilization device, or any attempt to threaten or otherwise harass a town representative will constitute an offense against the town.

- (c) The immobilizing device will be removed from the motor vehicle upon payment of the total fines due to the town. The town shall only accept a cashier's check or a

money order as a form of payment of any fines and charges due to the town. No other forms of payment will be accepted by the town. The town may also approve the removal of the immobilizing device upon obtaining a satisfactory arrangement for payment of the fines due. Written proof of the owner or operator's arrangement for payment must be shown to the town before the immobilization device may be removed. If the owner or operator has failed to pay or make a satisfactory arrangement for payment by the end of the next immediate business day after the date of the immobilization, then the immobilized vehicle will be referred to the county sheriff. The vehicle will then be towed by a designated town towing company and placed into the impound yard. The parking enforcement specialist on duty at the time of tow will ensure that the immobilization device is removed in order for the towing agency to safely remove the vehicle. If the immobilization device is damaged or tampered with by anyone other than the parking enforcement specialist, the owner of the vehicle is liable for any damage to the immobilization device or the vehicle. If the device is damaged beyond repair, the owner of the vehicle must replace the device.

- (d) The town is hereby vested with authority, and it will be their duty, to impound any unoccupied vehicle parked in violation of any of the parking regulations of the town and to move or cause to be moved any illegally parked vehicle by wrecker or otherwise. As an alternative to immobilizing a motor vehicle as provided herein, the town may immediately cause any illegally parked motor vehicle to be towed in accordance with this section. All expenses for towing and impoundment will be the responsibility of the owner of the vehicle. All towing and impoundment hereunder must be accomplished in accordance with this section and applicable state and federal law.
- (e) Upon being impounded, the towing company can only release the towed vehicle after full payment, excluding the amount of any ticket issued concurrently with the immobilization device, provided the owner or operator wishes to contest the newly-issued ticket, has been received by the town and a receipt of that payment is presented to the towing company.
- (f) Parking enforcement personnel must not accept any payments for violations.

Section 3. That the Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach, Florida, Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the town manager without further process.

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

Section 5. If any section, subsection, sentence, clause, word, 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. This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the town council upon a motion by _____ and seconded by _____, and upon being put on a roll call vote, the results were as follows:

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

ADOPTED this ____ day of _____, 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Town 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 Ordinance was filed in the Office of the Town Clerk on this ____ day of _____, 2024.



Business Impact Estimate

Proposed ordinance's title/reference:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 28-30 "IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES" OF DIVISION 1 "GENERALLY" OF ARTICLE II "STOPPING, STANDING AND PARKING" OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED VEHICLES; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Fort Myers Beach is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the Fort Myers Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

¹ See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Fort Myers Beach hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance amends the existing language of Section 28-30 "Immobilization and impounding of illegally parked vehicles" of Division 1 "Generally" of Article II "Stopping, Standing and Parking" of Chapter 28 "Traffic and Vehicles" of the Code of Ordinances of the Town of Fort Myers Beach, Florida, to restrict the accepted methods of payment of any fines and charges related to illegal parking and immobilization of illegally parked vehicles to a cashier's check or a money order, eliminating the violators' ability to later dispute the fines and charges paid to the Town with third party financial institutions. The proposed ordinance promotes the health, safety, welfare, and morals of the residents of the Town by allowing the Town to collect the fines and charges it is rightfully entitled to without engaging in disputes over the funds.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Fort Myers Beach, including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the Fort Myers Beach regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

None.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

None.

4. Additional information the governing body deems useful (if any):

[You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: Fort Myers Beach staff solicited comments from businesses in the Fort Myers Beach as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on Fort Myers Beach website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses].

Not applicable.

1. **Request:**

Meeting Date: August 19, 2024

Second Reading, Adoption and Final Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN IN ITS ENTIRETY, PURSUANT TO 163.3184 (3), FLORIDA STATUTES; PROVIDING FOR ADOPTION OF THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN 2040, INCLUDING AMENDMENTS TO THE FUTURE LAND USE ELEMENT AND THE FUTURE LAND USE MAP, THE COMMUNITY DESIGN ELEMENT, THE TRANSPORTATION ELEMENT, THE HOUSING ELEMENT, THE HISTORIC PRESERVATION ELEMENT, THE UTILITIES ELEMENT, THE CONSERVATION ELEMENT, THE COASTAL MANAGEMENT ELEMENT, THE RECREATION, & OPEN SPACE ELEMENT, THE INTERGOVERNMENTAL COORDINATION ELEMENT, AND THE CAPITAL IMPROVEMENTS ELEMENT; INCLUSIVE OF ALL ASSOCIATED TABLES, EXHIBITS AND MAPS; AUTHORIZING FINDINGS AND ADMINISTRATIVE ACTIONS; PROVIDING FOR TRANSMITTAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR EFFECTIVE DATE.

Why the action is necessary:

This is the second hearing for adoption of the ordinance that adopts the comprehensive plan and future land use map.

What the action accomplishes:

Adoption of the comprehensive plan is required by the state and will allow the Town to move forward on other related updates.

2. **Agenda:**

PUBLIC HEARINGS

3. **Requirement/Purpose:**

Ordinance

4. **Submitter of Information:**

Sarah Propst, Community
Development, Planning
Manager

5. **Background:**

The Comprehensive Plan was approved by the Town Council for transmittal to the state. The state agency comments have been received and the response to those comments can be found in the agenda packet, along with the entire comprehensive plan for adoption. This is the second and final hearing for adoption of the comprehensive plan.

Attachments:

1. 24-10, Comprehensive Plan
2. Response Memo for adoption hearing
3. Coastal Management Element
4. Community Design Element
5. Conservation Element
6. Historic Preservation Element
7. Housing Element
8. InterGovernmental Coordination
9. Property Right Element
10. Recreation and Open Space Element
11. Transportation Element
12. Utilities Element
13. Full FLU Map

Financial Impact:

Unknown

6. Alternative Action

Recommend changes and adoption

7. Management Recommendations:

Adopt Ordinance 24-10

8. Recommended Approval:

Sarah Propst, Community Development, Planning Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/9/2024
Approved - 8/13/2024
Approved - 8/13/2024
Approved - 8/14/2024
Final Approval - 8/14/2024

ORDINANCE 24-10

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN IN ITS ENTIRETY, PURSUANT TO 163.3184 (3), FLORIDA STATUTES; PROVIDING FOR ADOPTION OF THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN 2040, INCLUDING AMENDMENTS TO THE FUTURE LAND USE ELEMENT AND THE FUTURE LAND USE MAP, THE COMMUNITY DESIGN ELEMENT, THE TRANSPORTATION ELEMENT, THE HOUSING ELEMENT, THE HISTORIC PRESERVATION ELEMENT, THE UTILITIES ELEMENT, THE CONSERVATION ELEMENT, THE COASTAL MANAGEMENT ELEMENT, THE RECREATION, & OPEN SPACE ELEMENT, THE INTERGOVERNMENTAL COORDINATION ELEMENT, AND THE CAPITAL IMPROVEMENTS ELEMENT; INCLUSIVE OF ALL ASSOCIATED TABLES, EXHIBITS AND MAPS; AUTHORIZING FINDINGS AND ADMINISTRATIVE ACTIONS; PROVIDING FOR TRANSMITTAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, The Town of Fort Myers Beach, Florida, has adopted a comprehensive plan by X-X and subsequently amended by Ordinance 24-08; and

WHEREAS, the Town Council of the Town of Fort Myers Beach, Florida, desires to amend the Town of Fort Myers Beach's Comprehensive Plan in its entirety, in accordance with Chapter 163.3184(3); and,

WHEREAS, the City Council has provided notice of the proposed Comprehensive Plan 2040 Amendment and has conducted the required public hearings to receive citizen input; and,

WHEREAS, the Comprehensive Plan contains goals, objectives, and policies to guide the development of the Town of Fort Myers Beach through the year 2040, addressing future land use map, the community design element, the transportation element, the housing element, the historic preservation element, the utilities element, the conservation element, the coastal management element, the recreation, & open space element, the intergovernmental coordination element, and the capital improvements element; inclusive of all associated tables, exhibits and maps; and,

WHEREAS, the Local Planning Agency of the Town of Fort Myers Beach, held a public hearing at its duly noticed April 9, 2024 public meeting to consider the proposed Comprehensive Plan amendment and recommended that Town Council adopt the same; and,

WHEREAS, the Town Council has reviewed and considered all relevant evidence, information and testimony, as well as the recommendations of the Local Planning Agency, witnesses, the public, and Town staff and has determined that the proposed amendment is in compliance with Chapters 163.3184 and 166.041, Florida Statutes; and,

WHEREAS, the adoption of the Town's Comprehensive Plan furthers the health, safety and welfare of its citizens, local businesses and visitors of the Town; and,

WHEREAS, all the necessary hearings and public notices, in conformity with the procedural and

substantive requirements of Florida Statutes and the Comprehensive Plan have been complied with.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, as follows:

Section 1. Ratification of Recitals. The Town Council of the Town of Fort Myers Beach, Florida, hereby adopts and ratifies those matters as set forth in the foregoing recitals.

Section 2. Comprehensive plan amendment. The amendment to the Town of Fort Myers Beach Comprehensive Plan 2040 is hereby adopted amending the Goals, Objectives & Policies and Data Inventory & Analysis, including the Future Land Use Maps and all tables incorporated by reference, for the following elements: future land use map, the community design element, the transportation element, the housing element, the historic preservation element, the utilities element, the conservation element, the coastal management element, the recreation, & open space element, the intergovernmental coordination element, and the capital improvements element, as set forth in the attached Exhibit "A". A certified copy of the Town of Fort Myers Beach Comprehensive Plan 2040 shall be located in the Town Clerk's office.

Section 3. Transmittal. The Town of Fort Myers Beach shall transmit within ten (10) working days, the amendment or amendments and appropriate supporting data and analyses to the reviewing agencies in accordance with 163.31 84(3)(b)1, Florida Statute, and as specified in the State Land Planning Agency's procedural rules. Also, the Town of Fort Myers Beach shall transmit a copy of the amendments and supporting data and analyses to any other local government or governmental agency that has filed a written request with the Town of Fort Myers Beach.

Section 4. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to void or declared illegal, invalid, or unconstitutional by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 5. Repeal of Laws in Conflict. If any ordinances, or parts of ordinances, or if any sections, or parts of sections, of the Ordinances of the Town of Fort Myers Beach, Florida, are in conflict herewith, this Ordinance shall control to the extent of the conflicting provisions.

Section 6. Scrivener's Errors. Sections of this Ordinance may be renumbered or re-lettered and corrections of typographical errors, which do not affect the intent, may be authorized by the Town Manager, or the Town Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

Section 7. Effective Date. The effective date of this plan amendment, if the amendment is not timely challenged, shall be thirty-one (31) days after the state land planning agency notifies the Town of Fort Myers Beach that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance in accordance with 166.3184 (3)(c)(4), Florida Statute. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

FIRST READING FOR TRANSMITTAL TO STATE AGENCIES

The foregoing Ordinance was heard by Town Council and moved for passage upon first reading this 6th day of May 2024.

PASSAGE UPON SECOND READING

The foregoing Ordinance was moved for passage upon second reading this ____ day of ____, 2024, by Council Member _____. The motion was seconded by Council Member _____. Upon being put to a vote, the vote was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John R King, Council Member	_____
Scott Safford, 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:**

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of ____ 2024.

MEMORANDUM

Date: July 23rd, 2024

To: Town of Fort Myers Beach Town Council & LPA

Via: Town of Fort Myers Beach Community Development Department

From: The Corradino Group

Subject: Response to "Objections, Recommendations & Comments" from "Expedited State Review" of Comprehensive Plan Amendments under Ordinance No. 24-10

This memo outlines the review process for the Town's Comprehensive Plan amendments transmitted to the Florida Department of Commerce under Ordinance No. 24-10. It includes responses to comments received from state agencies based on their review of the transmittal package.

1. Local Planning Agency Review:

The Town's Local Planning Agency reviewed the proposed amendments during a public special meeting on March 14, 2024.

2. Town Council Hearing and Approval:

A public hearing was held by the Town Council on May 6, 2024, where the first reading of Ordinance No. 24-10 was approved for transmittal of the proposed amendments.

3. Transmittal Process:

After the first reading, the Town of Fort Myers Beach transmitted the proposed amendments along with supporting data and analyses to the Florida Department of Commerce and reviewing agencies, as required by 163.3184(3)(b)1, Florida Statutes. The transmittal occurred on May 17, 2024, under the State Expedited Review process.

4. Reviewing Agencies:

The proposed Comprehensive Plan Amendment Package (CPAP) was sent concurrently to the following agencies for review and response:

- Southwest Florida Regional Planning Council
- Lee County, Florida
- Florida Department of Environmental Protection (FDEP)
- Florida Department of Transportation (FDOT)

- South Florida Water Management District (SFWMD)
- Florida Department of State
- Florida Department of Education

5. Responses Received:

- **Florida Department of Environmental Protection:** No provisions of the CPAP were found that would result in adverse impacts to the state resources under the Department's jurisdiction.
- **Florida Department of Transportation, District 1:** Provided technical assistance and determined that the amendments are not anticipated to have significant adverse impacts on state transportation resources or facilities.
- **South Florida Water Management District:** No regionally significant water resource issues were identified; however, advisory comments were provided.

6. Technical Comments:

Please refer to the attached table for responses to the technical comments received from the South Florida Water Management District and FDOT District 1.

Attachments

1. Table of responses to technical comments from SFWMD and FDOT District 1.
2. Updated elements: Community Design, Conservation, and Transportation.

TABLE OF RESPONSES TO COMMENTS

ORIGINAL TEXT	AGENCY	COMMENT	RESPONSE	UPDATES TO ORIGINAL TEXT
<i>Community Design Element</i>				
POLICY CD-1-A-1 MIX OF USES Provide a complementary mix of land uses with design characteristics that provide: i. Uses that meet the daily needs of residents ii. A variety of affordable housing types	FDOT	Pg. 1 Mixed-Use: In addition to supplying a mix of uses, please take into account the difference between multiple uses and 'mixed use', which is vertically mixing uses within one building. This also will help with congestion and is encouraged in urban, walkable areas.	In our context, mixed-use includes both horizontal and vertical integration of uses. This approach promotes flexibility, functionality, and walkability in various urban settings.	None
OBJECTIVE CD-1-D MASTER PLANNED DEVELOPMENT Provide mechanisms to incentivize master planning large parcels and land assemblies for mixed-use development.		Pg. 4 Infill/Reuse: Promote traditional scale incremental development through infill development with streamline[d] processes, waiver of fees, maximization of administrative variances and waivers, and normalization of by-right approvals. Consider density or other incentives to encourage infill development.	Currently, the Town is not considering promoting traditional scale incremental development through these specific measures.	None
OBJECTIVE CD-1-F STREET FRONTAGES AND PARKING LOTS Develop policies to limit parking lots fronting main streets in the Land Development Regulations.		Pg. 5 Parking: In addition to strategies list here in policies, consider: - Setting parking maximums instead of parking minimums, consider context-based parking requirements allowing for a better-match of parking supply and demand than use-based requirements. - Shared-parking agreements and provide language to developers to enter into agreements. - Establish policies for in-lieu parking fees and centralized parking allowing for developers to pay a fee instead of providing in-site parking and use the revenue to fund public parking facilities or multimodal transportation improvements. - Establish requirements for short-term and long-term bicycle parking based on use and proximity to shared use path. - Establish parking cash-out programs for municipal employees and incentives such as transit passes or electric bicycle rebates. - Explore Demand Based Pricing / Dynamic Pricing for lots.	Revision made to new policy CD1-F-5 to include clarification of parking supply definition. Additional recommendations will be explored during the development of the Transportation and Mobility Master Plan under policy T-17-H-3.	POLICY CD-1-F-5 PARKING SUPPLY <u>Evaluate parking supply needs by conducting a parking supply study and determine parking solutions including shared parking, structured parking that meets the character of the Island and parking management practices like centralized parking and offsite parking for employees.</u> <u>For the purposes of this policy, parking supply shall mean vehicular, bicycle, and any future micromobility options.</u>
POLICY CD-1-F-3 PARKING STANDARDS FOR NEW DEVELOPMENT IN MIXED-USE COMMERCIAL DISTRICTS Within the Mixed-Use Commercial Districts, new development shall locate and design off-street parking areas in a manner that does not detract from the character by providing standards in the Land Development Regulations, such as locating parking to rear of buildings, limiting curb cuts, and landscaping and façade requirements.		Pg. 5 Parking Design: Consider minimum widths for standard spaces as low as 8.5 ft. To discourage lots along Estero Blvd, adopt minimum front street to parking setbacks to encourage placement behind buildings.	This will be addressed in the updates to the Land Development Regulations.	None
OBJECTIVE CD-3-A COMPLETE STREETS AND BICYCLE INFRASTRUCTURE		Pg. 11 Complete Streets: Adopt a local roadway context classification system which defines what makes roadways 'complete' based on their context (including land use) and likely users and integrate into land developments regulations and comprehensive plan.	Noted, the Town will explore this approach during the development of the Transportation & Mobility Master Plan under policy T-17-H-3.	None

ORIGINAL TEXT	AGENCY	COMMENT	RESPONSE	UPDATES TO ORIGINAL TEXT
Provide for comfortable streets, street grid and interconnected paths that includes designated spaces for walking, biking, cars and transit that seamlessly connect to mixed-use commercial districts.				
POLICY CD-3-A-3 MAINTAIN PEDESTRIAN CIRCULATION Maintain the pedestrian circulation plan: i. Bayside sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks. ii. Sidewalks (5' wide minimum sidewalk) along all streets in the Core Area. iii. Bike path along Estero Boulevard utilizing Crescent Street to Third Street across to Old San Carlos and then connecting back to Estero Boulevard and north to Bowditch Point. iv. Old San Carlos as a pedestrian spine linking Times Square and the marina by implementing public sidewalks and major crosswalks designed to work in conjunction with arcades or plazas located on private property. v. A new public pedestrian plaza at the east of Old San Carlos. vi. New on-street parking and side- walk on the south side of Crescent Street. vii. Third and Fourth Streets with on-street parking and sidewalks on both sides of the street. Proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.		Pg. 11 Multimodal Infrastructure Implementation: FDOTs Highway Safety Grant Program Subgrants May be awarded to assist in addressing pedestrian and bicycle safety deficiencies. Adopt Transit Buffer Zones or Overlays for reduced parking requirements and enhances pedestrian and bike infrastructure contributions. This may be integrated with Transit Oriented Development district/overlay which allows for more intense development. Consider Pedestrian Overlay Districts with standards for widening sidewalks and enhancing streetscape, ground-floor retail, and active uses. These may also be called Pedestrian Priority Zones.	Noted. The Town will explore measures and policy to adopt that enhance pedestrian and bike infrastructure during the development of the Transportation & Mobility Master Plan under policy T-17-H-3.	None
<i>Future Land Use</i>	<i>Element</i>			
POLICY FLU-1-C-8 AUXILIARY DWELLING UNITS FOR COMMERCIAL PROPERTIES: The Town shall evaluate and provide for Land Development Codes that provide auxiliary dwelling units in existing commercial structures, while maintaining commercial uses on the ground floor. The Town shall explore density transfer of existing transient units in properties designated Commercial, to facilitate the development of auxiliary dwelling units on properties with a land use designation of Commercial.	FDOT	Pg. 18 Accessory Dwelling Unit: Explore codes from City of Tampa, City of DeLand, Clay County for Accessory Dwelling Unit policies.	The Town will explore these codes for potential updates to the Land Development Regulations.	None
<i>Transportation Element</i>				

ORIGINAL TEXT	AGENCY	COMMENT	RESPONSE	UPDATES TO ORIGINAL TEXT
POLICY T-17-H-3 RESERVED TRANSPORTATION MASTER PLAN: The Town shall maintain and regularly update a Transportation Master Plan or a Transportation Design Standard/Manual, using context-sensitive approaches to enhance safety and improve multimodal infrastructure and connectivity for residents and businesses. The Master Plan/Design Standard will at minimum create a standard approach to the design of Estero Boulevard, including, but not limited to, considerations of sidewalk width, pedestrian crossings, pedestrian bridges, landscaping and barriers as appropriate, beachfront access locations, trolley/bus stops, bicycle facilities, and micromobility options. Any Master Plan for the Town will consider parking locations on and off-island, as well as the necessary transit improvements to alleviate single-occupant vehicle usage.	FDOT	Pg. 6 Transportation Plan: Consider enhancing Plan into Mobility Plan which could direct funding Mobility Fees to go towards road improvements, transit services, pedestrian, and bike facilities (similar to what was mentioned for Transportation Plan). Florida municipalities have the authority to tailor these fees to support local objectives within the bounds established in Statute 163.31801.	Updates to the policy clarify that the master plan encompasses both transportation and mobility.	POLICY T-17-H-3 RESERVED-TRANSPORTATION & MOBILITY MASTER PLAN: The Town shall maintain and regularly update a <u>Transportation & Mobility Master Plan</u> or a <u>Transportation & Mobility Design Standard/Manual</u> , using context-sensitive approaches to enhance safety and improve multimodal infrastructure and connectivity for residents and businesses. The Master Plan/Design Standard will at minimum create a standard approach to the design of Estero Boulevard, including, but not limited to, considerations of sidewalk width, pedestrian crossings, pedestrian bridges, landscaping and barriers as appropriate, beachfront access locations, trolley/bus stops, bicycle facilities, and micromobility options. Any Master Plan for the Town will consider parking locations on and off-island, as well as the necessary transit improvements to alleviate single-occupant vehicle usage.
<i>Conservation Element</i>				
	SFWMD	The Conservation goals, objectives, and policies are lacking in substantive conservation policies and strategies throughout. The District recommends the Town consider the following items to substantiate the Town’s commitment to water conservation: Inclusion of indoor or outdoor water conservation programs in the Conservation goals, objectives, and policies.		None
<u>POLICY CON 4-B-1: Conservation Programs Generally</u> <u>Increase education access and protection. The town will develop educational programming for allowing appropriate access, protecting natural resources, and documenting and reporting violations of laws and regulations.</u>		Policy Con 4-B-1 states the town will develop educational programming and that they will support public educational programs that encourage water conservation practices but does not explain the specific water conservation programs or how these conservation programs might be implemented.	POLICY CON-5-A-4 has been updated to ensure the Town adheres to established guidelines and procedures for water conservation. The Town will support and disseminate educational resources on water conservation created by the County, the SFWMD, or the Town, making them available to the public in both digital and paper formats.	None changes to policy CON 4-B-1. Refer to policy CON-5-A-4 for updated text. <u>POLICY CON-5-A-4: Water and Wastewater Management</u> <u>Incorporate into the land development code measures applicable to new development and redevelopment to encourages year-round landscape irrigation conservation measures, and water and wastewater management such as low-volume irrigation systems, xeriscape Florida Friendly landscaping techniques, potential hook-ups to re-use water systems, and use of other conservation and recycling techniques demands on groundwater. The Town shall regularly review and adopt any local guidelines established by the South Florida Water Management District or Lee County, which will aid the Town’s to conserve water.</u>

ORIGINAL TEXT	AGENCY	COMMENT	RESPONSE	UPDATES TO ORIGINAL TEXT
		The Town should consider developing a website page dedicated to Water Conservation, which provides information on the Town’s conservation education and outreach program, as well as links to educational water conservation information throughout the state.	Noted.	None
		Include a description of how the Town has been implementing the District’s Mandatory Year-Round Landscape Irrigation Conservation Measures, as detailed in Chapter 40E-24, Florida Administrative Code (F.A.C.), which restricts the times and number of days landscape irrigation is allowed.	Updates to the Land Development Regulations will include language to ensure consistency with the mandatory year-round landscape irrigation conservation measures outlined in Chapter 40E-24 of the Florida Administrative Code (F.A.C.).	None
<u>POLICY CON-5-A-2: Purchasing Bulk Water</u> <u>The town will continue to purchase bulk water from Lee County Utilities in lieu of providing an independent supply of potable water. Lee County Utilities considers the Town of Fort Myers Beach to be part of its potable water service area and has demonstrated its ability to expand raw water supply and treatment facilities to meet anticipated growth consistent with the 2017 Lower West Coast Water Supply Plan Update prepared by the South Florida Water Management District.</u>		Policy CON-5-A-2: References to the 2017 Lower West Coast (LWC) Water Supply Plan should be updated to be the 2022 LWC WSP throughout the comprehensive plan.	Corrected to “2022”.	<u>POLICY CON-5-A-2: Purchasing Bulk Water</u> <u>The town will continue to purchase bulk water from Lee County Utilities in lieu of providing an independent supply of potable water. Lee County Utilities considers the Town of Fort Myers Beach to be part of its potable water service area and has demonstrated its ability to expand raw water supply and treatment facilities to meet anticipated growth consistent with the 2017 2022 Lower West Coast Water Supply Plan Update prepared by the South Florida Water Management District.</u>
<u>POLICY CON-5-A-4: Water and Wastewater Management</u> <u>Incorporate into the land development code measures applicable to new development and redevelopment to encourage water and wastewater management such as low-volume irrigation systems, xeriscape landscaping techniques, potential hook-ups to re-use water systems, and use of other conservation and recycling techniques demands on groundwater.</u>		Policy CON-5-A-4: The term 'xeriscape landscaping techniques' is dated language that has been replaced by Florida-Friendly Landscaping. The District recommends that the Town update this language to reflect current Florida Statutes.	Updated the terminology to 'Florida-Friendly Landscaping' to align with current Florida Statutes. Additionally, we have included language to ensure that any established Lee County guidelines for water and wastewater management are incorporated and applied, ensuring consistency with the SFWMD and county's conservation efforts.	<u>POLICY CON-5-A-4: Water and Wastewater Management</u> <u>Incorporate into the land development code measures applicable to new development and redevelopment to encourages year-round landscape irrigation conservation measures, and water and wastewater management such as low-volume irrigation systems, xeriscape Florida Friendly landscaping techniques, potential hook-ups to re-use water systems, and use of other conservation and recycling techniques demands on groundwater. The Town shall regularly review and adopt any local guidelines established by the South Florida Water Management District or Lee County, which will aid the Town’s to conserve water.</u>
		Fort Myers Beach is required to revise its Water Supply Facilities Work Plan (Work Plan) within 18 months after approval of the LWC Water Supply Plan Update by the District’s Governing Board. The District’s Governing Board approved the 2022 LWC Water Supply Plan Update in December 2022. Therefore, the Town’s Work Plan needed to be updated and adopted by June 2024.	Noted.	None

UPDATED ELEMENTS

Town of FMB: Community Design Element

EXISTING		PROPOSED	
GOAL 1	To continually improve the appearance and functioning of transportation corridors, commercial areas, and links to natural and recreational areas.	<u>GOAL CD-1</u>	<u>GROWTH AND DEVELOPMENT</u> <u>Accommodate growth while preserving the island's beachfront character by providing an alternative growth pattern that addresses traffic congestion, promotes a compatible mix of uses and encourages a variety of housing types and affordability to rejuvenate the existing fabric of the community and community character.</u>
OBJECTIVE 1-A	ESTERO BOULEVARD — Improve the functioning and appearance of Estero Boulevard as the premier public space and primary circulation route of Fort Myers Beach.	<u>OBJECTIVE CD-1-A</u>	<u>NEIGHBORHOOD SERVING COMMERCIAL CORES</u> <u>Identify mixed-use commercial districts throughout the island that provide neighborhood serving commercial uses and lifestyle retail around clusters of residential uses.</u>
POLICY 1-A-1	Changes along Estero Boulevard should improve on the characteristics that make it a boulevard in character and not just in name: safe and interesting to walk along, impressive landscaping, and scaled to people rather than high-speed traffic.	<u>POLICY CD-1-A-1</u>	<u>MIX OF USES</u> <u>Provide a complementary mix of land uses with design characteristics that provide:</u> i. <u>Uses that meet the daily needs of residents</u> ii. <u>A variety of affordable housing types</u>
POLICY 1-A-2	The town should develop a sidewalk and streetscape plan for all of Estero Boulevard that builds on the design theme of the 1997 improvements from Times Square and to the Lani Kai. This plan should recreate the historic “Avenue of Palms” concept by adding appropriate palm trees such as coconuts on both sides between the sidewalk and new curbs. This plan should also address related needs such as parking and trolley pull-offs, and should be sufficiently detailed to estimate costs and suggest potential phases of construction. Priorities should include positive impacts on: i. stimulating revitalization consistent with the town's overall vision in this comprehensive plan ii. completing pedestrian and bike path linkages from one end of the island to the other; iii. managing traffic flow; iv. improving pedestrian crossings; including push button (demand) lights; textured materials to emphasize crossings to drivers; and covered seating areas and other “oasis”	<u>POLICY CD-1-A-2</u>	<u>CREATE THE TIMES SQUARE MIXED-USE DISTRICT.</u> <u>The Times Square Mixed-Use District is the main tourist/entertainment district which will accommodate the most growth in terms of height and density with a predominance of residential uses on the east side of Estero Boulevard and hotel lodging and commercial uses on the west side. It is the main gateway to the island. Entertainment and tourist supporting commercial uses should be clustered here to reduce the need to drive throughout the island and to encourage walking.</u>

	amenities at trolley stops and beach accesses; v. lowering construction and maintenance costs from the original design; vi. correcting drainage problems; vii. coordinating with utility undergrounding; and viii. working within new and available sources of funds. After completing that plan, the town shall establish a phased schedule of capital improvements to complete this network.		
POLICY 1-A-3	In commercial and mixed-use areas, the town shall identify specific portions of Estero Boulevard where changes in land development regulations could work towards a more coherent “framing” of the Boulevard. New regulations should accomplish the following design goals over time through infill and redevelopment: i. bringing buildings closer to the side- walk; ii. encouraging or requiring compatible means of meeting the mandatory flood elevation requirements (for example; using dry-floodproofing techniques, or designs such as the old hardware store which is built close to the street with outside steps up, but with added steps up inside to reach the flood elevation); iii. locating most parking to the rear of buildings, limiting curb cuts, and promoting shared parking areas; iv. facilitating pedestrian and bicycle access and contributing to the interconnected- ness of the circulation system; v. adopting design guidelines that encourage architecture and urbanism along Estero Boulevard that contributes to the human scale and “beach cottage character” (such as the Huston Studio or Hussey tourist information center).	Policy CD-1-A-3	<u>CREATE THE CIVIC CENTER MIXED-USE DISTRICT</u> <u>Civic Center Mixed-Use District is a commercial district with residential on the east side of Estero Boulevard and commercial on the west. A strong mixed-use core is envisioned on the east side of Estero Boulevard as a redevelopment site. The core will support a mix of housing options and neighborhood serving retail uses for the immediate residential cluster.</u>
OBJECTIVE 1-B	OTHER PUBLIC SPACES — Beautify public spaces throughout the island.	POLICY CD-1-A-4	<u>CREATE THE CENTER ISLAND MIXED-USE DISTRICT</u> <u>The Center Island Mixed-Use District will support the nearby marina uses and provide lifestyle retail uses like cafes with outdoor dining and neighborhood serving retail for the surrounding residential neighborhood.</u>

POLICY 1-B-1	Create Estero Boulevard gateways or entry features at the south end near Big Carlos Pass and near the touchdown of the Matanzas Pass bridge.	<u>POLICY CD-1-A-5</u>	<u>CREATE THE THEATRE & ARTS MIXED-USE DISTRICT</u> <u>The Theatre & Arts Mixed- Use District is envisioned with arts and theatre related uses like cafes, art galleries, art studios, and restaurants. Existing views to the water here should be preserved.</u>
POLICY 1-B-2	Improve the appearance of the town throughout by landscaping public property and rights-of-way with native vegetation.	<u>POLICY CD-1-A-6</u>	<u>CREATE THE SANTINI VILLAGE MIXED-USE DISTRICT</u> <u>Santini Village Mixed-Use District is the tallest and most dense district on the island with tourist supporting uses and commercial. It is also envisioned as a redevelopment opportunity with more entertainment, tourist and neighborhood commercial uses as the southern gateway to the island.</u>
POLICY 1-B-3	Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special land- scape projects.	<u>OBJECTIVE CD-1-B</u>	<u>TRANSITION ZONES AND CONSERVATION DISTRICTS</u> <u>Create language to prevent commercial intrusion into the residential neighborhoods by providing transitions from commercial to residential uses. Use Conservation Districts to maintain the scale, massing and character of Fort Myers Beach and new construction.</u>
POLICY 1-B-4	Monitor the effectiveness of the county's pro- gram for removing trash and debris from the beachfront and Bay accesses.	<u>POLICY CD-1-B-1</u>	<u>TRANSITION ZONES</u> <u>New development on properties abutting single family homes and one and two story multi-family homes shall provide a building profile that matches the height of the abutting property as prescribed in the land development codes, to create an incremental transition in height.</u>
POLICY 1-B-5	Develop a program for placing utilities underground that addresses both public and private sector development.	<u>POLICY CD-1-B-2</u>	<u>CREATE CONSERVATION DISTRICTS</u> <u>Develop specific standards for the Conservation District. Use Conservation Districts to maintain the scale, massing and character of Fort Myers Beach and new construction. New buildings and additions should match the height and bulk of existing building form, with architectural treatments and building articulation that are consistent with the existing building vernacular.</u>
POLICY 1-B-6	Conduct regular and adequate street cleaning (sweeping or vacuuming) throughout the town. Evaluate effective methods to keep streets and drainage systems clean despite the abundance of blown sand and the absence of curbs.	<u>OBJECTIVE CD-1-C</u>	<u>Workforce Housing Through Density and Height Bonus</u>
GOAL 2	To upgrade residential neighbor- hoods throughout Estero Island.	<u>POLICY CD-1-C-1</u>	<u>Each of the mixed-use districts may provide for additional bonus height for developments that provide a workforce housing component.</u>
OBJECTIVE 2-A	HIDDEN PATHS — Create an additional interconnected system of pedestrian and bicycle pathways throughout the island to improve mobility and promote community inter- action.	<u>POLICY CD-1-C-2</u>	<u>The Town shall determine the minimum requirements for the workforce housing component as a policy in the land development regulations.</u>

POLICY 2-A-1	The town should encourage a community- sponsored program to identify and build a system of existing and potential “hidden paths” parallel to but behind Estero Boulevard. A local foundation or community land trust could identify and acquire existing vacant lots or easements to gradually complete the network. These parcels could be transferred back to the town for long-term maintenance.	<u>OBJECTIVE CD-1-D</u>	<u>MASTER PLANNED DEVELOPMENT</u> <u>Provide mechanisms to incentivize master planning large parcels and land assemblies for mixed-use development.</u>
POLICY 2-A-2	The town shall adopt changes to the land development regulations to allow small portions of existing lots to become a part of the hidden-path network without diminishing future uses of those lots.	<u>POLICY CD-1-D-1</u>	<u>The Town may consider and approve requests for Master Planned Developments. Assembled parcels that exceed four (4) acres can be master planned such that the applicant can propose new building scale, massing and uses from the underlying zoning.</u>
POLICY 2-A-3	The town shall ensure coordination between efforts to develop this hidden-path network and its new streetscape plan for Estero Boulevard.	<u>POLICY CD-1-D-2</u>	<u>Assembled parcels that exceed seven (7) acres must have a workforce housing and housing component to enjoy the benefits of changing the underlying zoning to be determined by the Town.</u>
OBJECTIVE 2-B	SIDE STREETS — Encourage residents to achieve a higher ambition for their residential streets, improving their walkability, comfort, beauty, inter- connectedness, and safety.	<u>POLICY CD-1-D-3</u>	<u>Assembled parcels that exceed seven (7) acres must provide a master plan for approval by the Town at a public hearing.</u>
POLICY 2-B-1	The town strongly supports the planting of regularly spaced street trees in public rights- of-way on residential streets. The selection of specific trees shall be guided by public input and the following criteria: i. amount of shade provided, especially during the summer months; ii. the amount of water and other regular maintenance that will be required (such as types of leaves, fronds, and fruit); iii. potential damage from extensive root systems or other characteristics of specific trees; iv. variety and beauty, including flowering characteristics; v. the potential for wildlife utilization; vi. a strong preference for native trees such as live oak, gumbo limbo, sea grape, cabbage palm, mastic, Jamaica dog- wood, mahogany, black olive, strangler fig, pigeon plum, and buttonwood; and vii. a prohibition on the use of invasive trees such as Australian pine, Brazilian pepper, melaleuca, and Java plum.	<u>OBJECTIVE CD-1-E</u>	<u>PRESERVING BUILDING SCALE BY ADAPTIVE REUSE OF EXISTING BUILDING STOCK</u> <u>Encourage conversions from vacation rentals and motels to condominiums to provide affordable housing options for Fort Myers Beach’s workforce.</u>

POLICY 2-B-2	The town should develop a residential streets program that provides guidelines and technical assistance to neighborhoods that wish to improve their public spaces as civic projects. The program could include the following elements: i. assistance in developing a workable approach on a street-by-street basis, consistent with the island-wide concept; ii. volunteer local arborists to provide specific advice and technical assistance; iii. assistance in preparing a planting plan for street trees; iv. financial assistance for planting street trees; v. a booklet describing the characteristics of desirable street trees for Fort Myers Beach; vi. a guidebook for tree planting, irrigation, and pruning methods; vii. a plan for short- and long-term maintenance of planted areas and street trees; viii. a current list of contact persons and a description of the process for requesting street repairs and maintenance and for reporting code violations; and ix. information on how to form a street lighting district.	POLICY CD-1-E-1	<u>ADAPTIVE REUSE</u> <u>Encourage the adaptive reuse of existing structures located within mixed-use and commercial land use designations, particularly those that were originally established as motels or vacation rentals are over 50 years old, by providing incentives, such as relief in the Land Development Regulations, grants to facilitate retrofitting or rehabilitation, etc.</u>
GOAL 3	To revitalize and improve specific transitional neighborhoods.	POLICY CD-1-E-2	<u>INCENTIVES FOR ADAPTIVE REUSE</u> <u>Develop an incentives package in the Land Development Regulations that encourage adaptive reuse of motels and vacation rentals to convert to condominiums to maintain the historic character and development pattern over time.</u>
OBJECTIVE 3-A	HEART OF THE ISLAND — Redevelop the School/Library/Bay Oaks area as the new “heart of the island.”	OBJECTIVE CD-1-F	<u>STREET FRONTAGES AND PARKING LOTS</u> <u>Develop policies to limit parking lots fronting main streets in the Land Development Regulations.</u>
POLICY 3-A-1	The complex of civic activities in the Bay Oaks area is a key community asset. Its access and significance would be enhanced by creating a main entryway; School Street could become a walkable palm-lined street of restored and infill cottages that announce the entry to this center of civic activity.	POLICY CD-1-F-1	<u>RESTRICTING PARKING AS A PRIMARY USE ON ESTERO BOULEVARD</u> <u>Parking lots shall not be encouraged as a primary use on Estero Boulevard.</u>
POLICY 3-A-2	A prominent civic structure benefits the community most when its location serves the public conveniently and when its design helps shape the surrounding public spaces and provides a new and symbolic vista from other public places.	POLICY CD-1-F-2	<u>RESTRICTING PARKING FRONTAGE LENGTH ON ESTERO BOULEVARD</u> <u>Parking lot frontages shall ideally be limited in size to one fourth the lot width on Estero Boulevard.</u>

POLICY 3-A-3	If the town ever decides to build a Town Hall rather than renting office space, a new building, even if modest in size, should help complete a center of public activity and should be visually prominent as a showcase of urban design.	<u>POLICY CD-1-F-3</u>	<u>PARKING STANDARDS FOR NEW DEVELOPMENT IN MIXED-USE COMMERCIAL DISTRICTS</u> <u>Within the Mixed-Use Commercial Districts, new development shall locate and design off-street parking areas in a manner that does not detract from the character by providing standards in the Land Development Regulations, such as locating parking to rear of buildings, limiting curb cuts, and landscaping and façade requirements.</u>
POLICY 3-A-4	A “heart of the island” plan should be prepared to coordinate the public and private actions needed to fully implement this concept, including identifying the sequence of actions, responsibilities for implementation, and potential funding sources. Initial actions should include: i. develop a design concept consistent with the new streetscape plan for Estero Boulevard, identifying approximate costs, potential funding sources, and suggested phasing; ii. refine regulations that would allow a compatible mix of uses such as residential, live-work spaces such as studios or galleries, and small-scale specialty retail uses consistent with the historic theme, including eased setback and parking regulations to accommodate the unique needs of renovations of existing and move-on cottages; and iii. prepare architectural guidelines for cottage renovations and for infill development.	<u>POLICY CD-1-F-4</u>	<u>PARKING STANDARDS IN TIMES SQUARE</u> <u>Improve the current parking situation near Times Square through the means outlined in the Transportation Element of this plan.</u>
POLICY 3-A-5	Provide in the new Land Development Code a pre-approved option for the future redevelopment of the Red Coconut/Gulfview Colony properties consistent with the town’s vision of traditional neighborhoods — neighborhoods that recreate a small-town feel; which are pedestrian and bicycle friendly with an internal circulation system that makes it possible to walk or bicycle to schools and services without always using Estero Boulevard; which retain the psychological connection and views to both the Bay and the beach; and which offer a variety of housing types and opportunity for mixed uses.	<u>POLICY CD-1-F-5</u>	<u>PARKING SUPPLY</u> <u>Evaluate parking supply needs by conducting a parking supply study and determine parking solutions including shared parking, structured parking that meets the character of the Island and parking management practices like centralized parking and offsite parking for employees.</u> <u>For the purposes of this policy, parking supply shall mean vehicular, bicycle, and any future micromobility options.</u>
POLICY 3-A-6	In accordance with Policies 4-E-1 and 4-F-2 of the Future Land Use Element, evaluate any alternative redevelopment concepts for any portion of the Gulfview Colony/ Red Coconut properties as to the following design principles:	<u>OBJECTIVE CD-1-G</u>	<u>DESIGN STANDARDS FOR PRESERVING BEACHFRONT CHARACTER</u> <u>Develop building design standards to preserve and enhance the existing beachfront character.</u>

	i. retains and/or creates water views through street layout, site design, and architectural design; ii. provides a variety of housing types rather than uniformity; iii. locates the more durable housing types and mix of uses along the Bay side of Estero Boulevard; iv. new streets create a highly connected network which includes mid-block paths or alleys; v. streets have sidewalks and street trees; vi. local streets are interconnected from Donora and Shell Mound through to the north.		
OBJECTIVE 3-B	NEAR-TOWN NEIGHBORHOODS — Revitalize older residential areas using traditional neighborhood techniques for renovations and infill.	<u>POLICY CD-1-G-1</u>	<u>NEIGHBORHOODS AND MIXED-USE DISTRICTS</u> Maintain design standards in the Land Development Regulations for neighborhoods and districts which protect and enhance their unique character through building setbacks, building footprint, massing and scale. These can be enhanced through Conservation District language to protect the Fort Myers Beach building vernacular and encourage adaptive reuse for motels and vacation rentals.
POLICY 3-B-1	The town shall prepare and adopt land development regulations to apply to the older “near-town neighborhoods” that will encourage renovations and compatible infill development, using the following types of techniques: i. modifying lot size, setback, and parking requirements where the current regulations hinder redevelopment; ii. adding design guidelines to encourage front porches, decks, and other elements from the cottage design tradition to help frame public spaces and define private areas; iii. modifying permitted uses to accommodate quiet home offices and possibly other mixed uses; iv. modifying current limitations on the number of guests and/or length of stays to protect residential areas from excessive intrusion by poorly regulated short- term rentals.	<u>POLICY CD-1-G-2</u>	<u>ESTERO BOULEVARD</u> Continue to make improvements to Estero Boulevard in terms of the eclectic character of building design with incentives in the Land Development Regulations.
OBJECTIVE 3-C	SANTINI “MAIN STREET” — Redevelop the Villa Santini Plaza and its environs as a “Main Street” town center for the south end of the island.	<u>POLICY CD-1-G-3</u>	<u>GUIDELINES FOR BUILDING COMPATIBILITY WITH FLOOD REGULATIONS</u> Encourage or require compatible means of meeting the mandatory flood elevation requirements (for example, using

			<u>dry-floodproofing techniques, having maximum allowable floor to ceiling height that match adjacent structures especially for buildings that need to be elevated at grade level and using gradual inclines for grade changes on commercial properties.</u>
POLICY 3-C-1	The town wishes to convert, over time, the existing Villa Santini Plaza and surrounding land from its current configuration of auto- oriented commercial uses. The desired plan would create a new “Main Street” shopping and civic center to serve residents of the south end of Estero Island and visitors to the state park on Black Island and Lovers Key (see Policy 4-F-2(ii) of the Future Land Use Element). To accomplish this goal, the town wishes to structure a public/private partner- ship agreement that provides for the following: i. outlines the public improvements necessary to implement the concept, and identifies the agencies and entities in- volved and their respective roles; ii. provides the town’s design criteria to guide the preparation of the development plan by the property owners; and iii. sets forth the process for the partner- ship, identifies responsibilities, areas of commitment, timing and process, order of magnitude costs, fiscal impacts/bene- fits, and any reimbursements.	<u>GOAL CD-2</u>	<u>COMMUNITY CHARACTER OF PUBLIC SPACES</u> <u>Improve the physical appearance of the island’s public spaces, paths, streets and streetscape to achieve a unified small town character which balances the needs of both residents and tourists.</u>
POLICY 3-C-2	The town shall adopt new development regulations for this area to bring about the desired redevelopment pattern in the Villa Santini area. Along the nearby section of Estero Boulevard, buildings being constructed or renovated shall extend closer to the street and provide front access to pedestrians and on-street parking. Internal site layouts shall be reconfigured to accommodate a central green/plaza area for overflow parking and a trolley transfer point generally consistent with the 1997 design concept pre- pared by Dover, Kohl & Partners.	<u>OBJECTIVE CD-2-A</u>	<u>PUBLIC SPACES AND VIEWS TO THE WATER</u> <u>Use urban design standards to reinforce walkable streets, public and private spaces and a sense of community through the public realm.</u>
OBJECTIVE 3-D	TIMES SQUARE — Stimulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities.	<u>POLICY CD-2-A-2</u>	<u>OPEN SPACE AND LAND USE</u> <u>Beautify public spaces throughout the island and preserve and protect natural areas that serve and benefit the public.</u>
POLICY 3-D-1	The town shall create a Downtown Redevelopment Agency to assist the Main Street pro- gram in revitalizing downtown as a lively, inviting, comfortable, and safe public environment.	<u>POLICY CD-2-A-3</u>	<u>VIEW CORRIDORS</u> <u>Maintain existing public rights-of-way that provide view corridors to water bodies and, whenever possible, provide features such as benches, landscaping, and trash receptacles to enhance the areas as pocket parks, and</u>

			<u>develop a process and criteria for identifying specific scenic resources, view corridors, and vistas that should be preserved or enhanced as new development and redevelopment occurs.</u>
POLICY 3-D-2	Downtown revitalization shall be based on the concepts in the Core Area Master Plan prepared for the Estero Island CRA Commit-tee in 1993-94, as refined during the continuing implementation of that plan. Those concepts are summarized in the following policies.	<u>POLICY CD-2-A-4</u>	<u>ENTRY GATEWAYS</u> <u>Create Estero Boulevard gateways or entry features at the south end near Big Carlos Pass and near the touchdown of the Matanzas Pass bridge.</u>
POLICY 3-D-3	Continue with sidewalk improvements: i. Standard sidewalk widths should be provided by the public sector and/or private developers in each development project as it is implemented. Consider a program for private sidewalk reservation through dedication or easement, particularly along Old San Carlos. ii. Use selected materials in public rights-of-way and private property improvements adjacent to sidewalks, such as in plazas or building setbacks. iii. Provide special design treatment (e.g. continuation of sidewalk paving patterns) at major intersections of the primary pedestrian streets to create a visual link and distinguish the pedestrian surface from the vehicular right-of-way.	<u>OBJECTIVE CD-2-B</u>	<u>STREETSCAPE</u> <u>Enhance the existing paths and sidewalks and streetscape to foster a more appealing environment for walking and biking.</u>
POLICY 3-D-4	Implement the pedestrian circulation plan: i. Complete the Bay-side sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks. ii. Construct sidewalks (5' wide minimum sidewalk) along all streets in the Core Area. iii. Provide a bike path along Estero Boulevard utilizing Crescent Street to Third Street across to Old San Carlos and then connecting back to Estero Boulevard and north to Bowditch Point. iv. Promote the function of Old San Carlos as a pedestrian spine linking Times Square and the marina by implementing public sidewalks and major crosswalks designed to work in	<u>POLICY CD-2-B-1</u>	<u>COMMERCIAL STREETSCAPE</u> <u>Improve the appearance of the town throughout by developing land development regulations for landscaping public property and rights-of-way with native vegetation and ensuring sidewalks are six (6) feet wide in residential zones and up to twelve (12) feet wide in mixed-use commercial districts.</u>

	conjunction with arcades or plazas located on private property. v. Work with the private sector to establish a site for a new public pedestrian plaza at the east of Old San Carlos. vi. Provide new on-street parking and side-walk on the south side of Crescent Street. vii. Reconfigure Third and Fourth Streets with on-street parking and sidewalks on both sides of the street. viii. Coordinate all proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.		
POLICY 3-D-5	Improve the current parking situation near Times Square through the means outlined in the Transportation Element of this plan. Suggestions from the Core Area Master Plan include: i. Implement parking management practices that create a positive experience for visitors and business operations. ii. Encourage the private sector to build and operate expanded parking areas, using public sector assistance if needed for land assembly and regulatory relief. iii. Expand the supply of shared on-street parking with 165 new parallel and angled spaces. iv. If the new supply of parking will be inadequate and a parking garage must be built, appropriate locations would be to the rear of new storefronts facing Old San Carlos.	<u>POLICY CD-2-B-2</u>	<u>LANDSCAPE FEATURES</u> <u>Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special landscape projects through a formal landscape planning process.</u>
POLICY 3-D-6	Design and construct streetscape improvements for Old San Carlos, Crescent Street, Center Street, and First through Fifth Street. These include on-street parking, new side-walks, buried utilities, and landscaping.	<u>POLICY CD-2-B-3</u>	<u>STREET CROSSINGS</u> <u>Improve pedestrian crossings; including push button (demand) lights; textured materials to emphasize crossings to drivers; and covered seating areas and other “oasis” amenities at trolley stops and beach accesses that are consistent with the Manual of Uniform Traffic Control Devices and the Florida Design Manual as applicable.</u>
POLICY 3-D-7	Continue to implement the stormwater management plan (an exfiltration system that integrates the existing storm sewer pipe system and inlets with exfiltration trenches under Estero Boulevard). Similar systems can be installed for private development under parking lots or open space.	<u>POLICY CD-2-B-4</u>	<u>RESIDENTIAL STREETSCAPE</u> <u>Develop a landscape plan in the Land Development Regulations for residential streets. The plan should consider regularly spaced street trees in public rights-of-way on residential streets which provide adequate shade, color and</u>

			interest, are low maintenance, with root systems that will not damage sidewalks, accommodate wildlife, are non-invasive.
POLICY 3-D-8	Provide technical assistance regarding dry flood proofing methods and design to individuals seeking to develop or improve their properties.	<u>POLICY CD-2-B-5:</u>	<u>RESIDENTIAL STREET PROGRAM</u> The town should develop a residential streets program to implement the landscape plan. The Program can provide: i. <u>assistance in developing a workable approach on a street-by-street basis, consistent with the island-wide concept.</u> ii. <u>volunteer local arborists to provide specific advice and technical assistance.</u> iii. <u>financial assistance for planting trees.</u> iv. <u>a booklet describing the characteristics of desirable street trees for Fort Myers Beach.</u> v. <u>a guidebook for tree planting, irrigation, and pruning methods.</u> vi. <u>a plan for short- and long-term maintenance of planted areas and street trees.</u>
POLICY 3-D-9	Enhance Lynn Hall Park with continuing beach renourishment, beach volleyball areas, and possibly a performance pavilion (in the southeast corner of the park next to Times Square). Include a pedestrian path linking the beach and the northern portion of Estero Boulevard.	<u>GOAL CD-3</u>	<u>CONNECTIVITY AND MOBILITY TO REDUCE TRAFFIC IMPACTS</u> Plan for interconnected streets and pedestrian paths that connect to mixed-use commercial districts to enhance mobility options.
		<u>OBJECTIVE CD-3-A</u>	<u>COMPLETE STREETS AND BICYCLE INFRASTRUCTURE</u> Provide for comfortable streets, street grid and interconnected paths that includes designated spaces for walking, biking, cars and transit that seamlessly connect to mixed-use commercial districts.
		<u>POLICY CD-3-A-1</u>	<u>INTERCONNECTED PATHS</u> Create an additional interconnected system of pedestrian and bicycle pathways throughout the island to improve mobility and promote community interaction that connects to mixed-use commercial districts behind Estero Boulevard.
		<u>POLICY CD-3-A-2</u>	<u>STREET CONNECTIVITY</u> Preserve, enhance, and provide connectivity for the downtown character and neighborhoods while fostering complete streets initiatives. Maintain and enhance the tightly gridded, interconnected street network that facilitates the dispersal of traffic and contributes to the character of Fort Myers Beach.
		<u>POLICY CD-3-A-3</u>	<u>MAINTAIN PEDESTRIAN CIRCULATION</u>

			<u>Maintain the pedestrian circulation plan:</u> i. <u>Bayside sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks.</u> ii. <u>Sidewalks (5' wide minimum sidewalk) along all streets in the Core Area.</u> iii. <u>Bike path along Estero Boulevard utilizing Crescent Street to Third Street across to Old San Carlos and then connecting back to Estero Boulevard and north to Bowditch Point.</u> iv. <u>Old San Carlos as a pedestrian spine linking Times Square and the marina by implementing public sidewalks and major crosswalks designed to work in conjunction with arcades or plazas located on private property.</u> v. <u>A new public pedestrian plaza at the east of Old San Carlos.</u> vi. <u>New on-street parking and side- walk on the south side of Crescent Street.</u> vii. <u>Third and Fourth Streets with on-street parking and sidewalks on both sides of the street.</u> viii. <u>Proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.</u>
--	--	--	---

CONSERVATION ELEMENT

GOAL CON-1 6:

~~To protect the natural resources in and around the town from further damage and improve their future health and sustainability through regulations, education, enforcement, timely management, public improvements, and cooperation with other entities with similar goals.~~

Maintain and improve the Town of Fort Myers Beach's coastal resources with ongoing commitment through regulations, education, land acquisition and preservation, evaluation, programs, and for cooperation with the federal and county governments and related agencies.

OBJECTIVE CON 1-6-A: ESTUARIES AND BAYS

Improve the condition and function of estuaries and bays surrounding Estero Island, including their components such as seagrass meadows, tidal flats, soft bottoms, oyster bars, tidal creeks, and open water. Improve the viability of existing native coastal and upland habitats and establish additional areas for nature preserve and conservation uses to expand habitat areas and improve the conditions of estuaries and bays surrounding Estero Island.

POLICY CON 1-6-A-1: Protecting Marine Habitats/Resources:

~~Estuaries are the ecological transition between fresh and saltwater systems. They provide extensive habitat for fish and WILDLIFE including the feeding, breeding, and nursery ground for most of the commercially important fish and shellfish and many species of local and migratory birds, while offering a broad array of recreational opportunities. The Town of Fort Myers Beach will take all feasible steps to protect its marine and estuarine habitats and finfish/shellfish resources to ensure their long-term viability and productivity for scientific, commercial, sport, and recreational purposes. The town shall take a leadership role in enacting ordinances and facilitating resolution of jurisdictional problems.~~

The Town of Fort Myers Beach will take all feasible steps to protect its marine and estuarine habitats and finfish/shellfish resources to ensure their long-term viability with enacting ordinances and facilitating resolution will cooperation with other governmental agencies.

~~POLICY 6-A-2 The town will cooperate closely with other governmental agencies in formulating, monitoring, and enforcing regulations to protect the healthy functioning of the estuary, including but not limited to:~~

- ~~i. Marking existing channels crossing through seagrass beds to help boaters avoid damaging them (and their boats);~~ ii.
(i). Establishing permitting criteria for activities within the Town's 1000-foot jurisdiction beyond Estero Island to protect seagrass beds, oyster bars, soft bottoms, and other benthic communities from damage from docks, boat ramps, navigation channels, etc. These criteria would be coordinated with other regulatory agencies to prevent damage and to ensure that every effort is

~~made to protect marine habitats to locate these facilities away from valuable environmental resources. If permits are issued without concurrence from the town, the town may choose to withhold local building permits if a better location or technique could avoid damage to seagrass beds, oyster bars, or other sensitive benthic communities.~~

- ~~(ii) Controlling point and non-point sources of pollution including drainage, sewage pollution, and stormwater runoff.~~
- ~~(iii) Providing hardened shoreline stabilization such as seawalls;~~
- ~~iii. maintaining proper quality and timing of freshwater inputs.~~
- ~~(iv.) Protecting habitats from dredge-and-fill activities.~~
- ~~(v.) protecting sea grasses from “prop scarring” and excessive shading from docks; and protecting important uplands adjacent to wetlands.~~

~~POLICY 6-A-3 In cooperation with other jurisdictions, evaluate the effectiveness of existing regulations and enforcement techniques in preserving the bay and estuary system. Recommend and support such additional measures as necessary to ensure their sustainability, such:~~

- ~~i. Marking existing channels crossing through seagrass beds to help boaters avoid damaging them (and their boats);~~
- ~~ii. Establishing permitting criteria for activities within the town’s 1000-foot jurisdiction beyond Estero Island to protect seagrass beds, oyster bars, soft bottoms, and other benthic communities from damage from docks, boat ramps, navigation channels, etc. These criteria would be coordinated with other regulatory agencies to ensure that every effort is made to locate these facilities away from valuable environmental resources. If permits are issued without concurrence from the town, the town may choose to withhold local building permits if a better location or technique could avoid damage to seagrass beds, oyster bars, or other sensitive benthic communities.~~

~~POLICY 6-A-4 Encourage the organization of a local task force to coordinate and reconcile efforts of various organizations, governments, and businesses to promote long-term sustainability of the estuary. Potential perspectives include eco-tourism, water quality, habitat protection, commercial and recreational uses, and economic development. The task force would promote cooperative activities, assess needs, and recommend methods of coordinating reporting and enforcement of violations. The task force would make recommendations to the town regarding issues such as:~~

- ~~i. Establishing restricted areas and other methods of controlling boat traffic in Estero Bay, particularly around rookery islands and seagrass beds.~~
- ~~ii. Locating a suitable launching point on the Gulf for use by personal watercraft to reduce traffic on the bay side.~~
- ~~iii. Adopting a ban on the commercial collection of live shells.~~
- ~~iv. Recommending capital projects to improve water quality.~~
- ~~v. Recommending regulations to protect local waters.~~

POLICY CON 1-6-A-5: Improve Water Quality:

~~Maintain or improve estuarine water quality in accordance with policy under Objective 8 below, and economic value of the water bodies surrounding the Town of Fort Myers Beach.~~

~~POLICY 6-A-6 Regularly examine activities that may be within the town's jurisdiction to determine whether more stringent regulations or other actions are needed to ensure the functioning and long-term viability of natural systems.~~

OBJECTIVE CON 1-6-B: COASTAL LANDS
Develop policies to improve and protect coastal lands.

~~POLICY 6-A-7~~ CON 1-B-1: PARTICIPATION IN EFFORT TO IMPROVE ESTERO BAY

Participate actively in the Agency on Bay Management, the Charlotte Harbor National Estuary Program, The Estero Bay Management Plan and other entities attempting to improve the environmental health of Estero Bay.

~~POLICY 6-A-8~~ CON 1-B-2: PURCHASE 16,000 ACRES FOR ESTERO BAY PRESERVE

~~Actively encourage the purchase of the full 16,000 mainland acres adjoining Estero Bay to become an expanded Estero Bay State Buffer Preserve.~~

~~OBJECTIVE 6-B WILDLIFE AND NATIVE HABITATS — Improve the viability of existing native coastal and upland habitats and establish additional areas for nature preserve and conservation uses.~~

~~POLICY 6-B-1 CONSERVATION PROGRAMS GENERALLY — The town will cooperate with local, state, and federal regulatory agencies in establishing and managing natural reserves, preserves, and critical wildlife areas. This cooperation will include increasing public awareness, allowing appropriate access, properly protecting natural resources, and documenting and reporting violations of laws and regulations.~~

~~POLICY 6-B-2 LITTLE ESTERO ISLAND CRITICAL WILDLIFE AREA — In cooperation with state agencies, the town will aid in the stewardship of the Little Estero Island Critical Wildlife Area through activities such as:~~

- ~~i. Prohibit commercial activities within the defined boundaries of Little Estero Island.~~
- ~~ii. Support legislative measures as necessary to protect the long-term future of the preserve.~~
- ~~iii. Inform residents and visitors of the uniqueness and fragility of the island's habitats and identify funding for measures such as designating pedestrian trails and dune walkovers, adding information and interpretive signs, producing educational brochures, and conducting seminars to encourage proper use.~~
- ~~iv. Sponsor a volunteer task force to work with the Florida Game and Fish Water Fish Commission to oversee the daily stewardship of Little Estero Island through activities such as:~~
 - ~~• Identify potentially destructive practices (such as mowing or raking on the shoreline, litter, boat traffic, low flying airplanes, disturbances from vehicles and dogs, etc.) and determine appropriate methods to address them.~~
 - ~~• Inform residents and visitors of the uniqueness and fragility of the island's habitats; plant shoreline vegetation to replace vegetation damaged by visitors or other unnatural causes;~~

~~place and maintain interpretive signs; produce educational brochures; and conduct seminars to encourage proper use.~~

- ~~• Promote voluntary enforcement and possible citizen “volunteer patrols” to educate residents and visitors of the rules of the island and why they are needed.~~
- ~~• Develop guidelines to protect the fragile environment of the preserve and, where appropriate, urge their adoption as land development regulations or part of the town’s code of ordinances.~~

POLICY ~~6-B-9~~ CON 1-B-3: Acquisition of Additional Sites:

The town will strive to expand the opportunities for conservation and public appreciation of natural resources through acquisition of additional areas with rare or unique ecological or botanical features, or which provide access to such areas, through activities such as the following:

- i. Identify specific sites that would be desirable for public acquisition.
- ii. Support the efforts of other entities acquiring land that will contribute to the conservation effort (for example, aquatic preserve buffer areas, Bunche Beach, etc.)
- iii. Consider alternative means of land acquisition, such as supporting the efforts of nonprofit conservation land trust or acquiring development rights in lieu of full acquisition.
- iv. Accept donations of land for nature preserves or other resource conservation areas with the following general conditions: if such lands contain ecologically valuable habitat and/or if public ownership of such lands would expand existing or provide increased preservation or resource conservation areas.
- v. When acquiring property, determine the best entity to be responsible to implement a long-range management plan.

POLICY CON 1-6-B-4: Matanzas Pass Preserve:

Prepare for the transition of the long-term maintenance responsibility of the Matanzas Pass Preserve from Lee County to a partnership among the county, the town, and a local non-profit organization such as the Friends of the Matanzas Pass Preserve.

- ~~i. Reinforce and support the efforts of the non-profit organization to expand the voluntary community-based portion of the operation and maintenance of the preserve. Assist their efforts to implement the restoration plan (which includes site preparation, revegetation, and long term management) and future improvements including new foot trails, repairing and extending boardwalks, providing a canoe/kayak access point, and adding a fishing pier/observation deck. This assistance may take the form of seeking grant funds, lending technical assistance, providing equipment (either directly or through leases with the county), or partial funding.~~
- ~~ii. Negotiate an agreement with the county that assigns responsibilities for the long term maintenance, restoration, and improvement of the preserve, that reflects its status as both a county-wide and local amenity and its importance as natural habitat.~~

POLICY CON 1-6-B-5: Upland Habitat:

Preserve all remaining coastal strand and hammocks and improve the existing habitat through removal infestations of exotic plants and replanting with native species. When these habitats are in private ownership.

- ~~i. Land uses must not result in the degradation of the values and functions of adjoining and nearby wetlands.~~
- ~~ii. Beaches seaward of the 1978 Coastal Construction Control Line are designated on the Future Land Use Map as “Recreation” to preclude their use for further urban development.~~
- ~~iii. Known remaining coastal hammocks are designated on the Future Land Use Map as “Recreation” to preclude their use for further urban development.~~

OBJECTIVE CON 1-C: PROTECTING RESOURCES FROM NON-DEVELOPMENT ACTIVITIES

Develop policies to protect natural resources from non-development activities.

POLICY CON 1-C -1: Wetlands Improvements

Structures or facilities that will improve the functional value of wetlands or provide “no-impact” use for observation, education, research, or passage shall include such structures as public boardwalks, observation decks, or launching areas for non-motorized watercraft shall be conditionally permitted, as appropriate, in the land development regulations.

In accordance with Florida Statutes, the Town will not undertake an independent review of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a state Environmental Resource Permit or exemption. However, no development approval shall be issued by the Town for any project which impacts wetland resources until all requisite permits from other agencies have been obtained and provided to the Town. All conditions placed on such permits shall be incorporated into the final development approval issues by the Town. Violations of such conditions shall be prosecuted through the Town’s code enforcement procedures.

POLICY CON 1-C 2: Prohibitions On Excavation and Mining

Commercial excavation and mining activities are prohibited in the Town of Fort Myers Beach due to potentially detrimental effects to groundwater, surface water, wildlife habitats, and surrounding land uses and values.

POLICY CON 1-C-3: Offshore Gas and Oil Exploration

The Town of Fort Myers Beach opposes offshore gas and oil exploration and excavation activities which may be reasonably expected to threaten the quality of coastal beaches and estuarine ecosystems; or would place oil- or gas-related facilities on coastal beaches, islands, or wetlands; or would require the placement of oil or gas storage facilities on the island.

POLICY CON 1-C -4: Dredging Tidal Canals

The dredging of additional tidal canals is prohibited.

POLICY CON 1-C -5: Water and Sewer Connections and Septic Tanks

The Town shall require connection to central water and sewer systems. No permits shall be issued for new septic tanks within the Town of Fort Myers Beach.

GOAL CON 2: HEALTHY WILDLIFE HABITAT:

OBJECTIVE CON 2-A: PROTECTED SPECIES

The Town of Fort Myers Beach will protect and ensure the management of designated protected species in cooperation with local, state, and federal agencies.

POLICY CON 2-A-1: Additional Protections:

The Town shall assist in the application of state and federal regulations regarding listed species through activities such as:

- i. Prohibit unmitigated development in and around areas designated as habitats, nesting areas, or feeding sites for wildlife listed as endangered or threatened.
- ii. Provide information regarding listed species on properties undergoing development review.
- iii. Withhold development approval until such time as all applicable state and federal permits pertaining to such species have been obtained and copies provided to the town.
- iv. Cooperate with Lee County and other agencies in the establishment of mitigation parks and banks to allow this form of mitigation for local impacts to listed wildlife species and native communities.
- vi. Support public education on the value of wildlife, native communities, and other natural resources through such means as brochures, newspaper articles, public presentations and workshops, and the placement of interpretive displays and development of observation trails at appropriate park sites.
- vii. Encourage and provide technical assistance to volunteer and non-profit organizations such as Turtle Time, Estero Bay Foundation, Estero Bay Buddies, and the Friends of the Matanzas Pass Preserve in their conservation efforts.

POLICY CON 2-A-2: Bald Eagles:

Maintain Lee County's ordinance protecting bald eagle nesting habitat in case bald eagles begin nesting on Estero Island, and urge adherence during development activities to "Habitat Management Guidelines for the Bald Eagle in the Southern Region" prepared by the U.S. Fish and WILDLIFE Service which recommends a primary protection zone with a radius of 750 to 1500 feet around active nests in which no development should occur, and a secondary zone an additional 750 feet to a mile from the outer edge of the primary zone to remain undisturbed during the nesting seasons.

POLICY CON 2-A-3: Manatees:

Recognizing that the waters of the Town provide important habitat for the endangered West Indian manatee, the Town will cooperate with local, state, and federal agencies in the establishment of manatee protection programs, including designation, marking, enforcement of slow-speed manatee protection areas and restriction of activities known to adversely affect manatees. The Town waters or portions of Town waters, as properly marked and permitted through the Florida

Fish and Wildlife Conservation Commission, are hereby established as all year slow speed manatee protection zones:

- i. All waters of Matanzas Pass and Estero Bay east of a line that bears 360° from the northernmost tip (approximate latitude 26°27'56" North, approximate longitude 81°58'04" West) of Estero Island, and west and southwest of a line 1,000 feet east and northeast of and parallel to the general contour of the east and northeastern shorelines of Estero Island, and west of a line beginning at a point (approximate latitude 26°24'34" North, approximate longitude 81°53'03" West) on the eastern shoreline of Estero Island and bearing 36° to a point (approximate latitude 26°24'40" North, approximate longitude 81°53'00" West) on the southern shoreline of Coon Key, but excluding the portions of the marked North-South channel in northern Estero Bay from Green Channel Marker "37" (approximate latitude 26°26'02" North, approximate longitude 81°54'29" West) to Green Channel Marker "57" (approximate latitude 26°25'08" North, approximate longitude 81°53'29" West).
- ii. All waters of Buccaneer Lagoon at the southern end of Estero Island.

POLICY CON 2-A-4: Gopher Tortoises:

The town's policy is to protect gopher tortoise burrows wherever they are found. If unavoidable conflicts make on-site protection infeasible, then off-site mitigation may be provided in accordance with FGFWFC requirements.

POLICY CON 2-A-5: Sea Turtles:

To protect nesting and hatchling sea turtle on the beaches in the Town of Fort Myers Beach ("Town") by ensuring that their nesting habitat is not degraded by artificial light. The objective is to ensure artificial light does not interfere with sea turtle nesting and hatching events through the appropriate design and implementation of coastal lighting systems. In order to further the objective of full implementation, this article also includes provisions designed to educate residents and beach users in the town on the benefits of appropriate coastal lighting and provides for weekly inspections to ensure compliance with the acceptable lighting standards.

GOAL CON 3: GUIDELINES FOR NEW DEVELOPMENT

Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas shall protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

OBJECTIVE CON 3-A: WETLANDS PROTECTION

Protect wetlands from development activities.

POLICY CON 3-A-1: Wetlands Definition:

Wetlands include tidal marshes, salt flats, and mangrove swamps that provide valuable habitat, buffering from storms, shoreline stabilization, and production of food for estuarine and coastal waters. The town will cooperate with state and agencies in the formulation, monitoring, and enforcement of regulations restricting activities that contribute to the destruction of wetlands and/or of the

adjacent upland communities that cleanse stormwater inflows. Such potentially destructive activities include construction fill that encroaches on edges of canals and bay waters, dredging of boat basins and channels, use of seawalls, rip rap, and other similar forms of shoreline stabilization, ditching for mosquito control, and any filling or removal of mangrove systems.

POLICY CON 3-A-2: Wetland Boundaries

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 per Florida Statute “Through the use of the unified state delineation methodology described, as ratified and amended by Florida Statue. If the Future Land Use Map is incorrect due to a clear factual error, an administrative process is contained to establish the precise boundary of any wetland.

OBJECTIVE CON 3-B: Protecting Dunes

Protect, maintain and improve dunes and beaches as recreation areas, valuable habitat, protection from storms, and areas of high scenic and aesthetic value. The effect of the town’s efforts may be a noticeable transition from today’s manicured and compacted beach towards a naturally appearing and functioning beach. This transition will be accomplished through education, regulation, and assistance in physical restoration activities.

POLICY CON 3-B-1: Dune Walkover Structures

For any beachfront development approved after the adoption of this plan and for all public beach areas within the town, state-approved dune walk-over structures shall be required at appropriate crossing points. These same structures are also encouraged wherever pedestrians will be crossing dune areas. Minor structures includes, but is not limited to, pile- supported elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported elevated viewing platforms

POLICY CON 3-B-2: Additional Protections for Dunes and Beaches

The following activities are prohibited to protect dunes and beaches:

- i. Removal of dune vegetation and stabilization of submerged and exposed beach by artificial means other than replenishment with compatible sand.
- ii. Excavation or destructive alteration of beach and dune systems. (Minimal disturbance necessary to accomplish approved beach restoration or renourishment activities or construct dune crossovers is allowable)
- i. Plant appropriate vegetation such as sea oats wherever sand dunes have been destroyed.
- ii. Undertake a management and maintenance program to control invasive exotic vegetation.
- iii. Removal of dune vegetation and stabilization of submerged and exposed beach by artificial means other than replenishment with compatible sand.
- iv. Excavation or destructive alteration of beach and dune systems. (Minimal disturbance necessary to accomplish approved beach

restoration or renourishment activities or construct dune crossovers is allowable.)

POLICY CON 3-B-3: Sea Turtle Nests

All coastal construction projects, including beach restoration and renourishment, shall protect sea turtle nesting areas by limiting construction in dune and beach areas to non-nesting periods (except under emergency conditions). In historic shorebird nesting areas, construction must be completed prior to shorebird nesting. Protection zones shall be marked around sea turtle nests and shorebird nesting areas to ensure that construction activities landward of the dune and beach system are limited to the actual construction site.

POLICY CON 3-B-4: 50ft Buffer Between Structures

The town will-promote the restoration of beach and dune systems to require that lots and parcels created after the adoption of this plan shall be of sufficient size and dimension to ensure a 50-foot buffer between any structures (except dune cross- overs) and the landward edge of the primary dune. This buffer shall remain in its natural state except for the minimum disturbance necessary to accommodate dune crossovers.

POLICY CON 3-B-5: Coastal Construction Line

Any construction activity seaward of the Coastal Construction Control Line not specifically approved by the DEP. Construction of artificial shoreline hardening structures is prohibited except for the emergency use of such structures constructed in compliance the Florida Statute

GOAL CON 4: MONITORING AND EDUCATION

Wetlands and the surrounding natural habitats will be protected, conserved, and monitored.

OBJECTIVE CON 4-A: Monitoring Natural Resources

Develop policies to monitor Fort Meyers Beach's natural resources.

POLICY CON 4-A-1: Evaluating Existing Regulations and Enforcement

In cooperation with other jurisdictions, evaluate the effectiveness of existing regulations and enforcement techniques in preserving the bay and estuary system.

POLICY CON 4-A-2: Monitor Water Quality

In cooperation with Lee County and other agencies, encourage continued water quality monitoring and identify sources of non-point water pollution, especially those found to be occurring from within the town. Develop a program to reduce or eliminate those pollution sources that may include education, regulation, and incentives, and follow-up enforcement.

POLICY CON 4-A-3: Surface Water Contamination

The Town shall comply the requirements of the National Pollutant Discharge Elimination System by prohibiting the discharge of runoff, wastewater, or other potential sources of contamination into surface waters which results in the degradation of the quality of the receiving water body below the applicable standards.

POLICY CON 4-A-4: Soil Erosion

Conserve and protect soils to reduce water and air pollution from wind and water erosion.

POLICY: CON 4-A-5: Monitoring Native Soil and Prevent Erosion

The Town shall implement the following measures to ensure conservation of native soils and prevention of erosion and its polluting impacts:

- i. To reduce airborne pollutants and protect tidal waters from dust caused by wind erosion, adopt requirements for protecting cleared land during construction.
- ii. Land clearing prior to issuance of a building permit or development order.
- iii. An erosion control plan shall be submitted and approved by the town prior to the issuance of a development order. Such plan shall reference the property's topography, vegetation, and hydrology and utilize the best management practices such as the use of staked hay bales or filter cloth between the development site and adjacent swales, surface waters, or wetlands; sodding, seeding, or mulching immediately after final grading; and maintenance of vegetation following development activities in order to reduce the erosion by wind or water.

POLICY CON 4-A-6: Native Soils

The town shall implement the following measures to ensure conservation of native soils and prevention of erosion and its polluting impacts:

- i. To reduce airborne pollutants and protect tidal waters and adhere to the requirements for protecting cleared land during construction.
- ii. An erosion control plan shall be submitted and approved by the town prior to the issuance of a development order and be in compliance with Fort Myers Beach code of ordinances and compliance with NPDES erosion control standards

POLICY CON 4-A-7: Air Quality

Continue to meet or exceed federal air quality standards based on monitoring results from state agencies.

POLICY CON 4-A-8: Information Sharing

Share information, data, and maps with other entities involved with conservation land acquisition and management through measures such as:

- i. Cooperating with Lee County in the following activities:
 - Maintaining a central clearinghouse for environmental studies and recommendations from public and private information sources. Compiling, maintaining, and regularly updating vegetation mapping, listed species, data regarding their habitat, and water resources data.
 - Updating the Lee County Habitat Inventory Map using the county's Geographic Information System.

ii. Cooperate with Lee County and FGFWFC in maintaining an inventory of all native communities and natural habitats to aid in land-use decision-making, development approvals, and ranking of potential acquisitions

iii. Recommend and evaluate such additional measures as necessary to ensure their enforcement techniques in preserving the bay and estuary systems as described per Florida Statute: Florida Legislature has declared as “aquatic preserves” certain submerged lands and associated waters that are of “exceptional biological, aesthetic, and scientific value.” These preserves are “set aside forever... for the benefit of future generations”. Develop a clear approach for evaluating existing regulations and its ongoing enforcement for preserving the bay and estuary system.

OBJECTIVE CON 4-B-: EDUCATION:

POLICY CON 4-B-1: Conservation Programs Generally

Increase education access and protection. The town will develop educational programming for allowing appropriate access, protecting natural resources, and documenting and reporting violations of laws and regulations.

POLICY CON 4-B-2: Little Estero Island Critical Wildlife Area

In cooperation with state agencies, the town will aid in the stewardship of the Little Estero Island Critical WILDLIFE Area through activities such as:

i. Prohibit commercial activities within the defined boundaries of Little Estero Island.

ii. Support legislative measures as necessary to protect the long-term future of the preserve.

iii. Inform residents and visitors of the uniqueness and fragility of the island’s habitats and identify funding for measures such as designating pedestrian trails and dune walkovers, adding information and interpretive signs, producing educational brochures, and conducting seminars to encourage proper use.

iv. Sponsor a volunteer task force to work with the Florida Game and Fish Water Fish Commission to oversee the daily stewardship of Little Estero Island through activities such as:

- Identify potentially destructive practices (such as mowing or raking on the shoreline, litter, boat traffic, low flying airplanes, disturbances from vehicles and dogs, etc.) and determine appropriate methods to address them.

- Inform residents and visitors of the uniqueness and fragility of the island’s habitats; plant shoreline vegetation to replace vegetation damaged by visitors or other unnatural causes; place and maintain interpretive signs; produce educational brochures; and conduct seminars to encourage proper use.

- Develop guidelines to protect the fragile environment of the preserve and, where appropriate, urge their adoption as land development regulations or part of the town’s code of ordinances.

POLICY CON 4-B-3: Task Force Element

Create a local task force to coordinate and reconcile efforts of various organizations, governments, and businesses to promote long- term sustainability of the estuary. The task force would make recommendations to the town regarding issues such as:

- i. Establishing restricted areas and other methods of controlling boat traffic in Estero Bay, particularly around rookery islands and seagrass beds.
- ii. Locating a suitable launching point on the Gulf for use by personal watercraft to reduce traffic on the bay side.
- iii. Adopting a ban on the commercial collection of live shells.
- iv. Recommending capital projects to improve water quality.
- v. Recommending regulations to protect local water

GOAL CON-5: WATER SUPPLY

Protect the water supply.

OBJECTIVE CON-5-A: Water Supply

The City shall protect, monitor, and address issues to ensure quality and quantity of water supply and ensure continued supplies of drinking water of sufficient quantity and quality to meet the projected demands of all consumers and the environment.

POLICY CON-5-A-1: Water Conservation

The town will cooperate with emergency water conservation measures of the South Florida Water Management District.

POLICY CON-5-A-2: Purchasing Bulk Water

The town will continue to purchase bulk water from Lee County Utilities in lieu of providing an independent supply of potable water. Lee County Utilities considers the Town of Fort Myers Beach to be part of its potable water service area and has demonstrated its ability to expand raw water supply and treatment facilities to meet anticipated growth consistent with the 2022 Lower West Coast Water Supply Plan Update prepared by the South Florida Water Management District.

POLICY CON-5-A-3: Water Quality New Development

Maintain or improve estuarine water quality by requiring new development or redevelopment to meet the following standards:

- i. Development shall not degrade the estuarine quality of Estero Bay below those standards established by the state for Class II Outstanding Florida Waters.
- ii. Development shall not degrade surface or ground water quality below state standards established in Chapter 62-302 FAC for surface water; Chapter 52-520, for ground water; and Chapter 10D-6 for bathing places.

POLICY CON-5-A-4: Water and Wastewater Management

Incorporate into the land development code measures applicable to new development and redevelopment to encourages year-round landscape irrigation conservation measures, and water and wastewater management such as low-volume irrigation systems, xeriscape landscaping techniques, potential hook-ups to re-use water systems, and use of other conservation and recycling techniques

demands on groundwater. The Town shall regularly review and adopt any local guidelines established by the South Florida Water Management District or Lee County, which will aid the Town's efforts to conserve water.

Goal CON-6: Solid Waste

The Town will support solid waste management and disaster planning which protects the environment and promotes public health. The Town aspires to support conservation and local sustainability and resiliency efforts by ensuring that solid waste collection needs of the Town are reduced over time through actions that reduce the solid waste generation rate through recycling, yard waste reuse, and education.

Objective CON-6-A: Waste Management to Support Sustainability and Conservation

The Town shall ensure the regular collection, management, and maintenance of solid waste to protect the environment and public health.

Policy CON-6-A-1: The Town shall ensure the collection and management of residential, multifamily and commercial solid waste through municipal, contracted or Town-licensed haulers, and ensure the adequate management of waste streams.

Policy CON-6-A-2: The Town will provide receptacles and solid waste collection services, including recycling, on Town properties and in public places as appropriate.

Policy CON-6-A-3: The Town shall incorporate recycling programs with the goal of achieving 75% recycling of all waste in municipal buildings and offices by 2030.

Policy CON-6-A-4: The Town shall promote, endorse, and implement education and outreach programs on waste conservation, management, and diversion, including, as applicable, the promotion of recycling, beneficial reuse of yard waste, reuse and diversions.

Policy CON-6-A-5: The Town shall conduct regular maintenance and code enforcement to mitigate and abate solid waste impacts from disasters, including, but not limited to regular tree canopy trimming and storm preparation of public property.

Policy CON-6-A-6: The City will incorporate debris removal and management as a component of standard operating procedures for pre-disaster planning and post-disaster recovery efforts.

OBJECTIVE CON-6-B: Waste Reduction

The Town shall promote waste reduction to support a sustainable community.

Policy CON-6-B-1: Eliminating Plastics and Polystyrene

The Town shall consider the elimination of use of single use plastics and polystyrene by the Town, licensees operating on Town property, and users of Town facilities and at permitted events on Town property.

Policy CON-6-B-2: Construction Waste

The Town shall strive to divert municipal construction and demolition waste as feasible.

Policy CON-6-B-3: Residential Composting

The Town shall assess the feasibility of implementing a residential composting program.

Policy CON-6-B-4: Commercial Waste

The Town shall encourage commercial waste reduction through policies or incentives, including Zero Waste programs.

Objective CON-6-C: Hazardous Waste

The Town shall coordinate with the appropriate entities ensure hazardous wastes are handled, collected, transported, stored, disposed of, and recycled in a manner that protects human health, safety, and the environment.

Policy CON-6-C-1: The Town shall support programs which aims to regulate small generators of hazardous wastes and reduce the volume produced in the Town.

Policy CON-6-C-2: The Town, in conjunction with Lee County and neighboring local governments, shall perform public outreach to inform residents of effective methods to minimize the use of, safely store, dispose of, and recycle hazardous waste products such as oils, solvents, and paints.

Policy CON-6-C-3: The Town shall encourage residents to deposit household hazardous waste at the appropriate collection centers.

~~POLICY 6-B-5 ADJACENT DEVELOPMENT — Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas shall protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.~~

~~POLICY 6-B-6 RESOURCE MANAGEMENT PLANS — The town will participate with other agencies in preparing and implementing water management plans such as the Charlotte Harbor Management Plan, Surface Water Improvement and Management (SWIM) plans, Estero Bay Aquatic Preserve Management Plans, and similar efforts. The town will reevaluate its policies for protecting and enhancing natural resources upon a review of newly adopted or revised plan by other agencies.~~

~~POLICY 6-B-7 INVASIVE EXOTIC PLANTS — Invasive exotic plants may not be used to meet landscaping requirements for new development. Prohibited species shall be identified in the land development regulations.~~

~~POLICY 6-B-8 SEAWALLS — The town shall encourage planting of mangroves or placement of rip-rap in artificial and natural canal systems to replace existing seawalls in need of repair. Build back of vertical seawalls will not be permitted along natural waterbodies if one or more of the following conditions exist:~~

- ~~i. Build back would cause excessive shoreline erosion or endanger shorelines of surrounding properties.~~
- ~~ii. Build back would threaten wetlands.~~
- ~~iii. Build back would be a threat to public safety or block access to state-owned land or beaches.~~
- ~~iv. Build back would be waterward of the existing seawall alignment on adjacent shorelines.~~

~~POLICY 6-B-9 ACQUISITION OF ADDITIONAL SITES — The town will strive to expand the opportunities for conservation and public appreciation of natural resources through acquisition of additional areas with rare or unique ecological or botanical features, or which provide access to such areas, through activities such as the following:~~

- ~~i. Identify specific sites that would be desirable for public acquisition.~~
- ~~ii. Support the efforts of other entities acquiring land that will contribute to the conservation effort (for example, aquatic preserve buffer areas, Bunche Beach, etc.)~~
- ~~iii. Consider alternative means of land acquisition, such as supporting the efforts of non-profit conservation land trust or acquiring development rights in lieu of full acquisition.~~
- ~~iv. Accept donations of land for nature preserves or other resource conservation areas with the following general conditions: if such lands contain ecologically valuable habitat and/or if public ownership of such lands would expand existing or provide increased preservation or resource conservation areas.~~
- ~~v. When acquiring property, determine the best entity to be responsible to implement a long-range management plan.~~

~~POLICY 6-B-10 INFORMATION SHARING — Share information, data, and maps with other entities involved with conservation land acquisition and management through measures such as:~~

- ~~i. Cooperating with Lee County in the following activities:

 - ~~• Maintaining a central clearinghouse for environmental studies and recommendations from public and private information sources.~~
 - ~~• Compiling, maintaining, and regularly updating vegetation mapping, listed species, data regarding their habitat, and water resources data.~~
 - ~~• Updating the Lee County Habitat Inventory Map using the county's Geographic Information System.~~~~
- ~~ii. Cooperate with Lee County and FGFWFC in maintaining an inventory of all native communities and natural habitats to aid in land-use decision-making, development approvals, and ranking of potential acquisitions.~~

~~OBJECTIVE 6-C PROTECTED SPECIES — Increase cooperation with local, state, and federal agencies in protecting wildlife species listed as endangered, threatened, or of special concern, and conserve the habitats upon which they depend in order to maintain balanced, biologically productive ecosystems.~~

~~POLICY 6-C-1 PROTECTIVE MEASURES GENERALLY —~~

~~The town shall assist in the application of state and federal regulations regarding listed species through activities such as:~~

- ~~i. Provide information regarding listed species on properties undergoing development review.~~
- ~~ii. Withhold development approval until such time as all applicable state and federal permits pertaining to such species have been obtained and copies provided to the town.~~
- ~~iii. Cooperate with local, state, and federal agencies in developing species-specific Habitat Conservation Plans as authorize by the Endangered Species Act. Until such plans are developed, the town's criteria for approval of development proposals shall be consistent with the provisions of the listed species guidelines promulgated by the FGFWFC.~~
- ~~iv. Cooperate with Lee County and other agencies in the establishment of mitigation parks and banks to allow this form of mitigation for local impacts to listed wildlife species and native communities.~~
- ~~v. Support public education on the value of wildlife, native communities, and other natural resources through such means as brochures, newspaper articles, public presentations and workshops, and the placement of interpretive displays and development of observation trails at appropriate park sites.~~
- ~~vi. Encourage and provide technical assistance to volunteer and non-profit organizations such as Turtle Time, Estero Bay Foundation, Estero Bay Buddies, and the Friends of the Matanzas Pass Preserve in their conservation efforts.~~

~~POLICY 6-C-2 BALD EAGLES — Maintain Lee County's ordinance protecting bald eagle nesting habitat in case bald eagles begin nesting on Estero Island, and urge adherence during development activities to "Habitat Management Guidelines for the Bald Eagle in the Southern Region" prepared by the U.S. Fish and Wildlife Service which recommends a primary protection zone with a radius of 750 to 1500 feet around active nests in which no development should occur, and a secondary zone an additional 750 feet to a mile from the outer edge of the primary zone to remain undisturbed during the nesting seasons. Nest trees should not be touched in any way by development activities unless the nest site has been de-classified by the FGFWFC.~~

~~POLICY 6-C-3 MANATEES — Recognizing that the waters of the town provide important habitat for the endangered West Indian manatee, the town will cooperate with local, state, and federal agencies in the establishment of manatee protection programs, including restriction of activities known to adversely affect manatees. The town shall cooperate in the designation, marking, and enforcement of slow-speed manatee protection areas. The town shall cooperate with Lee County in preparing and implementing a manatee protection plan, particularly in providing educational materials and programs to inform the town's boating population of the presence of manatees and of how to avoid destruction of manatee habitat and avoid manatee/boat collisions. The town supports the incorporation of the SWFRPC's 1995 marina siting study into Lee County's Manatee Protection Plan.~~

~~POLICY 6-C-4 GOPHER TORTOISES — The town's policy is to protect gopher tortoise burrows wherever they are found. If unavoidable conflicts make on-site protection infeasible, then off-site mitigation may be provided in accordance with FGFWFC requirements.~~

~~POLICY 6-C-5 SEA TURTLES — The town shall prepare and adopt a new sea turtle ordinance by the end of 1998 to supersede Lee County's existing Sea Turtle Protection Ordinance. The new ordinance shall provide standards for coastal uses and development and shall prohibit, during sea turtle nesting season, any point source of light or any reflective surface of a light fixture being visible from the beach; also, areas seaward of a frontal dune must not be directly, indirectly, or cumulatively illuminated. Other beach activities to be regulated include:~~

- ~~i. Beach raking, scraping, and other activities that unnecessarily compact the sand and/or damage dunes or prevent the re-creation of dunes;~~
- ~~ii. Unauthorized vehicular traffic on the beach;~~
- ~~iii. Storage of beach furniture, cabanas, jet skis, sailboats, and other equipment on the beach that may interfere with sea turtle nesting;~~
- ~~iv. Drainage of swimming pools, parking lots, and building roofs into point discharges directly onto the beach.~~

~~OBJECTIVE 6-D WETLANDS — Preserve all remaining wetlands; protect them from further degradation; and improve their condition and natural functions.~~

~~POLICY 6-D-1 Wetlands include tidal marshes, salt flats, and mangrove swamps that provide valuable habitat, buffering from storms, shoreline stabilization, and production of food for estuarine and coastal waters. The town will cooperate with state and federal agencies in the formulation, monitoring, and enforcement of regulations restricting activities that contribute to the destruction of wetlands and/or of the adjacent upland communities that cleanse stormwater inflows. Such potentially destructive activities include construction fill that encroaches on edges of canals and bay waters, dredging of boat basins and channels, use of seawalls, rip rap, and other similar forms of shoreline stabilization, ditching for mosquito control, and any filling or removal of mangrove systems.~~

~~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.~~

~~POLICY 6-D-3 In accordance with F.S. 163.3184(6)(c), the town will not undertake an independent review of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a state Environmental Resource Permit or exemption. However, no development approval shall be issued by the town for any project which impacts wetland resources until all requisite permits from other agencies have been obtained and provided to the town. All conditions placed on such permits shall be incorporated into the final development approval issues by the town. Violations of such conditions shall be prosecuted through the town's code enforcement procedures.~~

~~POLICY 6-D-4 The following activities in and near wetlands may be desirable and are not forbidden by~~

~~this comprehensive plan: —~~

- ~~i. Activities necessary to prevent or eliminate a public hazard, such as elimination of a dangerous curve in a road, dredging in order to clean up a spill of hazardous waste, or removal of underwater obstructions to boat traffic.~~
- ~~ii. Activities which provide a direct benefit to the public at large which would exceed any public loss as a result of the activity, such as removal of exotic species, restoration of natural hydroperiods, impacts associated with the maintenance of existing drainage works, or providing water access that is open to the public.~~
- ~~iii. Resource-oriented activities such as passive recreation, outdoor education, or other uses where protection of wetland functions and values is the primary attraction.~~
- ~~iv. Structures or facilities that will improve the functional value of wetlands or provide “no impact” use for observation, education, research, or passage (walking or non-motorized boats); these could include such structures as public boardwalks, observation decks, or launching areas for non-motorized watercraft.~~

~~POLICY 6-E-1 For any beachfront development approved after the adoption of this plan and for all~~

~~public beach areas within the town, state-approved dune walk-over structures shall be required at appropriate crossing points. These same structures are also encouraged wherever pedestrians will be crossing dune areas.~~

~~POLICY 6-E-2 All coastal construction projects, including beach restoration and renourishment, shall~~

~~protect sea turtle nesting areas by limiting construction in dune and beach areas to non-nesting periods (except under emergency conditions). In historic shorebird nesting areas, construction must be completed prior to shorebird nesting.~~

~~POLICY 6-E-3 The town will implement the following measures to promote the restoration of beach and dune systems:~~

- ~~i. Initiate a program to recreate a dune line and plant appropriate vegetation such as sea oats wherever sand dunes have been destroyed.~~
- ~~ii. Require the use of indigenous plants species for public and private dune restoration or renourishment projects.~~
- ~~iii. Require that lots and parcels created after the adoption of this plan shall be of sufficient size and dimension to ensure a 50-foot buffer between any structures (except dune cross-overs) and the landward edge of the primary dune. This buffer shall remain in its natural state except for the minimum disturbance necessary to accommodate dune crossovers.~~
- ~~iv. Undertake a management and maintenance program to control invasive exotic vegetation as a cooperative effort of the town and its citizenry.~~
- ~~v. Consider erosion control taxing/benefit units, grants, and other cost sharing funding mechanisms to provide funds for beach renourishment and management projects (see Coastal Management Element for strategies on beach renourishment).~~

~~POLICY 6-E-4 The following activities are prohibited to protect dunes and beaches:~~

- ~~i. Removal of dune vegetation and stabilization of submerged and exposed beach by artificial means other than replenishment with compatible sand.~~
- ~~ii. Excavation or destructive alteration of beach and dune systems. (Minimal disturbance necessary to accomplish approved beach restoration or renourishment activities or construct dune cross-overs is allowable under this policy.)~~
- ~~iii. Operation of motor vehicles on beaches and dunes (except in association with law enforcement activities, emergency medical services, public land/resources management, state-licensed sea turtle monitoring, once-daily delivery and pickup of beach equipment, minimal cleaning of litter and of excessive accumulations of natural debris, or as necessitated by an approved restoration, renourishment, or emergency project).~~
- ~~iv. Any construction activity seaward of the Coastal Construction Control Line not specifically approved by the DEP.~~
- ~~v. Construction of artificial shoreline hardening structures except the emergency use of such structures constructed in compliance with Chapter 161, F.S. If a hardened structure is absolutely necessary along the beach, riprap revetments are preferred. New seawalls are not permitted.~~

~~OBJECTIVE 6-F AIR QUALITY—Continue to meet or exceed federal air quality standards based on monitoring results from state agencies.~~

~~POLICY 6-F-1 Ensure that the town's land development regulations do not include any disincentives to the use of clean alternative energy sources such as active and passive solar technology.~~

~~POLICY 6-F-2 Reduce automobile emissions through programs developed in the Transportation Element to reduce single-occupant automobile trips. Mobility alternatives include increased ridership on the trolley system; introduction of an electric tram system throughout the Island; incentives for visitors to park off island or park once on island; a water taxi or water shuttle system; and an interconnected system of bicycle and pedestrian paths.~~

~~POLICY 6-F-3 Establish criteria for any new facility that would require an air quality permit including monitoring procedures to supplement those provided by the state and enter into agreements with Lee County and other relevant agencies to ensure that the town's concerns are addressed during the permitting stages of potential point source pollution generators.~~

~~OBJECTIVE 6-G SOIL EROSION—Conserve and protect soils to reduce water and air pollution from wind and water erosion.~~

~~POLICY 6-G-1 The town shall implement the following measures to ensure conservation of native soils and prevention of erosion and its polluting impacts:~~

- ~~i. To reduce airborne pollutants and protect tidal waters from dust caused by wind erosion, adopt requirements for protecting cleared land during construction.~~
- ~~ii. Land clearing prior to issuance of a building permit or development order.....~~

~~iii. An erosion control plan shall be submitted and approved by the town prior to the issuance of a development order. Such plan shall reference the property's topography, vegetation, and hydrology and utilize the best management practices such as the use of staked hay bales or filter cloth between the development site and adjacent swales, surface waters, or wetlands; sodding, seeding, or mulching immediately after final grading; and maintenance of vegetation following development activities in order to reduce the erosion by wind or water.~~

~~OBJECTIVE 6-H WATER QUALITY—Improve the water quality and economic value of the water bodies surrounding the Town of Fort Myers Beach beyond the levels existing in 1997.~~

~~POLICY 6-H-1 As an integral part of the Estero Bay estuary system, the town shall take all feasible measures in an intergovernmental effort to protect, maintain, and improve water quality in Estero Bay.~~

~~POLICY 6-H-2 No garbage or untreated sewage shall be discharged into tidal waters.~~

~~POLICY 6-H-3 Maintain or improve estuarine water quality by requiring new development or redevelopment to meet the following standards:~~

- ~~i. Development shall not degrade the estuarine quality of Estero Bay below those standards established by the state for Class II Outstanding Florida Waters.~~
- ~~ii. Development shall not degrade surface or ground water quality below state standards established in Chapter 62-302 FAC for surface water; Chapter 52-520, for ground water; and Chapter 10D-6 for bathing places.~~

~~POLICY 6-H-4 In cooperation with Lee County and other agencies, encourage continued water quality monitoring and identify sources of non-point water pollution, especially those found to be occurring from within the town. Develop a program to reduce or eliminate those pollution sources that may include education, regulation, and incentives, and follow-up enforcement.~~

~~POLICY 6-H-5 The town will implement the measures adopted in the Stormwater Management Element to reduce the polluting impacts of stormwater runoff.~~

~~POLICY 6-H-6 The town shall comply the requirements of the National Pollutant Discharge Elimination System by prohibiting the discharge of runoff, wastewater, or other potential sources of contamination into surface waters which results in the degradation of the quality of the receiving water body below the applicable standards.~~

~~OBJECTIVE 6-I WATER SUPPLY—Ensure continued supplies of drinking water of sufficient quantity and quality to meet the projected demands of all consumers and the environment.~~

~~POLICY 6-I-1 Incorporate into the land development code measures~~ applicable to new development and

~~redevelopment to encourage water and wastewater management such as low volume irrigation systems, xeriscape landscaping techniques, potential hook ups to re-use water systems, and use of other conservation and recycling techniques.~~

~~POLICY 6-I-2 The town will cooperate with emergency water conservation measures of the South Florida Water Management District.~~

~~POLICY 6-I-3 The town will continue to purchase bulk water from Lee County Utilities in lieu of providing an independent supply of potable water. Lee County Utilities considers the Town of Fort Myers Beach to be part of its potable water service area and has demonstrated its ability to expand raw water supply and treatment facilities to meet anticipated growth consistent with the 2005-2006 Lower West Coast Water Supply Plan Update (prepared by the South Florida Water Management District).~~

~~OBJECTIVE 6-J GROUNDWATER—Maintain the quality of groundwater resources and improve as necessary to meet state or federal standards.~~

~~POLICY 6-J-1 Commercial excavation and mining activities are prohibited in the Town of Fort Myers Beach due to potentially detrimental effects to groundwater, surface water, wildlife habitats, and surrounding land uses and values.~~

~~POLICY 6-J-2 The Town of Fort Myers Beach opposes offshore gas and oil exploration and excavation activities which may be reasonably expected to threaten the quality of coastal beaches and estuarine ecosystems; or would place oil or gas related facilities on coastal beaches, islands, or wetlands; or would require the placement of oil or gas storage facilities on the island.~~

~~POLICY 6-J-3 The dredging of additional tidal canals is prohibited.~~

~~POLICY 6-J-4 The town shall support Lee County's programs to properly dispose of hazardous wastes.~~

~~POLICY 6-J-5 The town shall require connection to central water and sewer systems to eliminate demands on groundwater and reduce the potential for contamination from septic tanks.~~

~~POLICY 6-J-6 Identify any remaining septic tanks and require their use be discontinued~~

TRANSPORTATION ELEMENT

GOAL ~~7~~ T-1: To improve ~~peak-season~~ mobility without reducing the permeability of Estero Boulevard to foot traffic or damaging the small-town character of Fort Myers Beach. The town seeks to reduce speeding, improve evacuation capabilities, and improve mobility through balanced transportation improvements such as a continuous system of sidewalks and bikeways, a network of trolleys and water taxis/ferries linked to off-island systems, and parking options matched to road capacity.

OBJECTIVE T-17-A DEFINING THE PROBLEMS — Through this plan, the Town of Fort Myers Beach will address its three major transportation problems: congestion (by supporting public transit and pedestrian improvements), parking (by improving public parking near Times Square), and speeding (through passive traffic calming on Estero Boulevard).

POLICY T-17-A-1 CONGESTION: ~~Every winter~~ During peak times Estero Boulevard can ~~becomes so~~ crowded that traffic backs up, sometimes for miles in both directions. Much of this congestion is caused by visitors, who will continue to frequent the beaches regardless of development levels on Estero Island. Despite the road congestion, the town welcomes visitors and intends to provide mobility alternatives as described in this plan.

POLICY T-17-A-2 PARKING: ~~Even though existing parking lots are not used to capacity, parking is not abundant at Fort Myers Beach. The welcome rebirth of commercial activity near Times Square will increase the demand for parking.~~ The Town of Fort Myers Beach will address parking shortages through the methods outlined in this plan and other appropriate initiatives.

POLICY T-17-A-3 SPEEDING: Despite the virtual crawl of traffic on parts of Estero Boulevard, speeding is also a problem. ~~If motorists didn't speed on Estero Boulevard, many more people would get out of their own cars.~~ The town will protect the pedestrian environment along Estero Boulevard and will ~~not widen travel lanes or discourage~~ encourage safe pedestrian movement across the boulevard and throughout the Town.

OBJECTIVE T-17-B CONVENTIONAL SOLUTIONS — The usual response to traffic congestion is widening roads or building alternate routes. Estero Island's long narrow shape, frequent navigable canals, sensitive environmental, and highly urbanized character preclude these solutions. Congestion management at Fort Myers Beach must aim to reduce delay and improve safety, not just for motorists but for pedestrians and bicyclists as well.

POLICY T-17-B-1 DELAY AND SAFETY: The town recognizes that many efforts to reduce delay and improve safety for motorists have the opposite effect on pedestrians. Creative solutions will be required to address both concerns, particularly for pedestrians.

POLICY T-17-B-2 WIDENING: Under no circumstances shall conventional four-laning of Estero Boulevard be considered as a desirable means of improving traffic circulation on Estero Island.

POLICY T-17-B-3 IMPROVEMENTS TO ESTERO BOULEVARD: The Town of Fort Myers Beach shall initiate additional pedestrian and streetscape improvements along Estero Boulevard ~~beginning in 1999~~, and shall negotiate with Lee County for additional appropriate right-of-way

~~improvements, the turnover of responsibility for its maintenance if necessary to carry out these improvements or to further other town policies.~~

OBJECTIVE T-17-C EVACUATION ROUTE — Estero Boulevard's critical function as the sole evacuation route for Fort Myers Beach shall be considered in all planning and development activities.

POLICY T-17-C-1 EVACUATION CAPACITY: Evacuation routes do not need to be designed as high-speed roadways. The critical factor is the total number of cars that can evacuate in a given period of time. The town shall evaluate all efforts by Lee County or by the town to reduce speeding on Estero Boulevard during the design phase to ensure that these efforts will not hinder an effective evacuation.

POLICY T-17-C-2 FLOODING: The town shall analyze actual flooding of evacuation routes ~~that occurs due to tropical storms or hurricanes~~, and shall initiate physical improvements that can avoid future flooding at those locations.

OBJECTIVE T-17-D VARIETY OF TRAVEL MODES — The Town of Fort Myers Beach shall make efforts every year to improve mobility for its residents and visitors, striving for a balanced transportation system that allows safe movement ~~even during peak periods of traffic congestion of pedestrians and vehicles~~. These efforts may include further subsidies to improve the trolley system, the use of impact fees to improve sidewalks, and creation of critical links on the hidden-path system.

POLICY T-17-D-1 ARRIVE WITHOUT A CAR: Fewer vehicles would be driven to Fort Myers Beach if scheduled airport shuttle service were available. The town shall encourage this service and the designation of a central drop-off point that could include a trolley stop and taxi stand. The Town will encourage businesses to develop creative programs that incentivize visitors and employees to arrive without a car.

POLICY T-1-D-2 REDUCE NEED OF CAR: Promote compact development, enhance pedestrian realm, and promote modes of transportation other than single occupancy vehicles.

POLICY T-1-D-3 OFF-ISLAND PARKING: Work with Lee County to secure off-island land for the purposes of extended parking. Continue to encourage or incentives visitors to park off the island to reduce number of vehicles.

POLICY T-17-D-24 IMPROVE TROLLEY SERVICE: Trolley ridership increases when service is more frequent and when fares are low or free, yet no long-term funding or operational plan has been developed for providing higher service levels. Practical measures to improve trolley usage include:

- i. Recurring subsidies from tourism sources so that service can be enhanced and congestion minimized during heavy seasonal traffic;

- ii. Pull-offs at important stops along Estero Boulevard so that passengers can safely board and traffic is not blocked excessively; these pull-offs could be built during other improvements to Estero Boulevard or required by the Land Development Code during the re-development process.
- iii. Clear signs at every stop with full route and fare information;
- iv. Bus shelters at key locations, with roofs, benches, and transparent sides;
- v. Replacement of the existing trolley buses with clean-fuel vehicles so that businesses won't object to having trolleys stop at their front doors; and
- vi. Accommodation of the special needs of the transportation disadvantaged.

POLICY ~~T-17-D-35~~ ALTERNATE TRAVEL MODES: The town shall support alternatives to car travel to free up road capacity for trips that do require a car. Public funding sources shall include county/state gasoline taxes and road impact fees. The town shall modify its road impact fee ordinance ~~by 1999~~ to allow these fees to be spent (within legal limits) on capital improvements that relieve road congestion, such as better sidewalks, trolley improvements, and off-island parking areas. ~~The town seeks to at least double the usage of the trolley system by the year 2001 (from its 1996 total ridership level of 238,754).~~

POLICY ~~T-17-D-46~~ ENCOURAGE WATER TAXI TRANSPORTATION: Fort Myers Beach has great potential for water transportation, with its canals, natural waterways, and high levels of tourism. To encourage the private sector to provide this service, the town shall ease regulations or provide assistance, as deemed appropriate by the Town Council, that require a water taxi to provide dedicated parking spaces at every stop and shall encourage restaurants, motels, and marinas to provide dockage for water ~~taxis~~ transportation. Where possible, water ~~taxi~~ transportation drop-off sites should avoid areas of high manatee concentration, or use protective measure such as propeller guards, jet propulsion, or electric motors.

POLICY ~~T-17-D-57~~ HIDDEN-PATH SYSTEM: The town shall support the creation of a quiet network of "hidden paths" running on the Bay side parallel to Estero Boulevard. This network would provide an alternative to walking and cycling along Estero Boulevard (as described further in the Community Design Element). ~~Initial land acquisition shall begin in 1999.~~

T-1-D-8 Coordination with Lee County: The town shall collaborate with Lee County to expand the LeeTran route on Estero Island.

OBJECTIVE ~~T-17-E~~ UPGRADE ESTERO BOULEVARD — As part of its ~~congestion avoidance strategy to enhance pedestrian amenities and reduce the use of single occupancy vehicles~~, the town shall methodically upgrade Estero Boulevard to reduce speeding and encourage walking, as higher traffic speeds and car-oriented businesses are antithetical to its pedestrian character. ~~(If a suitable partnership to this end cannot be achieved with Lee County, the town may consider taking on maintenance responsibility for Estero Boulevard.)~~

POLICY ~~T-17-E-1~~ TIMES SQUARE STREETSCAPE: The town shall ~~begin work by 1999~~ toward extending southward the curbs, colorful sidewalks, and street trees installed by the Estero Island CRA in 1996. Similar side-walks should be placed on both sides of Estero Boulevard as far south as the public library, including drainage, lighting, and trolley improvements. ~~Unspent funds from the Estero Island CRA should be sought from Lee County toward this end.~~ Generous urban sidewalks should also be built in the future around the Villa Santini Plaza as part of its redevelopment (as described in the Community Design Element).

POLICY T-17-E-2 TRAFFIC CALMING: The town shall support two types of traffic calming to reduce speeding, which endangers lives and diminishes the quality of the pedestrian environment of Fort Myers Beach:

- i. The first is “active” or traditional traffic calming along residential streets, using physical techniques such as speed humps, narrowed lanes, landscaping, traffic diverters, jogs, or traffic circles at intersections, where appropriate.
- ii. Preferred method is ~~The second~~ is “passive” traffic calming along Estero Boulevard, to control speeding without reducing the number of vehicles that can use the road. Techniques include full curbs and sidewalks separated by street trees; buildings nearer the road; interesting vistas for drivers; and avoidance of overly wide travel lanes or intersections.

POLICY T-17-E-3 BUILDINGS CLOSE TO THE STREET: ~~Where pedestrian levels are high, buildings~~ Buildings should adjoin the sidewalk rather than be separated by parking spaces. Front walls of stores, offices, and restaurants should have large windows rather than blank walls, preferably shaded by awnings or canopies. Access to parking areas shall be off side streets wherever possible. The town’s Land Development Code shall implement these concepts ~~beginning in 1999~~.

POLICY T-17-E-4 SIDEWALKS AND BIKEWAYS: The town shall work toward major expansion of sidewalks and bikeways. In addition to the next phase of Estero Boulevard sidewalks (see Policy 7-E-1 above), the town shall support the following projects:

- i. Support Lee County’s imminent plans to fill the gaps from Buccaneer to Estrellita Drive and from the Villa Santini Plaza to Bay Beach Lane using federal funds;
- ii. Initiate extensive improvements ~~by 1999~~ to Old San Carlos and Crescent Street in conjunction with parking improvements (see Policy T-1-F-2 ~~7-F-2~~);
- iii. Initiate engineering studies ~~by 1999~~ for bikeways and additional sidewalks on the second side of Estero Boulevard and improved pedestrian crossings, including consideration of a pedestrian overpass at Times Square.

POLICY T-1-E-5: PARTNERSHIPS FOR PEDESTRIAN BRIDGES: The Town will evaluate partnerships between development projects that are across from each other along Estero Boulevard to incentivize pedestrian bridge crossings provided as a public benefit. Collaboration with property owners and the Town shall also be encouraged to provide pedestrian safety and walkability through the implementation of pedestrian bridges.

OBJECTIVE T-17-F OPTIMIZE THE PARKING SUPPLY — Off-island parking facilities served by convenient public transportation should be provided to meet peak-season demands. For year-around demand, the town shall provide additional on-island public parking spaces, based in part on a new peak- season occupancy survey of existing public parking spaces.

POLICY T-17-F-1 ENCOURAGE SHARED PARKING LOTS: Parking lots serving a variety of land uses require much less space than separate on-site lots for each business. Shared lots waste

less land and encourage walking because businesses aren't separated by large parking lots. The town shall encourage shared parking lots when businesses are relatively small, are clustered together, and have different busy periods.

POLICY ~~T-17-F-2~~ SHARED PARKING NEAR TIMES SQUARE: ~~The town shall strive to alleviate parking congestion and enhance accessibility for visitors and residents near Time Square by supporting or encouraging the development of shared parking facilities or a parking garage. The Estero Island CRA recommended a reservoir of shared parking behind businesses along Old San Carlos and adding 165 on-street parking spaces near Times Square (although some of these spaces would merely replace spaces lost to new recreational facilities at Lynn Hall Park). The town shall investigate the feasibility of this concept in 1998-1999 and proceed toward implementation, or create an alternate plan that may include a parking garages near Times Square.~~

POLICY ~~T-17-F-3~~ BETTER PARKING LOTS: Large parking lots or garages are usually more cost-efficient to build and maintain, but may not be the best solution for Fort Myers Beach. Disadvantages of large lots include high capital costs; the possibility of providing more parking than is needed or can be handled by the road system; and the unsightliness of most large parking lots and garages.

POLICY ~~T-1-4 7-F-4~~ DIRECT VISITORS TO AVAILABLE PARKING: Many visitors are unaware of existing parking lots; others would be dissuaded from driving if they were aware of the shortage of parking. Variable message signs can aid both situations. The town should encourage Lee County and FDOT to install these signs with information about all major parking areas, including the state park at Lovers Key.

OBJECTIVE ~~T-17-G~~ THE FUTURE OF THE BRIDGES — Match bridge capacity to Estero Island with the capacity of Estero Boulevard.

~~POLICY 7-G-1 ADEQUACY OF THE SKY BRIDGE: There is little evidence that traffic congestion at Fort Myers Beach is caused by any inadequacy of the Matanzas Pass Sky Bridge, which unlike Estero Boulevard has no interference from intersecting streets, parking spaces, or pedestrians crossing the street.~~

POLICY ~~T-1-G-1 7-G-2~~ CHANGES TO THE SKY BRIDGE: If parking lots at Bowditch Point or Times Square greatly increase demand for north-bound turns at the foot of the bridge, striping a third lane on the existing bridge might be considered, as might a reversible third lane during the peak season.

POLICY ~~T-1-G-2 7-G-3~~ RESPONSIBILITY FOR THE SKY BRIDGE: FDOT may be willing to turn over responsibility for the Sky Bridge to the Town of Fort Myers Beach. This would be advantageous to the town only if part of a congestion management system with peak-period tolls, off-island parking lots, and improved mass transit .

POLICY ~~7-G-4~~ ADDITIONAL BRIDGE CAPACITY: Additional bridge capacity should not be directed to Times Square (except for the potential re-striping in Policy-~~7T-1-D-2~~). New lanes to Old San Carlos or Crescent Street would also be undesirable, as most congestion is caused by conditions on Estero Boulevard south of Times Square. Previously proposed bridges from Winkler

Road or Coconut Road are infeasible from environmental and financial standpoints and need not be considered further.

OBJECTIVE T-17-H EXPERIMENT WIDELY — The town shall constantly search for innovative solutions to long-standing traffic problems and to new problems as they develop, and shall coordinate its efforts with those of the Lee County Metropolitan Planning Organization. The town shall serve as a catalyst for traffic engineering experiments that would evaluate minor improvements that might improve traffic flow at Fort Myers Beach. Some potential improvements are described in the following policies.

POLICY T-17-H-1 PEDESTRIAN OVERPASSES: ~~Although pedestrian overpasses are often ignored by pedestrians, The Town will encourage development of an overpasses throughout the Town that providing a panoramic view of the Gulf might be attractive enough to reduce at-grade crossings at Times Square without discouraging foot traffic in this highly congested area. Even without an overpass, the p~~Pedestrian-actuated stop lights may be replaceable with a flashing caution lights crosswalk beacons may be appropriate where pedestrian overpasses are not warranted to minimize effects of the crossing on traffic flow.

POLICY T-17-H-2 SAN CARLOS BOULEVARD: The five-laning of San Carlos Boulevard has created severe problems near the approach to the Sky Bridge. Creative experiments are needed to discourage drivers from using the right- hand lane, or side streets on San Carlos Island, to bypass the line of cars waiting to enter the bridge.

POLICY T-17-H-3 RESERVED-TRANSPORTATION & MOBILITY MASTER PLAN: The Town shall maintain and regularly update a Transportation & Mobility Master Plan or a Transportation & Mobility Design Standard/Manual, using context-sensitive approaches to enhance safety and improve multimodal infrastructure and connectivity for residents and businesses. The Master Plan/Design Standard will at minimum create a standard approach to the design of Estero Boulevard, including, but not limited to, considerations of sidewalk width, pedestrian crossings, pedestrian bridges, landscaping and barriers as appropriate, beachfront access locations, trolley/bus stops, bicycle facilities, and micromobility options. Any Master Plan for the Town will consider parking locations on and off-island, as well as the necessary transit improvements to alleviate single-occupant vehicle usage.

POLICY T-17-H-4 VARIABLE MESSAGE SIGNS: These signs could advise motorists of congestion delays as well as available parking. The town should urge the detailed study of this concept by Lee County, FDOT, and the Metropolitan Planning Organization.

POLICY T-17-H-5 ORIGIN/DESTINATION DATA: Better data is needed on the origins and destinations of motorists during the peak season, and the town supports the MPO's efforts to obtain this data.

POLICY T-17-H-6 TRANSPORTATION DEMAND MANAGEMENT: This part of a congestion avoidance strategy reduces the number of single-occupant vehicles during peak traffic periods, either by eliminating some trips completely, or by accommodating existing trips in fewer vehicles, or by moving some trips before or after the most congested periods. This strategy may alleviate peak-season traffic congestion if implemented aggressively in cooperation with area businesses.

POLICY T-17-H-7 DELIVERY VEHICLES: To avoid interference with traffic and pedestrian flow, the town shall develop a strategy to limit commercial deliveries during peak traffic periods.

Redevelopment plans shall require loading plan with preference to off-street loading. No on-street loading permitted on Estero Blvd.

POLICY T-17-H-8 FLOODING: During periods of minor flooding, the town shall monitor the performance of roadside drainage systems on and off Estero Island to identify areas where an evacuation could be prematurely halted.

POLICY T-17-H-9 PROFESSIONAL ASSISTANCE: The town may wish to retain a creative traffic engineer to provide advice on these experiments on a continuing basis.

POLICY T-17-H-10 CONNECTIONS TO ESTERO BOULEVARD: An excessive number of streets and driveways have direct access to Estero Boulevard, reducing its ability to handle peak-season traffic. The town shall take advantage of any suitable opportunities to consolidate street connections into fewer access points onto Estero Boulevard.

POLICY T-1-H-11 TRANSPORTATION ALTERNATIVES: The Town will establish within its development standards, as appropriate, measures and requirements of transportation alternatives for new developments, including transportation technologies and approaches that will impact travel patterns, signalization, curb management, cycling, pedestrian travel, parking, loading/unloading demand, supporting infrastructure, and roadway design. The Town will establish, as appropriate, community-oriented solutions and benefits to alleviate traffic impacts from tourist-based industries, including hotels/motels, such as voucher or shuttle programs for visitors and workforce transportation, among other transportation demand management techniques.

Policy T-1-H-12: EMERGING TECHNOLOGIES: The Town will continue to evaluate emerging transportation technologies including, but not limited to autonomous vehicles, traffic signalization, parking information, enhanced real time communication, and artificial intelligence in relation to the impacts these advancements will have on transportation, land use, and the mobility options. This evaluation will also include best practices and methods for the safe and context sensitive implementation of shared mobility and micromobility solutions, such as microtransit, dockless bicycle share, dockless scooters, and e-bikes as appropriate for the Town.

OBJECTIVE T-17-I LEVEL-OF-SERVICE STANDARD — Maintain minimum acceptable levels of service for the transportation system.

POLICY T-17-I-1: Traffic congestion is a serious problem at Fort Myers Beach, caused by a combination of high tourism demand for its beaches and past over-building relative to road capacity. Neither factor is within the control of the Town of Fort Myers Beach, although its residents must tolerate congestion every winter. This comprehensive plan seeks to manage congestion levels and encourage alternate means of mobility including walking, bicycling, and trolleys.

POLICY T-17-I-2: The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 A.M. to 5:00 P.M. during each month do not exceed that level for more than four calendar months in any continuous twelve-month period. Measurements from the permanent count station at Donora Boulevard shall be used for this standard.

POLICY T-17-I-3: Figure 18 of this element is hereby adopted as the future transportation map of the Town of Fort Myers Beach.

OBJECTIVE ~~T-17-J~~ PROTECTING PUBLIC ACCESS — Although no future right-of-way needs have been identified, some existing town and county rights-of-way are substandard and few are wider than needed. The town shall review requests to not vacate or acquiesce in the vacation of existing rights-of-way, and shall make efforts to ensure no recognized public access is negatively impacted by vacating the ~~except where no public purpose would be served by retaining the right-of-way.~~

POLICY ~~T-17-J-1~~ RIGHTS-OF-WAY: Town and county rights-of-way are needed for the undergrounding of utilities; for the expansion of sidewalks and bike paths; for water accesses; for on-street parking; for public transit and road improvements; and for other public purposes. The town shall ~~strictly limit~~ consider limiting vacations of rights-of-way and easements to preserve future access for these purposes.

POLICY ~~T-17-J-2~~ TRAFFIC IMPACT ANALYSES: A thorough traffic impact analysis is currently required only for major rezonings and very large development orders. The town shall amend its Land Development Code ~~during 2010~~ to:

- i. decrease the thresholds for requiring traffic impact analyses;
- ii. require them to study the cumulative impacts of potential development; and
- iii. use the results in assessing whether impacts are acceptable, and whether an improved design could offset some of the impacts.

Coastal Management Element

COASTAL MANAGEMENT ELEMENT

GOAL CM-1 5: To keep the public aware of the potential effects of flooding, sea-level rise, hurricanes and tropical storms and to plan a more sustainable redevelopment pattern that protects coastal resources, minimizes threats to life and property, and limits public expenditures in areas subject to destruction by storms.

OBJECTIVE CM-1 5-A COASTAL PLANNING GENERALLY —Protect and enhance coastal resources through an on-going planning process that recognizes the advantages and limitations of living within a sensitive coastal environment. Enhancement of coastal resources can be measured by increased sea turtle nesting, improvements in estuarine water quality, and restoration of sand dunes. Important limitations on development in this coastal high hazard area include the existing over-concentration of people plus town, state, and federal policies against public expenditures that subsidize further private development.

POLICY CM-1 5-A-1 The town shall maintain and enforce building codes at least as stringent as required by Florida law to limit the potential damage of structures from hurricanes, tropical storms, and flooding. These codes shall include wind-resistance commensurate with the risk of a coastal environment and building elevation requirements that conform with federal laws and Flood Insurance Rate Maps.

POLICY CM-1 5-A-2 The maximum density of future residential development is limited to the densities described in the Future Land Use Element in recognition of natural hazards and existing population concentrations. For rebuilding of existing development, refer to the buildback policies ~~under Objective 4-D and 4-E~~ of the Future Land Use Element.

POLICY CM-1 5-A-3 When state funding is required for the relocation or replacement of infrastructure currently within the Coastal Building Zone, the capacity of the replacement structure shall be limited to maintaining required service levels, protecting existing residents, and providing for recreation and open space needs.

POLICY CM-1 5-A-4 Since the entire Town of Fort Myers Beach is within the coastal planning area and is designated as a coastal high hazard area, specific policies addressing historic buildings, phasing of infrastructure, limitations on development, and environmental resources are contained in other elements of this plan and are not repeated here.

POLICY CM-1 5-A-5 Due to the physical constraints of its coastal location, the Town of Fort Myers Beach commits to a future policy of no increase in the net development capacity (island-wide) that would be allowed by the Fort Myers Beach comprehensive plan.

POLICY CM-1 5-A-6 The entire town is located within the coastal high-hazard area, as shown on the Coastal High Hazard Area map, Figure 17 which is part of the adopted Future Land Use Map series (~~see Policy 4-B-2~~).

OBJECTIVE CM-1 5-B NATURAL DISASTER PLANNING — Reduce the threat of loss of life and property resulting from catastrophic storms by reducing evacuation times and improving shelter capabilities from their current levels.

POLICY CM-1 5-B-1 The town shall work to improve the capability of evacuating Fort Myers Beach when a tropical storm or hurricane threatens to strike. Specific problem areas include:

- i. County officials may be reluctant to order a county-wide evacuation even though an evacuation may be warranted for low-lying coastal areas such as Fort Myers Beach. town officials should be prepared to order a local evacuation if one is warranted.
- ii. Australian pines and other trees not native to Florida situated along evacuation routes can pose a threat to evacuation routes due to decay or shallow root systems; such trees need to be identified, pruned or removed. If feasible, the removed tree shall be replaced with a Florida native-tree, following FPL best practices Right Tree, Right place, and shall be equal in diameter at breast height (DBH) or height.
- iii. In a cooperative process with Lee County, Sanibel, and the Southwest Florida Regional Planning Council, the town shall seek to improve mainland shelter capacities including private sheltering options.
- iv. The town shall work closely with Lee County and Florida DOT to maintain or improve hurricane evacuation times and procedures, including off-island traffic bottlenecks.

POLICY ~~CM-1 5-B-2~~ The town shall participate fully in the federal government's National Flood Insurance Program and seek constant improvements under the Community Rating System.

POLICY ~~CM-1 5-B-3~~ The town shall encourage owners of private buildings to strengthen or otherwise protect them before severe storms strike to reduce avoidable damage to life and property. Town regulations that unnecessarily interfere with this important form of hazard mitigation shall be modified as described in ~~Policy 4-E-3~~ of the Future Land Use Element.

POLICY ~~CM-1 5-B-4~~ The town shall develop and adopt a storm emergency plan for preparing for, responding to, and recovering from a hurricane or tropical storm. The emergency plan shall be reviewed and updated every five (5) years in conjunction with any updates to the town's roadway level of service. Hazard mitigation recommendations of local peacetime emergency plan or interagency hazard mitigation reports shall be evaluated for inclusion in the town's plans.

POLICY ~~CM-1 5-B-5~~ Capital improvements to infrastructure and facilities under the town's jurisdiction that can maintain or improve evacuation times will be identified and included in the Capital Improvements Element.

POLICY ~~CM-1 5-B-6~~ The town shall maintain substantial reserve funds for emergency work that will be needed immediately following a major storm.

OBJECTIVE ~~CM-1 5-C~~ POST-DISASTER REDEVELOPMENT —

Plan for post-disaster rebuilding that will reduce the exposure of human life and property to future disasters and improve the community in other ways during the rebuilding process.

POLICY ~~CM-1 5-C-1~~ ~~By 1999, the~~ The town in cooperation with Lee County officials shall prepare a post-disaster redevelopment plan. Such plan shall be consistent with this comprehensive plan and use the following priorities:

- i. Activities which prevent further loss of life or that minimize public health risks;
- ii. Activities which restore the basic public infrastructure and services to support the population;
- iii. Activities which prevent further damage to public or private property;
- iv. Activities which begin the rebuilding process as promptly as possible.

POLICY CM-1 5-C-2 ~~By 1998, the~~ The town shall evaluate the elevation and drainage characteristics of evacuation routes to the mainland to identify problem areas that may prematurely block evacuation. Solutions shall be sought in cooperation with agencies having jurisdiction over such facilities.

POLICY CM-1 5-C-3 Rebuilding after a natural disaster is allowed in accordance with the “buildback policy” found in ~~Policy 4-C-7~~ of the Future Land Use Element.

POLICY CM-1 5-C-4 To further coordinate the redevelopment activities proposed under this plan with state and federal floodplain management programs, the town shall pursue the following activities:

- i. Pursue all potential measures to encourage corrective and preventative measures to existing houses and businesses to increase their resistance to flooding and high winds before a disaster occurs. Examples include storm shutters; shatter- proof glass; strengthening roof attachments, floors, and walls; and minor floodproofing.
- ii. Allow non-conforming buildings to be modified provided the modifications do not increase the non-conformity to current development standards in the Land Development Regulations.
- iii. Investigate the feasibility promoting pedestrian activity in some redeveloping commercial zones by raising the existing grade of roads and sidewalks one to three feet, thus allowing adjoining commercial space to remain at ground level while reducing the required height of dry floodproofing.
- iv. Explore with the Department of Environmental Protection an alternative method of controlling building intensity seaward of the Coastal Construction Control Line. The current rule allows 20% of any single building’s frontage to be enclosed at ground level. This percentage may be too high for most parts of the town, but is too low where pedestrian zones exist or are being created. An alternative means of computing the 20% rule could better meet the state’s coastal management goals and the town’s revitalization program.

POLICY CM-1 5-C-5 New publicly funded buildings within the town shall be designed to withstand major storms and be able to serve as shelters/operation centers for emergency personnel. New public buildings shall comply with State and FEMA requirements, and be encouraged to pursue LEED accreditation.

POLICY CM-1 5-C-6 Design new and replacement infrastructure to minimize damage caused by flooding and high winds:

- i. Power lines shall be relocated under-ground whenever possible.
- ii. Water and sewer systems should eliminate infiltration of flood waters and be designed to function with auxiliary power when needed.
- iii. Roads should be designed to manage minimum levels of flooding and be located where least susceptible to storm damage.

POLICY CM-1 5-C-7 Continue to inventory buildings that are repeatedly damaged by flood waters to identify those that have recorded one or more National Flood Insurance Program (NFIP) flood losses of \$1,000 or more since 1978. Buildings identified as a repetitive loss by FEMA since 1978

shall be demolished and shall be permitted to be reconstructed under the town's build back policy, or current regulations.

OBJECTIVE CM-1 5--D BEACHES AND DUNES — Conserve and enhance the shoreline of Estero Island by protecting natural areas, increasing the amount of dunes, renourishing beaches to counter natural erosion, and reducing negative man-made impacts on beaches and dunes.

POLICY 5-D-1 The town's policies on shoreline protection measures shall be as follows (see also Objective 5 and related policies in the Conservation Element of this plan):

- i. Beach renourishment will be necessary along much of the Gulf beach. The long-term recreational and economic benefits will offset the cost. The town shall work closely with Lee County, which has agreed to take the lead role in carrying out this important activity. All practical measures shall be taken to ensure that beach renourishment improves sea turtle nesting and migratory bird nesting habitats rather than interfering with it. Public access to existing and renourished beaches is an important priority of the town of Fort Myers Beach.
- ii. Sand dunes should be protected and recreated wherever they have been removed. Native dune plants should be protected and non-native exotics removed. Dune walkovers should be constructed where they do not exist and existing structures should be maintained.
- iii. The use of vehicles on any part of the beach should be severely limited in accordance with Conservation element Policy 6-E-4(iv).
- iv. Buildings and other structures should be located as far away from the shoreline and dune system as possible since the beach is a constantly changing environment. Beachfront development shall be protected from coastal erosion, wave action, and storms by vegetation, setbacks, and/or beach renourishment rather than by seawalls or other hardened structures which tend to hasten beach erosion, interfere with public access, and block sea turtle nesting.
- v. Development (other than minor structures) shall not be allowed seaward of the 1978 Coastal Construction Control Line. Development seaward of the 1991 Coastal Construction Control Line may be permitted provided it complies with this comprehensive plan and all state and local permitting requirements.
- vi. Where buildings are threatened by erosion that cannot be reversed by major beach renourishment, the town's priorities are (1) to allow the structure to be moved away from the beach; (2) to allow emergency renourishment (including the use of trucked-in sand); and (3) to allow rip-rap only when the previous priorities are not possible. Existing seawalls on the beach may be maintained or removed but not rebuilt.
- vii. The absolute last resort for shoreline protection is the use of hardened structures (except that terminal groins may be permitted at inlets if acceptable to state and federal permitting agencies). New beachfront buildings requiring seawalls for protection from coastal erosion shall not be permitted.
- viii. Fish kills resulting from Red Tide and other harmful algal blooms have a negative impact on the town's shoreline. The town shall manage removal and remediate impacted shoreline for the continued enjoyment of residents and visitors. The town shall collaborate with local, state, and federal agencies, coalitions, and nonprofit

organizations to support policies/programs that address the impacts of harmful algal blooms that impact the town's shoreline.

OBJECTIVE CM-1 5--E ACCESS TO THE WATER — ~~Increase the number of well-maintained~~ Improve accesses to beaches, bays, and navigable waters to serve the existing and future population and visitors.

POLICY CM-1 5--E-1 Ensure the continued maintenance of existing beach access points, currently provided by Lee County with funds from the Tourist Development Council.

POLICY CM-1 5--E-2 Evaluate the need for expanded parking areas and the potential for revenue generation from metered parking as a funding source for additional public access amenities.

POLICY CM-1 5--E-3 The town encourages Lee County to continue its program of improving beach access points that are not currently marked.

POLICY CM-1 5--E-4 The town shall identify any water access points that are hidden, fenced off, or blocked by encroachments, and then ensure that appropriate public access is restored. Wayfinding shall be encouraged to be provided at key locations in town to identify and promote use of beach access points.

POLICY CM-1 5--E-5 The town shall attempt to acquire one or more beach access points at the southern end of the island.

POLICY CM-1 5--E-6 The town shall monitor the effectiveness of its ordinances regulating water activities (vessel control, water safety, personal watercraft, and parasailing), and install manatee habitat education signs at waterfront locations. In cooperation with providers and citizens, develop a program of education, interagency cooperation for enforcement, and additional regulation as needed to protect the coastal waters and the safety and welfare of residents and visitors.

POLICY CM-1 5--E-7 This plan minimizes the potential for land use conflicts between waterfront uses and other land uses through the following priorities for development/ redevelopment of the shoreline:

- i. Intense multi-family uses are limited to areas vested by previous regulations; to the rebuilding of existing sites following a natural disaster (~~see Policy 4-D-1~~); and to voluntary rebuilding of existing sites in accordance with the Future Land Use Element.
- ii. Future development or redevelopment of shoreline land uses must ensure compatibility with surrounding lands and provide proper buffering where needed.
- iii. ~~In determining applicable land uses for a site, priority~~ Site, priority shall be given to water dependent land uses in the following order:
 - Conservation uses
 - Water-dependent uses such as marinas which are available for use by the general public;
 - Recreational uses; and
 - Other uses that are compatible with the surrounding neighborhood.

OBJECTIVE CM-1 5--F HARBOR PLANNING — Initiate a cooperative planning process for Matanzas Pass and surrounding waterways ~~by 1998.~~

POLICY ~~CM-1 5~~--F-1 The town shall take an active role in initiating and participating in the planning process for Matanzas Pass and nearby waters ~~envisioned by Policy 94.6.3 of the Lee County Comprehensive Plan~~. This process would be conducted by a new entity charged with both planning and implementation. This entity would have the following characteristics:

- i. Balanced representation of competing interests such as local governments, recreational and commercial boating interests, and regional/state/federal agencies with jurisdiction over these waters;
- ii. A commitment to address and resolve competing interests for use and protection of these water, including commercial fishing and shipping, recreational boating, public anchorage, environmental protection, and protection of other shoreline users; and
- iii. The process will be public to seek the active support of all interests so that this planning process can be the first step to- wards long-term cooperation and protection of these valuable resources.

Community Design Element

Town of FMB: Community Design Element

EXISTING		PROPOSED	
GOAL 1	To continually improve the appearance and functioning of transportation corridors, commercial areas, and links to natural and recreational areas.	<u>GOAL CD-1</u>	<u>GROWTH AND DEVELOPMENT</u> <u>Accommodate growth while preserving the island's beachfront character by providing an alternative growth pattern that addresses traffic congestion, promotes a compatible mix of uses and encourages a variety of housing types and affordability to rejuvenate the existing fabric of the community and community character.</u>
OBJECTIVE 1-A	ESTERO BOULEVARD — Improve the functioning and appearance of Estero Boulevard as the premier public space and primary circulation route of Fort Myers Beach.	<u>OBJECTIVE CD-1-A</u>	<u>NEIGHBORHOOD SERVING COMMERCIAL CORES</u> <u>Identify mixed-use commercial districts throughout the island that provide neighborhood serving commercial uses and lifestyle retail around clusters of residential uses.</u>
POLICY 1-A-1	Changes along Estero Boulevard should improve on the characteristics that make it a boulevard in character and not just in name: safe and interesting to walk along, impressive landscaping, and scaled to people rather than high-speed traffic.	<u>POLICY CD-1-A-1</u>	<u>MIX OF USES</u> <u>Provide a complementary mix of land uses with design characteristics that provide:</u> i. <u>Uses that meet the daily needs of residents</u> ii. <u>A variety of affordable housing types</u>
POLICY 1-A-2	The town should develop a sidewalk and streetscape plan for all of Estero Boulevard that builds on the design theme of the 1997 improvements from Times Square and to the Lani Kai. This plan should recreate the historic “Avenue of Palms” concept by adding appropriate palm trees such as coconuts on both sides between the sidewalk and new curbs. This plan should also address related needs such as parking and trolley pull-offs, and should be sufficiently detailed to estimate costs and suggest potential phases of construction. Priorities should include positive impacts on: i. stimulating revitalization consistent with the town's overall vision in this comprehensive plan ii. completing pedestrian and bike path linkages from one end of the island to the other; iii. managing traffic flow; iv. improving pedestrian crossings; including push button (demand) lights; textured materials to emphasize crossings to drivers; and covered seating areas and other “oasis”	<u>POLICY CD-1-A-2</u>	<u>CREATE THE TIMES SQUARE MIXED-USE DISTRICT.</u> <u>The Times Square Mixed-Use District is the main tourist/entertainment district which will accommodate the most growth in terms of height and density with a predominance of residential uses on the east side of Estero Boulevard and hotel lodging and commercial uses on the west side. It is the main gateway to the island. Entertainment and tourist supporting commercial uses should be clustered here to reduce the need to drive throughout the island and to encourage walking.</u>

	amenities at trolley stops and beach accesses; v. lowering construction and maintenance costs from the original design; vi. correcting drainage problems; vii. coordinating with utility undergrounding; and viii. working within new and available sources of funds. After completing that plan, the town shall establish a phased schedule of capital improvements to complete this network.		
POLICY 1-A-3	In commercial and mixed-use areas, the town shall identify specific portions of Estero Boulevard where changes in land development regulations could work towards a more coherent “framing” of the Boulevard. New regulations should accomplish the following design goals over time through infill and redevelopment: i. bringing buildings closer to the side- walk; ii. encouraging or requiring compatible means of meeting the mandatory flood elevation requirements (for example; using dry-floodproofing techniques, or designs such as the old hardware store which is built close to the street with outside steps up, but with added steps up inside to reach the flood elevation); iii. locating most parking to the rear of buildings, limiting curb cuts, and promoting shared parking areas; iv. facilitating pedestrian and bicycle access and contributing to the interconnected- ness of the circulation system; v. adopting design guidelines that encourage architecture and urbanism along Estero Boulevard that contributes to the human scale and “beach cottage character” (such as the Huston Studio or Hussey tourist information center).	Policy CD-1-A-3	<u>CREATE THE CIVIC CENTER MIXED-USE DISTRICT</u> <u>Civic Center Mixed-Use District is a commercial district with residential on the east side of Estero Boulevard and commercial on the west. A strong mixed-use core is envisioned on the east side of Estero Boulevard as a redevelopment site. The core will support a mix of housing options and neighborhood serving retail uses for the immediate residential cluster.</u>
OBJECTIVE 1-B	OTHER PUBLIC SPACES — Beautify public spaces throughout the island.	POLICY CD-1-A-4	<u>CREATE THE CENTER ISLAND MIXED-USE DISTRICT</u> <u>The Center Island Mixed-Use District will support the nearby marina uses and provide lifestyle retail uses like cafes with outdoor dining and neighborhood serving retail for the surrounding residential neighborhood.</u>

POLICY 1-B-1	Create Estero Boulevard gateways or entry features at the south end near Big Carlos Pass and near the touchdown of the Matanzas Pass bridge.	<u>POLICY CD-1-A-5</u>	<u>CREATE THE THEATRE & ARTS MIXED-USE DISTRICT</u> <u>The Theatre & Arts Mixed- Use District is envisioned with arts and theatre related uses like cafes, art galleries, art studios, and restaurants. Existing views to the water here should be preserved.</u>
POLICY 1-B-2	Improve the appearance of the town throughout by landscaping public property and rights-of-way with native vegetation.	<u>POLICY CD-1-A-6</u>	<u>CREATE THE SANTINI VILLAGE MIXED-USE DISTRICT</u> <u>Santini Village Mixed-Use District is the tallest and most dense district on the island with tourist supporting uses and commercial. It is also envisioned as a redevelopment opportunity with more entertainment, tourist and neighborhood commercial uses as the southern gateway to the island.</u>
POLICY 1-B-3	Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special land- scape projects.	<u>OBJECTIVE CD-1-B</u>	<u>TRANSITION ZONES AND CONSERVATION DISTRICTS</u> <u>Create language to prevent commercial intrusion into the residential neighborhoods by providing transitions from commercial to residential uses. Use Conservation Districts to maintain the scale, massing and character of Fort Myers Beach and new construction.</u>
POLICY 1-B-4	Monitor the effectiveness of the county's pro- gram for removing trash and debris from the beachfront and Bay accesses.	<u>POLICY CD-1-B-1</u>	<u>TRANSITION ZONES</u> <u>New development on properties abutting single family homes and one and two story multi-family homes shall provide a building profile that matches the height of the abutting property as prescribed in the land development codes, to create an incremental transition in height.</u>
POLICY 1-B-5	Develop a program for placing utilities underground that addresses both public and private sector development.	<u>POLICY CD-1-B-2</u>	<u>CREATE CONSERVATION DISTRICTS</u> <u>Develop specific standards for the Conservation District. Use Conservation Districts to maintain the scale, massing and character of Fort Myers Beach and new construction. New buildings and additions should match the height and bulk of existing building form, with architectural treatments and building articulation that are consistent with the existing building vernacular.</u>
POLICY 1-B-6	Conduct regular and adequate street cleaning (sweeping or vacuuming) throughout the town. Evaluate effective methods to keep streets and drainage systems clean despite the abundance of blown sand and the absence of curbs.	<u>OBJECTIVE CD-1-C</u>	<u>Workforce Housing Through Density and Height Bonus</u>
GOAL 2	To upgrade residential neighbor- hoods throughout Estero Island.	<u>POLICY CD-1-C-1</u>	<u>Each of the mixed-use districts may provide for additional bonus height for developments that provide a workforce housing component.</u>
OBJECTIVE 2-A	HIDDEN PATHS — Create an additional interconnected system of pedestrian and bicycle pathways throughout the island to improve mobility and promote community inter- action.	<u>POLICY CD-1-C-2</u>	<u>The Town shall determine the minimum requirements for the workforce housing component as a policy in the land development regulations.</u>

POLICY 2-A-1	The town should encourage a community- sponsored program to identify and build a system of existing and potential “hidden paths” parallel to but behind Estero Boulevard. A local foundation or community land trust could identify and acquire existing vacant lots or easements to gradually complete the network. These parcels could be transferred back to the town for long-term maintenance.	<u>OBJECTIVE CD-1-D</u>	<u>MASTER PLANNED DEVELOPMENT</u> <u>Provide mechanisms to incentivize master planning large parcels and land assemblies for mixed-use development.</u>
POLICY 2-A-2	The town shall adopt changes to the land development regulations to allow small portions of existing lots to become a part of the hidden-path network without diminishing future uses of those lots.	<u>POLICY CD-1-D-1</u>	<u>The Town may consider and approve requests for Master Planned Developments. Assembled parcels that exceed four (4) acres can be master planned such that the applicant can propose new building scale, massing and uses from the underlying zoning.</u>
POLICY 2-A-3	The town shall ensure coordination between efforts to develop this hidden-path network and its new streetscape plan for Estero Boulevard.	<u>POLICY CD-1-D-2</u>	<u>Assembled parcels that exceed seven (7) acres must have a workforce housing and housing component to enjoy the benefits of changing the underlying zoning to be determined by the Town.</u>
OBJECTIVE 2-B	SIDE STREETS — Encourage residents to achieve a higher ambition for their residential streets, improving their walkability, comfort, beauty, inter- connectedness, and safety.	<u>POLICY CD-1-D-3</u>	<u>Assembled parcels that exceed seven (7) acres must provide a master plan for approval by the Town at a public hearing.</u>
POLICY 2-B-1	The town strongly supports the planting of regularly spaced street trees in public rights- of-way on residential streets. The selection of specific trees shall be guided by public input and the following criteria: i. amount of shade provided, especially during the summer months; ii. the amount of water and other regular maintenance that will be required (such as types of leaves, fronds, and fruit); iii. potential damage from extensive root systems or other characteristics of specific trees; iv. variety and beauty, including flowering characteristics; v. the potential for wildlife utilization; vi. a strong preference for native trees such as live oak, gumbo limbo, sea grape, cabbage palm, mastic, Jamaica dog- wood, mahogany, black olive, strangler fig, pigeon plum, and buttonwood; and vii. a prohibition on the use of invasive trees such as Australian pine, Brazilian pepper, melaleuca, and Java plum.	<u>OBJECTIVE CD-1-E</u>	<u>PRESERVING BUILDING SCALE BY ADAPTIVE REUSE OF EXISTING BUILDING STOCK</u> <u>Encourage conversions from vacation rentals and motels to condominiums to provide affordable housing options for Fort Myers Beach’s workforce.</u>

POLICY 2-B-2	The town should develop a residential streets program that provides guidelines and technical assistance to neighborhoods that wish to improve their public spaces as civic projects. The program could include the following elements: i. assistance in developing a workable approach on a street-by-street basis, consistent with the island-wide concept; ii. volunteer local arborists to provide specific advice and technical assistance; iii. assistance in preparing a planting plan for street trees; iv. financial assistance for planting street trees; v. a booklet describing the characteristics of desirable street trees for Fort Myers Beach; vi. a guidebook for tree planting, irrigation, and pruning methods; vii. a plan for short- and long-term maintenance of planted areas and street trees; viii. a current list of contact persons and a description of the process for requesting street repairs and maintenance and for reporting code violations; and ix. information on how to form a street lighting district.	POLICY CD-1-E-1	<u>ADAPTIVE REUSE</u> <u>Encourage the adaptive reuse of existing structures located within mixed-use and commercial land use designations, particularly those that were originally established as motels or vacation rentals are over 50 years old, by providing incentives, such as relief in the Land Development Regulations, grants to facilitate retrofitting or rehabilitation, etc.</u>
GOAL 3	To revitalize and improve specific transitional neighborhoods.	POLICY CD-1-E-2	<u>INCENTIVES FOR ADAPTIVE REUSE</u> <u>Develop an incentives package in the Land Development Regulations that encourage adaptive reuse of motels and vacation rentals to convert to condominiums to maintain the historic character and development pattern over time.</u>
OBJECTIVE 3-A	HEART OF THE ISLAND — Redevelop the School/Library/Bay Oaks area as the new “heart of the island.”	OBJECTIVE CD-1-F	<u>STREET FRONTAGES AND PARKING LOTS</u> <u>Develop policies to limit parking lots fronting main streets in the Land Development Regulations.</u>
POLICY 3-A-1	The complex of civic activities in the Bay Oaks area is a key community asset. Its access and significance would be enhanced by creating a main entryway; School Street could become a walkable palm-lined street of restored and infill cottages that announce the entry to this center of civic activity.	POLICY CD-1-F-1	<u>RESTRICTING PARKING AS A PRIMARY USE ON ESTERO BOULEVARD</u> <u>Parking lots shall not be encouraged as a primary use on Estero Boulevard.</u>
POLICY 3-A-2	A prominent civic structure benefits the community most when its location serves the public conveniently and when its design helps shape the surrounding public spaces and provides a new and symbolic vista from other public places.	POLICY CD-1-F-2	<u>RESTRICTING PARKING FRONTAGE LENGTH ON ESTERO BOULEVARD</u> <u>Parking lot frontages shall ideally be limited in size to one fourth the lot width on Estero Boulevard.</u>

POLICY 3-A-3	If the town ever decides to build a Town Hall rather than renting office space, a new building, even if modest in size, should help complete a center of public activity and should be visually prominent as a showcase of urban design.	<u>POLICY CD-1-F-3</u>	<u>PARKING STANDARDS FOR NEW DEVELOPMENT IN MIXED-USE COMMERCIAL DISTRICTS</u> <u>Within the Mixed-Use Commercial Districts, new development shall locate and design off-street parking areas in a manner that does not detract from the character by providing standards in the Land Development Regulations, such as locating parking to rear of buildings, limiting curb cuts, and landscaping and façade requirements.</u>
POLICY 3-A-4	A “heart of the island” plan should be prepared to coordinate the public and private actions needed to fully implement this concept, including identifying the sequence of actions, responsibilities for implementation, and potential funding sources. Initial actions should include: i. develop a design concept consistent with the new streetscape plan for Estero Boulevard, identifying approximate costs, potential funding sources, and suggested phasing; ii. refine regulations that would allow a compatible mix of uses such as residential, live-work spaces such as studios or galleries, and small-scale specialty retail uses consistent with the historic theme, including eased setback and parking regulations to accommodate the unique needs of renovations of existing and move-on cottages; and iii. prepare architectural guidelines for cottage renovations and for infill development.	<u>POLICY CD-1-F-4</u>	<u>PARKING STANDARDS IN TIMES SQUARE</u> <u>Improve the current parking situation near Times Square through the means outlined in the Transportation Element of this plan.</u>
POLICY 3-A-5	Provide in the new Land Development Code a pre-approved option for the future redevelopment of the Red Coconut/Gulfview Colony properties consistent with the town’s vision of traditional neighborhoods — neighborhoods that recreate a small-town feel; which are pedestrian and bicycle friendly with an internal circulation system that makes it possible to walk or bicycle to schools and services without always using Estero Boulevard; which retain the psychological connection and views to both the Bay and the beach; and which offer a variety of housing types and opportunity for mixed uses.	<u>POLICY CD-1-F-5</u>	<u>PARKING SUPPLY</u> <u>Evaluate parking supply needs by conducting a parking supply study and determine parking solutions including shared parking, structured parking that meets the character of the Island and parking management practices like centralized parking and offsite parking for employees.</u> <u>For the purposes of this policy, parking supply shall mean vehicular, bicycle, and any future micromobility options.</u>
POLICY 3-A-6	In accordance with Policies 4-E-1 and 4-F-2 of the Future Land Use Element, evaluate any alternative redevelopment concepts for any portion of the Gulfview Colony/ Red Coconut properties as to the following design principles:	<u>OBJECTIVE CD-1-G</u>	<u>DESIGN STANDARDS FOR PRESERVING BEACHFRONT CHARACTER</u> <u>Develop building design standards to preserve and enhance the existing beachfront character.</u>

	i. retains and/or creates water views through street layout, site design, and architectural design; ii. provides a variety of housing types rather than uniformity; iii. locates the more durable housing types and mix of uses along the Bay side of Estero Boulevard; iv. new streets create a highly connected network which includes mid-block paths or alleys; v. streets have sidewalks and street trees; vi. local streets are interconnected from Donora and Shell Mound through to the north.		
OBJECTIVE 3-B	NEAR-TOWN NEIGHBORHOODS — Revitalize older residential areas using traditional neighborhood techniques for renovations and infill.	<u>POLICY CD-1-G-1</u>	<u>NEIGHBORHOODS AND MIXED-USE DISTRICTS</u> Maintain design standards in the Land Development Regulations for neighborhoods and districts which protect and enhance their unique character through building setbacks, building footprint, massing and scale. These can be enhanced through Conservation District language to protect the Fort Myers Beach building vernacular and encourage adaptive reuse for motels and vacation rentals.
POLICY 3-B-1	The town shall prepare and adopt land development regulations to apply to the older “near-town neighborhoods” that will encourage renovations and compatible infill development, using the following types of techniques: i. modifying lot size, setback, and parking requirements where the current regulations hinder redevelopment; ii. adding design guidelines to encourage front porches, decks, and other elements from the cottage design tradition to help frame public spaces and define private areas; iii. modifying permitted uses to accommodate quiet home offices and possibly other mixed uses; iv. modifying current limitations on the number of guests and/or length of stays to protect residential areas from excessive intrusion by poorly regulated short- term rentals.	<u>POLICY CD-1-G-2</u>	<u>ESTERO BOULEVARD</u> Continue to make improvements to Estero Boulevard in terms of the eclectic character of building design with incentives in the Land Development Regulations.
OBJECTIVE 3-C	SANTINI “MAIN STREET” — Redevelop the Villa Santini Plaza and its environs as a “Main Street” town center for the south end of the island.	<u>POLICY CD-1-G-3</u>	<u>GUIDELINES FOR BUILDING COMPATIBILITY WITH FLOOD REGULATIONS</u> Encourage or require compatible means of meeting the mandatory flood elevation requirements (for example, using

			<u>dry-floodproofing techniques, having maximum allowable floor to ceiling height that match adjacent structures especially for buildings that need to be elevated at grade level and using gradual inclines for grade changes on commercial properties.</u>
POLICY 3-C-1	The town wishes to convert, over time, the existing Villa Santini Plaza and surrounding land from its current configuration of auto- oriented commercial uses. The desired plan would create a new “Main Street” shopping and civic center to serve residents of the south end of Estero Island and visitors to the state park on Black Island and Lovers Key (see Policy 4-F-2(ii) of the Future Land Use Element). To accomplish this goal, the town wishes to structure a public/private partner- ship agreement that provides for the following: i. outlines the public improvements necessary to implement the concept, and identifies the agencies and entities in- volved and their respective roles; ii. provides the town’s design criteria to guide the preparation of the development plan by the property owners; and iii. sets forth the process for the partner- ship, identifies responsibilities, areas of commitment, timing and process, order of magnitude costs, fiscal impacts/bene- fits, and any reimbursements.	<u>GOAL CD-2</u>	<u>COMMUNITY CHARACTER OF PUBLIC SPACES</u> <u>Improve the physical appearance of the island’s public spaces, paths, streets and streetscape to achieve a unified small town character which balances the needs of both residents and tourists.</u>
POLICY 3-C-2	The town shall adopt new development regulations for this area to bring about the desired redevelopment pattern in the Villa Santini area. Along the nearby section of Estero Boulevard, buildings being constructed or renovated shall extend closer to the street and provide front access to pedestrians and on-street parking. Internal site layouts shall be reconfigured to accommodate a central green/plaza area for overflow parking and a trolley transfer point generally consistent with the 1997 design concept pre- pared by Dover, Kohl & Partners.	<u>OBJECTIVE CD-2-A</u>	<u>PUBLIC SPACES AND VIEWS TO THE WATER</u> <u>Use urban design standards to reinforce walkable streets, public and private spaces and a sense of community through the public realm.</u>
OBJECTIVE 3-D	TIMES SQUARE — Stimulate the revitalization of the downtown core area (near Times Square) as the nucleus of commercial and tourist activities.	<u>POLICY CD-2-A-2</u>	<u>OPEN SPACE AND LAND USE</u> <u>Beautify public spaces throughout the island and preserve and protect natural areas that serve and benefit the public.</u>
POLICY 3-D-1	The town shall create a Downtown Redevelopment Agency to assist the Main Street pro- gram in revitalizing downtown as a lively, inviting, comfortable, and safe public environment.	<u>POLICY CD-2-A-3</u>	<u>VIEW CORRIDORS</u> <u>Maintain existing public rights-of-way that provide view corridors to water bodies and, whenever possible, provide features such as benches, landscaping, and trash receptacles to enhance the areas as pocket parks, and</u>

			<u>develop a process and criteria for identifying specific scenic resources, view corridors, and vistas that should be preserved or enhanced as new development and redevelopment occurs.</u>
POLICY 3-D-2	Downtown revitalization shall be based on the concepts in the Core Area Master Plan prepared for the Estero Island CRA Commit-tee in 1993-94, as refined during the continuing implementation of that plan. Those concepts are summarized in the following policies.	<u>POLICY CD-2-A-4</u>	<u>ENTRY GATEWAYS</u> <u>Create Estero Boulevard gateways or entry features at the south end near Big Carlos Pass and near the touchdown of the Matanzas Pass bridge.</u>
POLICY 3-D-3	Continue with sidewalk improvements: i. Standard sidewalk widths should be provided by the public sector and/or private developers in each development project as it is implemented. Consider a program for private sidewalk reservation through dedication or easement, particularly along Old San Carlos. ii. Use selected materials in public rights-of-way and private property improvements adjacent to sidewalks, such as in plazas or building setbacks. iii. Provide special design treatment (e.g. continuation of sidewalk paving patterns) at major intersections of the primary pedestrian streets to create a visual link and distinguish the pedestrian surface from the vehicular right-of-way.	<u>OBJECTIVE CD-2-B</u>	<u>STREETSCAPE</u> <u>Enhance the existing paths and sidewalks and streetscape to foster a more appealing environment for walking and biking.</u>
POLICY 3-D-4	Implement the pedestrian circulation plan: i. Complete the Bay-side sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks. ii. Construct sidewalks (5' wide minimum sidewalk) along all streets in the Core Area. iii. Provide a bike path along Estero Boulevard utilizing Crescent Street to Third Street across to Old San Carlos and then connecting back to Estero Boulevard and north to Bowditch Point. iv. Promote the function of Old San Carlos as a pedestrian spine linking Times Square and the marina by implementing public sidewalks and major crosswalks designed to work in	<u>POLICY CD-2-B-1</u>	<u>COMMERCIAL STREETSCAPE</u> <u>Improve the appearance of the town throughout by developing land development regulations for landscaping public property and rights-of-way with native vegetation and ensuring sidewalks are six (6) feet wide in residential zones and up to twelve (12) feet wide in mixed-use commercial districts.</u>

	conjunction with arcades or plazas located on private property. v. Work with the private sector to establish a site for a new public pedestrian plaza at the east of Old San Carlos. vi. Provide new on-street parking and side-walk on the south side of Crescent Street. vii. Reconfigure Third and Fourth Streets with on-street parking and sidewalks on both sides of the street. viii. Coordinate all proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.		
POLICY 3-D-5	Improve the current parking situation near Times Square through the means outlined in the Transportation Element of this plan. Suggestions from the Core Area Master Plan include: i. Implement parking management practices that create a positive experience for visitors and business operations. ii. Encourage the private sector to build and operate expanded parking areas, using public sector assistance if needed for land assembly and regulatory relief. iii. Expand the supply of shared on-street parking with 165 new parallel and angled spaces. iv. If the new supply of parking will be inadequate and a parking garage must be built, appropriate locations would be to the rear of new storefronts facing Old San Carlos.	<u>POLICY CD-2-B-2</u>	<u>LANDSCAPE FEATURES</u> <u>Identify potential mechanisms to implement and maintain special amenities such as entry features, monuments, or other special landscape projects through a formal landscape planning process.</u>
POLICY 3-D-6	Design and construct streetscape improvements for Old San Carlos, Crescent Street, Center Street, and First through Fifth Street. These include on-street parking, new side-walks, buried utilities, and landscaping.	<u>POLICY CD-2-B-3</u>	<u>STREET CROSSINGS</u> <u>Improve pedestrian crossings; including push button (demand) lights; textured materials to emphasize crossings to drivers; and covered seating areas and other “oasis” amenities at trolley stops and beach accesses that are consistent with the Manual of Uniform Traffic Control Devices and the Florida Design Manual as applicable.</u>
POLICY 3-D-7	Continue to implement the stormwater management plan (an exfiltration system that integrates the existing storm sewer pipe system and inlets with exfiltration trenches under Estero Boulevard). Similar systems can be installed for private development under parking lots or open space.	<u>POLICY CD-2-B-4</u>	<u>RESIDENTIAL STREETScape</u> <u>Develop a landscape plan in the Land Development Regulations for residential streets. The plan should consider regularly spaced street trees in public rights-of-way on residential streets which provide adequate shade, color and</u>

			interest, are low maintenance, with root systems that will not damage sidewalks, accommodate wildlife, are non-invasive.
POLICY 3-D-8	Provide technical assistance regarding dry flood proofing methods and design to individuals seeking to develop or improve their properties.	POLICY CD-2-B-5:	<u>RESIDENTIAL STREET PROGRAM</u> The town should develop a residential streets program to implement the landscape plan. The Program can provide: i. <u>assistance in developing a workable approach on a street-by-street basis, consistent with the island-wide concept.</u> ii. <u>volunteer local arborists to provide specific advice and technical assistance.</u> iii. <u>financial assistance for planting trees.</u> iv. <u>a booklet describing the characteristics of desirable street trees for Fort Myers Beach.</u> v. <u>a guidebook for tree planting, irrigation, and pruning methods.</u> vi. <u>a plan for short- and long-term maintenance of planted areas and street trees.</u>
POLICY 3-D-9	Enhance Lynn Hall Park with continuing beach renourishment, beach volleyball areas, and possibly a performance pavilion (in the southeast corner of the park next to Times Square). Include a pedestrian path linking the beach and the northern portion of Estero Boulevard.	GOAL CD-3	<u>CONNECTIVITY AND MOBILITY TO REDUCE TRAFFIC IMPACTS</u> Plan for interconnected streets and pedestrian paths that connect to mixed-use commercial districts to enhance mobility options.
		OBJECTIVE CD-3-A	<u>COMPLETE STREETS AND BICYCLE INFRASTRUCTURE</u> Provide for comfortable streets, street grid and interconnected paths that includes designated spaces for walking, biking, cars and transit that seamlessly connect to mixed-use commercial districts.
		POLICY CD-3-A-1	<u>INTERCONNECTED PATHS</u> Create an additional interconnected system of pedestrian and bicycle pathways throughout the island to improve mobility and promote community interaction that connects to mixed-use commercial districts behind Estero Boulevard.
		POLICY CD-3-A-2	<u>STREET CONNECTIVITY</u> Preserve, enhance, and provide connectivity for the downtown character and neighborhoods while fostering complete streets initiatives. Maintain and enhance the tightly gridded, interconnected street network that facilitates the dispersal of traffic and contributes to the character of Fort Myers Beach.
		POLICY CD-3-A-3	MAINTAIN PEDESTRIAN CIRCULATION

			<u>Maintain the pedestrian circulation plan:</u> i. <u>Bayside sidewalk and streetscape improvements for Estero Boulevard within the Core area with underground utilities and improved sidewalks.</u> ii. <u>Sidewalks (5' wide minimum sidewalk) along all streets in the Core Area.</u> iii. <u>Bike path along Estero Boulevard utilizing Crescent Street to Third Street across to Old San Carlos and then connecting back to Estero Boulevard and north to Bowditch Point.</u> iv. <u>Old San Carlos as a pedestrian spine linking Times Square and the marina by implementing public sidewalks and major crosswalks designed to work in conjunction with arcades or plazas located on private property.</u> v. <u>A new public pedestrian plaza at the east of Old San Carlos.</u> vi. <u>New on-street parking and side- walk on the south side of Crescent Street.</u> vii. <u>Third and Fourth Streets with on-street parking and sidewalks on both sides of the street.</u> viii. <u>Proposed improvements with the pedestrian, parking, mass transit, and traffic circulation concepts in the Transportation Element of this plan.</u>
--	--	--	---

Conservation Element

CONSERVATION ELEMENT

GOAL CON-1 6:

~~To protect the natural resources in and around the town from further damage and improve their future health and sustainability through regulations, education, enforcement, timely management, public improvements, and cooperation with other entities with similar goals.~~

Maintain and improve the Town of Fort Myers Beach's coastal resources with ongoing commitment through regulations, education, land acquisition and preservation, evaluation, programs, and for cooperation with the federal and county governments and related agencies.

OBJECTIVE CON 1-6-A: ESTUARIES AND BAYS

Improve the condition and function of estuaries and bays surrounding Estero Island, including their components such as seagrass meadows, tidal flats, soft bottoms, oyster bars, tidal creeks, and open water. Improve the viability of existing native coastal and upland habitats and establish additional areas for nature preserve and conservation uses to expand habitat areas and improve the conditions of estuaries and bays surrounding Estero Island.

POLICY CON 1-6-A-1: Protecting Marine Habitats/Resources:

~~Estuaries are the ecological transition between fresh and saltwater systems. They provide extensive habitat for fish and WILDLIFE including the feeding, breeding, and nursery ground for most of the commercially important fish and shellfish and many species of local and migratory birds, while offering a broad array of recreational opportunities. The Town of Fort Myers Beach will take all feasible steps to protect its marine and estuarine habitats and finfish/shellfish resources to ensure their long-term viability and productivity for scientific, commercial, sport, and recreational purposes. The town shall take a leadership role in enacting ordinances and facilitating resolution of jurisdictional problems.~~

The Town of Fort Myers Beach will take all feasible steps to protect its marine and estuarine habitats and finfish/shellfish resources to ensure their long-term viability with enacting ordinances and facilitating resolution will cooperation with other governmental agencies.

~~POLICY 6-A-2 The town will cooperate closely with other governmental agencies in formulating, monitoring, and enforcing regulations to protect the healthy functioning of the estuary, including but not limited to:~~

- ~~i. Marking existing channels crossing through seagrass beds to help boaters avoid damaging them (and their boats);~~ ii.
(i). Establishing permitting criteria for activities within the Town's 1000-foot jurisdiction beyond Estero Island to protect seagrass beds, oyster bars, soft bottoms, and other benthic communities from damage from docks, boat ramps, navigation channels, etc. These criteria would be coordinated with other regulatory agencies to prevent damage and to ensure that every effort is

~~made to protect marine habitats to locate these facilities away from valuable environmental resources. If permits are issued without concurrence from the town, the town may choose to withhold local building permits if a better location or technique could avoid damage to seagrass beds, oyster bars, or other sensitive benthic communities.~~

- ~~(ii) Controlling point and non-point sources of pollution including drainage, sewage pollution, and stormwater runoff.~~
- ~~(iii) Providing hardened shoreline stabilization such as seawalls;~~
- ~~iii. maintaining proper quality and timing of freshwater inputs.~~
- ~~(iv.) Protecting habitats from dredge-and-fill activities.~~
- ~~(v.) protecting sea grasses from “prop scarring” and excessive shading from docks; and protecting important uplands adjacent to wetlands.~~

~~POLICY 6-A-3 In cooperation with other jurisdictions, evaluate the effectiveness of existing regulations and enforcement techniques in preserving the bay and estuary system. Recommend and support such additional measures as necessary to ensure their sustainability, such:~~

- ~~i. Marking existing channels crossing through seagrass beds to help boaters avoid damaging them (and their boats);~~
- ~~ii. Establishing permitting criteria for activities within the town’s 1000-foot jurisdiction beyond Estero Island to protect seagrass beds, oyster bars, soft bottoms, and other benthic communities from damage from docks, boat ramps, navigation channels, etc. These criteria would be coordinated with other regulatory agencies to ensure that every effort is made to locate these facilities away from valuable environmental resources. If permits are issued without concurrence from the town, the town may choose to withhold local building permits if a better location or technique could avoid damage to seagrass beds, oyster bars, or other sensitive benthic communities.~~

~~POLICY 6-A-4 Encourage the organization of a local task force to coordinate and reconcile efforts of various organizations, governments, and businesses to promote long-term sustainability of the estuary. Potential perspectives include eco-tourism, water quality, habitat protection, commercial and recreational uses, and economic development. The task force would promote cooperative activities, assess needs, and recommend methods of coordinating reporting and enforcement of violations. The task force would make recommendations to the town regarding issues such as:~~

- ~~i. Establishing restricted areas and other methods of controlling boat traffic in Estero Bay, particularly around rookery islands and seagrass beds.~~
- ~~ii. Locating a suitable launching point on the Gulf for use by personal watercraft to reduce traffic on the bay side.~~
- ~~iii. Adopting a ban on the commercial collection of live shells.~~
- ~~iv. Recommending capital projects to improve water quality.~~
- ~~v. Recommending regulations to protect local waters.~~

POLICY CON 1-6-A-5: Improve Water Quality:

~~Maintain or improve estuarine water quality in accordance with policy under Objective 8 below, and economic value of the water bodies surrounding the Town of Fort Myers Beach.~~

~~POLICY 6-A-6 Regularly examine activities that may be within the town's jurisdiction to determine whether more stringent regulations or other actions are needed to ensure the functioning and long-term viability of natural systems.~~

OBJECTIVE CON 1-6-B: COASTAL LANDS
Develop policies to improve and protect coastal lands.

~~POLICY 6-A-7~~ CON 1-B-1: PARTICIPATION IN EFFORT TO IMPROVE ESTERO BAY

Participate actively in the Agency on Bay Management, the Charlotte Harbor National Estuary Program, The Estero Bay Management Plan and other entities attempting to improve the environmental health of Estero Bay.

~~POLICY 6-A-8~~ CON 1-B-2: PURCHASE 16,000 ACRES FOR ESTERO BAY PRESERVE

~~Actively encourage the purchase of the full 16,000 mainland acres adjoining Estero Bay to become an expanded Estero Bay State Buffer Preserve.~~

~~OBJECTIVE 6-B WILDLIFE AND NATIVE HABITATS — Improve the viability of existing native coastal and upland habitats and establish additional areas for nature preserve and conservation uses.~~

~~POLICY 6-B-1 CONSERVATION PROGRAMS GENERALLY — The town will cooperate with local, state, and federal regulatory agencies in establishing and managing natural reserves, preserves, and critical wildlife areas. This cooperation will include increasing public awareness, allowing appropriate access, properly protecting natural resources, and documenting and reporting violations of laws and regulations.~~

~~POLICY 6-B-2 LITTLE ESTERO ISLAND CRITICAL WILDLIFE AREA — In cooperation with state agencies, the town will aid in the stewardship of the Little Estero Island Critical Wildlife Area through activities such as:~~

- ~~i. Prohibit commercial activities within the defined boundaries of Little Estero Island.~~
- ~~ii. Support legislative measures as necessary to protect the long-term future of the preserve.~~
- ~~iii. Inform residents and visitors of the uniqueness and fragility of the island's habitats and identify funding for measures such as designating pedestrian trails and dune walkovers, adding information and interpretive signs, producing educational brochures, and conducting seminars to encourage proper use.~~
- ~~iv. Sponsor a volunteer task force to work with the Florida Game and Fish Water Fish Commission to oversee the daily stewardship of Little Estero Island through activities such as:~~
 - ~~• Identify potentially destructive practices (such as mowing or raking on the shoreline, litter, boat traffic, low flying airplanes, disturbances from vehicles and dogs, etc.) and determine appropriate methods to address them.~~
 - ~~• Inform residents and visitors of the uniqueness and fragility of the island's habitats; plant shoreline vegetation to replace vegetation damaged by visitors or other unnatural causes;~~

~~place and maintain interpretive signs; produce educational brochures; and conduct seminars to encourage proper use.~~

- ~~• Promote voluntary enforcement and possible citizen “volunteer patrols” to educate residents and visitors of the rules of the island and why they are needed.~~
- ~~• Develop guidelines to protect the fragile environment of the preserve and, where appropriate, urge their adoption as land development regulations or part of the town’s code of ordinances.~~

POLICY ~~6-B-9~~ CON 1-B-3: Acquisition of Additional Sites:

The town will strive to expand the opportunities for conservation and public appreciation of natural resources through acquisition of additional areas with rare or unique ecological or botanical features, or which provide access to such areas, through activities such as the following:

- i. Identify specific sites that would be desirable for public acquisition.
- ii. Support the efforts of other entities acquiring land that will contribute to the conservation effort (for example, aquatic preserve buffer areas, Bunche Beach, etc.)
- iii. Consider alternative means of land acquisition, such as supporting the efforts of nonprofit conservation land trust or acquiring development rights in lieu of full acquisition.
- iv. Accept donations of land for nature preserves or other resource conservation areas with the following general conditions: if such lands contain ecologically valuable habitat and/or if public ownership of such lands would expand existing or provide increased preservation or resource conservation areas.
- v. When acquiring property, determine the best entity to be responsible to implement a long-range management plan.

POLICY ~~CON 1-6-B-4~~: Matanzas Pass Preserve:

Prepare for the transition of the long-term maintenance responsibility of the Matanzas Pass Preserve from Lee County to a partnership among the county, the town, and a local non-profit organization such as the Friends of the Matanzas Pass Preserve.

- ~~i. Reinforce and support the efforts of the non-profit organization to expand the voluntary community-based portion of the operation and maintenance of the preserve. Assist their efforts to implement the restoration plan (which includes site preparation, revegetation, and long term management) and future improvements including new foot trails, repairing and extending boardwalks, providing a canoe/kayak access point, and adding a fishing pier/observation deck. This assistance may take the form of seeking grant funds, lending technical assistance, providing equipment (either directly or through leases with the county), or partial funding.~~
- ~~ii. Negotiate an agreement with the county that assigns responsibilities for the long term maintenance, restoration, and improvement of the preserve, that reflects its status as both a county-wide and local amenity and its importance as natural habitat.~~

POLICY ~~CON 1-6-B-5~~: Upland Habitat:

Preserve all remaining coastal strand and hammocks and improve the existing habitat through removal infestations of exotic plants and replanting with native species. ~~When these habitats are in private ownership.~~

- ~~i. Land uses must not result in the degradation of the values and functions of adjoining and nearby wetlands.~~
- ~~ii. Beaches seaward of the 1978 Coastal Construction Control Line are designated on the Future Land Use Map as “Recreation” to preclude their use for further urban development.~~
- ~~iii. Known remaining coastal hammocks are designated on the Future Land Use Map as “Recreation” to preclude their use for further urban development.~~

OBJECTIVE CON 1-C: PROTECTING RESOURCES FROM NON-DEVELOPMENT ACTIVITIES

Develop policies to protect natural resources from non-development activities.

POLICY CON 1-C -1: Wetlands Improvements

Structures or facilities that will improve the functional value of wetlands or provide “no-impact” use for observation, education, research, or passage shall include such structures as public boardwalks, observation decks, or launching areas for non-motorized watercraft shall be conditionally permitted, as appropriate, in the land development regulations.

In accordance with Florida Statutes, the Town will not undertake an independent review of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a state Environmental Resource Permit or exemption. However, no development approval shall be issued by the Town for any project which impacts wetland resources until all requisite permits from other agencies have been obtained and provided to the Town. All conditions placed on such permits shall be incorporated into the final development approval issues by the Town. Violations of such conditions shall be prosecuted through the Town’s code enforcement procedures.

POLICY CON 1-C 2: Prohibitions On Excavation and Mining

Commercial excavation and mining activities are prohibited in the Town of Fort Myers Beach due to potentially detrimental effects to groundwater, surface water, wildlife habitats, and surrounding land uses and values.

POLICY CON 1-C-3: Offshore Gas and Oil Exploration

The Town of Fort Myers Beach opposes offshore gas and oil exploration and excavation activities which may be reasonably expected to threaten the quality of coastal beaches and estuarine ecosystems; or would place oil- or gas-related facilities on coastal beaches, islands, or wetlands; or would require the placement of oil or gas storage facilities on the island.

POLICY CON 1-C -4: Dredging Tidal Canals

The dredging of additional tidal canals is prohibited.

POLICY CON 1-C -5: Water and Sewer Connections and Septic Tanks

The Town shall require connection to central water and sewer systems. No permits shall be issued for new septic tanks within the Town of Fort Myers Beach.

GOAL CON 2: HEALTHY WILDLIFE HABITAT:

OBJECTIVE CON 2-A: PROTECTED SPECIES

The Town of Fort Myers Beach will protect and ensure the management of designated protected species in cooperation with local, state, and federal agencies.

POLICY CON 2-A-1: Additional Protections:

The Town shall assist in the application of state and federal regulations regarding listed species through activities such as:

- i. Prohibit unmitigated development in and around areas designated as habitats, nesting areas, or feeding sites for wildlife listed as endangered or threatened.
- ii. Provide information regarding listed species on properties undergoing development review.
- iii. Withhold development approval until such time as all applicable state and federal permits pertaining to such species have been obtained and copies provided to the town.
- iv. Cooperate with Lee County and other agencies in the establishment of mitigation parks and banks to allow this form of mitigation for local impacts to listed wildlife species and native communities.
- vi. Support public education on the value of wildlife, native communities, and other natural resources through such means as brochures, newspaper articles, public presentations and workshops, and the placement of interpretive displays and development of observation trails at appropriate park sites.
- vii. Encourage and provide technical assistance to volunteer and non-profit organizations such as Turtle Time, Estero Bay Foundation, Estero Bay Buddies, and the Friends of the Matanzas Pass Preserve in their conservation efforts.

POLICY CON 2-A-2: Bald Eagles:

Maintain Lee County's ordinance protecting bald eagle nesting habitat in case bald eagles begin nesting on Estero Island, and urge adherence during development activities to "Habitat Management Guidelines for the Bald Eagle in the Southern Region" prepared by the U.S. Fish and WILDLIFE Service which recommends a primary protection zone with a radius of 750 to 1500 feet around active nests in which no development should occur, and a secondary zone an additional 750 feet to a mile from the outer edge of the primary zone to remain undisturbed during the nesting seasons.

POLICY CON 2-A-3: Manatees:

Recognizing that the waters of the Town provide important habitat for the endangered West Indian manatee, the Town will cooperate with local, state, and federal agencies in the establishment of manatee protection programs, including designation, marking, enforcement of slow-speed manatee protection areas and restriction of activities known to adversely affect manatees. The Town waters or portions of Town waters, as properly marked and permitted through the Florida

Fish and Wildlife Conservation Commission, are hereby established as all year slow speed manatee protection zones:

- i. All waters of Matanzas Pass and Estero Bay east of a line that bears 360° from the northernmost tip (approximate latitude 26°27'56" North, approximate longitude 81°58'04" West) of Estero Island, and west and southwest of a line 1,000 feet east and northeast of and parallel to the general contour of the east and northeastern shorelines of Estero Island, and west of a line beginning at a point (approximate latitude 26°24'34" North, approximate longitude 81°53'03" West) on the eastern shoreline of Estero Island and bearing 36° to a point (approximate latitude 26°24'40" North, approximate longitude 81°53'00" West) on the southern shoreline of Coon Key, but excluding the portions of the marked North-South channel in northern Estero Bay from Green Channel Marker "37" (approximate latitude 26°26'02" North, approximate longitude 81°54'29" West) to Green Channel Marker "57" (approximate latitude 26°25'08" North, approximate longitude 81°53'29" West).
- ii. All waters of Buccaneer Lagoon at the southern end of Estero Island.

POLICY CON 2-A-4: Gopher Tortoises:

The town's policy is to protect gopher tortoise burrows wherever they are found. If unavoidable conflicts make on-site protection infeasible, then off-site mitigation may be provided in accordance with FGFWFC requirements.

POLICY CON 2-A-5: Sea Turtles:

To protect nesting and hatchling sea turtle on the beaches in the Town of Fort Myers Beach ("Town") by ensuring that their nesting habitat is not degraded by artificial light. The objective is to ensure artificial light does not interfere with sea turtle nesting and hatching events through the appropriate design and implementation of coastal lighting systems. In order to further the objective of full implementation, this article also includes provisions designed to educate residents and beach users in the town on the benefits of appropriate coastal lighting and provides for weekly inspections to ensure compliance with the acceptable lighting standards.

GOAL CON 3: GUIDELINES FOR NEW DEVELOPMENT

Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas shall protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

OBJECTIVE CON 3-A: WETLANDS PROTECTION

Protect wetlands from development activities.

POLICY CON 3-A-1: Wetlands Definition:

Wetlands include tidal marshes, salt flats, and mangrove swamps that provide valuable habitat, buffering from storms, shoreline stabilization, and production of food for estuarine and coastal waters. The town will cooperate with state and agencies in the formulation, monitoring, and enforcement of regulations restricting activities that contribute to the destruction of wetlands and/or of the

adjacent upland communities that cleanse stormwater inflows. Such potentially destructive activities include construction fill that encroaches on edges of canals and bay waters, dredging of boat basins and channels, use of seawalls, rip rap, and other similar forms of shoreline stabilization, ditching for mosquito control, and any filling or removal of mangrove systems.

POLICY CON 3-A-2: Wetland Boundaries

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 per Florida Statute “Through the use of the unified state delineation methodology described, as ratified and amended by Florida Statue. If the Future Land Use Map is incorrect due to a clear factual error, an administrative process is contained to establish the precise boundary of any wetland.

OBJECTIVE CON 3-B: Protecting Dunes

Protect, maintain and improve dunes and beaches as recreation areas, valuable habitat, protection from storms, and areas of high scenic and aesthetic value. The effect of the town’s efforts may be a noticeable transition from today’s manicured and compacted beach towards a naturally appearing and functioning beach. This transition will be accomplished through education, regulation, and assistance in physical restoration activities.

POLICY CON 3-B-1: Dune Walkover Structures

For any beachfront development approved after the adoption of this plan and for all public beach areas within the town, state-approved dune walk-over structures shall be required at appropriate crossing points. These same structures are also encouraged wherever pedestrians will be crossing dune areas. Minor structures includes, but is not limited to, pile- supported elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported elevated viewing platforms

POLICY CON 3-B-2: Additional Protections for Dunes and Beaches

The following activities are prohibited to protect dunes and beaches:

- i. Removal of dune vegetation and stabilization of submerged and exposed beach by artificial means other than replenishment with compatible sand.
- ii. Excavation or destructive alteration of beach and dune systems. (Minimal disturbance necessary to accomplish approved beach restoration or renourishment activities or construct dune crossovers is allowable)
- i. Plant appropriate vegetation such as sea oats wherever sand dunes have been destroyed.
- ii. Undertake a management and maintenance program to control invasive exotic vegetation.
- iii. Removal of dune vegetation and stabilization of submerged and exposed beach by artificial means other than replenishment with compatible sand.
- iv. Excavation or destructive alteration of beach and dune systems. (Minimal disturbance necessary to accomplish approved beach

restoration or renourishment activities or construct dune crossovers is allowable.)

POLICY CON 3-B-3: Sea Turtle Nests

All coastal construction projects, including beach restoration and renourishment, shall protect sea turtle nesting areas by limiting construction in dune and beach areas to non-nesting periods (except under emergency conditions). In historic shorebird nesting areas, construction must be completed prior to shorebird nesting. Protection zones shall be marked around sea turtle nests and shorebird nesting areas to ensure that construction activities landward of the dune and beach system are limited to the actual construction site.

POLICY CON 3-B-4: 50ft Buffer Between Structures

The town will-promote the restoration of beach and dune systems to require that lots and parcels created after the adoption of this plan shall be of sufficient size and dimension to ensure a 50-foot buffer between any structures (except dune cross- overs) and the landward edge of the primary dune. This buffer shall remain in its natural state except for the minimum disturbance necessary to accommodate dune crossovers.

POLICY CON 3-B-5: Coastal Construction Line

Any construction activity seaward of the Coastal Construction Control Line not specifically approved by the DEP. Construction of artificial shoreline hardening structures is prohibited except for the emergency use of such structures constructed in compliance the Florida Statute

GOAL CON 4: MONITORING AND EDUCATION

Wetlands and the surrounding natural habitats will be protected, conserved, and monitored.

OBJECTIVE CON 4-A: Monitoring Natural Resources

Develop policies to monitor Fort Meyers Beach's natural resources.

POLICY CON 4-A-1: Evaluating Existing Regulations and Enforcement

In cooperation with other jurisdictions, evaluate the effectiveness of existing regulations and enforcement techniques in preserving the bay and estuary system.

POLICY CON 4-A-2: Monitor Water Quality

In cooperation with Lee County and other agencies, encourage continued water quality monitoring and identify sources of non-point water pollution, especially those found to be occurring from within the town. Develop a program to reduce or eliminate those pollution sources that may include education, regulation, and incentives, and follow-up enforcement.

POLICY CON 4-A-3: Surface Water Contamination

The Town shall comply the requirements of the National Pollutant Discharge Elimination System by prohibiting the discharge of runoff, wastewater, or other potential sources of contamination into surface waters which results in the degradation of the quality of the receiving water body below the applicable standards.

POLICY CON 4-A-4: Soil Erosion

Conserve and protect soils to reduce water and air pollution from wind and water erosion.

POLICY: CON 4-A-5: Monitoring Native Soil and Prevent Erosion

The Town shall implement the following measures to ensure conservation of native soils and prevention of erosion and its polluting impacts:

- i. To reduce airborne pollutants and protect tidal waters from dust caused by wind erosion, adopt requirements for protecting cleared land during construction.
- ii. Land clearing prior to issuance of a building permit or development order.
- iii. An erosion control plan shall be submitted and approved by the town prior to the issuance of a development order. Such plan shall reference the property's topography, vegetation, and hydrology and utilize the best management practices such as the use of staked hay bales or filter cloth between the development site and adjacent swales, surface waters, or wetlands; sodding, seeding, or mulching immediately after final grading; and maintenance of vegetation following development activities in order to reduce the erosion by wind or water.

POLICY CON 4-A-6: Native Soils

The town shall implement the following measures to ensure conservation of native soils and prevention of erosion and its polluting impacts:

- i. To reduce airborne pollutants and protect tidal waters and adhere to the requirements for protecting cleared land during construction.
- ii. An erosion control plan shall be submitted and approved by the town prior to the issuance of a development order and be in compliance with Fort Myers Beach code of ordinances and compliance with NPDES erosion control standards

POLICY CON 4-A-7: Air Quality

Continue to meet or exceed federal air quality standards based on monitoring results from state agencies.

POLICY CON 4-A-8: Information Sharing

Share information, data, and maps with other entities involved with conservation land acquisition and management through measures such as:

- i. Cooperating with Lee County in the following activities:
 - Maintaining a central clearinghouse for environmental studies and recommendations from public and private information sources. Compiling, maintaining, and regularly updating vegetation mapping, listed species, data regarding their habitat, and water resources data.
 - Updating the Lee County Habitat Inventory Map using the county's Geographic Information System.

ii. Cooperate with Lee County and FGFWFC in maintaining an inventory of all native communities and natural habitats to aid in land-use decision-making, development approvals, and ranking of potential acquisitions

iii. Recommend and evaluate such additional measures as necessary to ensure their enforcement techniques in preserving the bay and estuary systems as described per Florida Statute: Florida Legislature has declared as “aquatic preserves” certain submerged lands and associated waters that are of “exceptional biological, aesthetic, and scientific value.” These preserves are “set aside forever... for the benefit of future generations”. Develop a clear approach for evaluating existing regulations and its ongoing enforcement for preserving the bay and estuary system.

OBJECTIVE CON 4-B-: EDUCATION:

POLICY CON 4-B-1: Conservation Programs Generally

Increase education access and protection. The town will develop educational programming for allowing appropriate access, protecting natural resources, and documenting and reporting violations of laws and regulations.

POLICY CON 4-B-2: Little Estero Island Critical Wildlife Area

In cooperation with state agencies, the town will aid in the stewardship of the Little Estero Island Critical WILDLIFE Area through activities such as:

i. Prohibit commercial activities within the defined boundaries of Little Estero Island.

ii. Support legislative measures as necessary to protect the long-term future of the preserve.

iii. Inform residents and visitors of the uniqueness and fragility of the island’s habitats and identify funding for measures such as designating pedestrian trails and dune walkovers, adding information and interpretive signs, producing educational brochures, and conducting seminars to encourage proper use.

iv. Sponsor a volunteer task force to work with the Florida Game and Fish Water Fish Commission to oversee the daily stewardship of Little Estero Island through activities such as:

- Identify potentially destructive practices (such as mowing or raking on the shoreline, litter, boat traffic, low flying airplanes, disturbances from vehicles and dogs, etc.) and determine appropriate methods to address them.

- Inform residents and visitors of the uniqueness and fragility of the island’s habitats; plant shoreline vegetation to replace vegetation damaged by visitors or other unnatural causes; place and maintain interpretive signs; produce educational brochures; and conduct seminars to encourage proper use.

- Develop guidelines to protect the fragile environment of the preserve and, where appropriate, urge their adoption as land development regulations or part of the town’s code of ordinances.

POLICY CON 4-B-3: Task Force Element

Create a local task force to coordinate and reconcile efforts of various organizations, governments, and businesses to promote long- term sustainability of the estuary. The task force would make recommendations to the town regarding issues such as:

- i. Establishing restricted areas and other methods of controlling boat traffic in Estero Bay, particularly around rookery islands and seagrass beds.
- ii. Locating a suitable launching point on the Gulf for use by personal watercraft to reduce traffic on the bay side.
- iii. Adopting a ban on the commercial collection of live shells.
- iv. Recommending capital projects to improve water quality.
- v. Recommending regulations to protect local water

GOAL CON-5: WATER SUPPLY

Protect the water supply.

OBJECTIVE CON-5-A: Water Supply

The City shall protect, monitor, and address issues to ensure quality and quantity of water supply and ensure continued supplies of drinking water of sufficient quantity and quality to meet the projected demands of all consumers and the environment.

POLICY CON-5-A-1: Water Conservation

The town will cooperate with emergency water conservation measures of the South Florida Water Management District.

POLICY CON-5-A-2: Purchasing Bulk Water

The town will continue to purchase bulk water from Lee County Utilities in lieu of providing an independent supply of potable water. Lee County Utilities considers the Town of Fort Myers Beach to be part of its potable water service area and has demonstrated its ability to expand raw water supply and treatment facilities to meet anticipated growth consistent with the 2022 Lower West Coast Water Supply Plan Update prepared by the South Florida Water Management District.

POLICY CON-5-A-3: Water Quality New Development

Maintain or improve estuarine water quality by requiring new development or redevelopment to meet the following standards:

- i. Development shall not degrade the estuarine quality of Estero Bay below those standards established by the state for Class II Outstanding Florida Waters.
- ii. Development shall not degrade surface or ground water quality below state standards established in Chapter 62-302 FAC for surface water; Chapter 52-520, for ground water; and Chapter 10D-6 for bathing places.

POLICY CON-5-A-4: Water and Wastewater Management

Incorporate into the land development code measures applicable to new development and redevelopment to encourages year-round landscape irrigation conservation measures, and water and wastewater management such as low-volume irrigation systems, xeriscape landscaping techniques, potential hook-ups to re-use water systems, and use of other conservation and recycling techniques

demands on groundwater. The Town shall regularly review and adopt any local guidelines established by the South Florida Water Management District or Lee County, which will aid the Town's efforts to conserve water.

Goal CON-6: Solid Waste

The Town will support solid waste management and disaster planning which protects the environment and promotes public health. The Town aspires to support conservation and local sustainability and resiliency efforts by ensuring that solid waste collection needs of the Town are reduced over time through actions that reduce the solid waste generation rate through recycling, yard waste reuse, and education.

Objective CON-6-A: Waste Management to Support Sustainability and Conservation

The Town shall ensure the regular collection, management, and maintenance of solid waste to protect the environment and public health.

Policy CON-6-A-1: The Town shall ensure the collection and management of residential, multifamily and commercial solid waste through municipal, contracted or Town-licensed haulers, and ensure the adequate management of waste streams.

Policy CON-6-A-2: The Town will provide receptacles and solid waste collection services, including recycling, on Town properties and in public places as appropriate.

Policy CON-6-A-3: The Town shall incorporate recycling programs with the goal of achieving 75% recycling of all waste in municipal buildings and offices by 2030.

Policy CON-6-A-4: The Town shall promote, endorse, and implement education and outreach programs on waste conservation, management, and diversion, including, as applicable, the promotion of recycling, beneficial reuse of yard waste, reuse and diversions.

Policy CON-6-A-5: The Town shall conduct regular maintenance and code enforcement to mitigate and abate solid waste impacts from disasters, including, but not limited to regular tree canopy trimming and storm preparation of public property.

Policy CON-6-A-6: The City will incorporate debris removal and management as a component of standard operating procedures for pre-disaster planning and post-disaster recovery efforts.

OBJECTIVE CON-6-B: Waste Reduction

The Town shall promote waste reduction to support a sustainable community.

Policy CON-6-B-1: Eliminating Plastics and Polystyrene

The Town shall consider the elimination of use of single use plastics and polystyrene by the Town, licensees operating on Town property, and users of Town facilities and at permitted events on Town property.

Policy CON-6-B-2: Construction Waste

The Town shall strive to divert municipal construction and demolition waste as feasible.

Policy CON-6-B-3: Residential Composting

The Town shall assess the feasibility of implementing a residential composting program.

Policy CON-6-B-4: Commercial Waste

The Town shall encourage commercial waste reduction through policies or incentives, including Zero Waste programs.

Objective CON-6-C: Hazardous Waste

The Town shall coordinate with the appropriate entities ensure hazardous wastes are handled, collected, transported, stored, disposed of, and recycled in a manner that protects human health, safety, and the environment.

Policy CON-6-C-1: The Town shall support programs which aims to regulate small generators of hazardous wastes and reduce the volume produced in the Town.

Policy CON-6-C-2: The Town, in conjunction with Lee County and neighboring local governments, shall perform public outreach to inform residents of effective methods to minimize the use of, safely store, dispose of, and recycle hazardous waste products such as oils, solvents, and paints.

Policy CON-6-C-3: The Town shall encourage residents to deposit household hazardous waste at the appropriate collection centers.

~~POLICY 6-B-5 ADJACENT DEVELOPMENT — Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas shall protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.~~

~~POLICY 6-B-6 RESOURCE MANAGEMENT PLANS — The town will participate with other agencies in preparing and implementing water management plans such as the Charlotte Harbor Management Plan, Surface Water Improvement and Management (SWIM) plans, Estero Bay Aquatic Preserve Management Plans, and similar efforts. The town will reevaluate its policies for protecting and enhancing natural resources upon a review of newly adopted or revised plan by other agencies.~~

~~POLICY 6-B-7 INVASIVE EXOTIC PLANTS — Invasive exotic plants may not be used to meet landscaping requirements for new development. Prohibited species shall be identified in the land development regulations.~~

~~POLICY 6-B-8 SEAWALLS — The town shall encourage planting of mangroves or placement of rip-rap in artificial and natural canal systems to replace existing seawalls in need of repair. Build back of vertical seawalls will not be permitted along natural waterbodies if one or more of the following conditions exist:~~

- ~~i. Build back would cause excessive shoreline erosion or endanger shorelines of surrounding properties.~~
- ~~ii. Build back would threaten wetlands.~~
- ~~iii. Build back would be a threat to public safety or block access to state-owned land or beaches.~~
- ~~iv. Build back would be waterward of the existing seawall alignment on adjacent shorelines.~~

~~POLICY 6-B-9 ACQUISITION OF ADDITIONAL SITES — The town will strive to expand the opportunities for conservation and public appreciation of natural resources through acquisition of additional areas with rare or unique ecological or botanical features, or which provide access to such areas, through activities such as the following:~~

- ~~i. Identify specific sites that would be desirable for public acquisition.~~
- ~~ii. Support the efforts of other entities acquiring land that will contribute to the conservation effort (for example, aquatic preserve buffer areas, Bunche Beach, etc.)~~
- ~~iii. Consider alternative means of land acquisition, such as supporting the efforts of non-profit conservation land trust or acquiring development rights in lieu of full acquisition.~~
- ~~iv. Accept donations of land for nature preserves or other resource conservation areas with the following general conditions: if such lands contain ecologically valuable habitat and/or if public ownership of such lands would expand existing or provide increased preservation or resource conservation areas.~~
- ~~v. When acquiring property, determine the best entity to be responsible to implement a long-range management plan.~~

~~POLICY 6-B-10 INFORMATION SHARING — Share information, data, and maps with other entities involved with conservation land acquisition and management through measures such as:~~

- ~~i. Cooperating with Lee County in the following activities:

 - ~~• Maintaining a central clearinghouse for environmental studies and recommendations from public and private information sources.~~
 - ~~• Compiling, maintaining, and regularly updating vegetation mapping, listed species, data regarding their habitat, and water resources data.~~
 - ~~• Updating the Lee County Habitat Inventory Map using the county's Geographic Information System.~~~~
- ~~ii. Cooperate with Lee County and FGFWFC in maintaining an inventory of all native communities and natural habitats to aid in land-use decision-making, development approvals, and ranking of potential acquisitions.~~

~~OBJECTIVE 6-C PROTECTED SPECIES — Increase cooperation with local, state, and federal agencies in protecting wildlife species listed as endangered, threatened, or of special concern, and conserve the habitats upon which they depend in order to maintain balanced, biologically productive ecosystems.~~

~~POLICY 6-C-1 PROTECTIVE MEASURES GENERALLY —~~

~~The town shall assist in the application of state and federal regulations regarding listed species through activities such as:~~

- ~~i. Provide information regarding listed species on properties undergoing development review.~~
- ~~ii. Withhold development approval until such time as all applicable state and federal permits pertaining to such species have been obtained and copies provided to the town.~~
- ~~iii. Cooperate with local, state, and federal agencies in developing species-specific Habitat Conservation Plans as authorize by the Endangered Species Act. Until such plans are developed, the town's criteria for approval of development proposals shall be consistent with the provisions of the listed species guidelines promulgated by the FGFWFC.~~
- ~~iv. Cooperate with Lee County and other agencies in the establishment of mitigation parks and banks to allow this form of mitigation for local impacts to listed wildlife species and native communities.~~
- ~~v. Support public education on the value of wildlife, native communities, and other natural resources through such means as brochures, newspaper articles, public presentations and workshops, and the placement of interpretive displays and development of observation trails at appropriate park sites.~~
- ~~vi. Encourage and provide technical assistance to volunteer and non-profit organizations such as Turtle Time, Estero Bay Foundation, Estero Bay Buddies, and the Friends of the Matanzas Pass Preserve in their conservation efforts.~~

~~POLICY 6-C-2 BALD EAGLES — Maintain Lee County's ordinance protecting bald eagle nesting habitat in case bald eagles begin nesting on Estero Island, and urge adherence during development activities to "Habitat Management Guidelines for the Bald Eagle in the Southern Region" prepared by the U.S. Fish and Wildlife Service which recommends a primary protection zone with a radius of 750 to 1500 feet around active nests in which no development should occur, and a secondary zone an additional 750 feet to a mile from the outer edge of the primary zone to remain undisturbed during the nesting seasons. Nest trees should not be touched in any way by development activities unless the nest site has been de-classified by the FGFWFC.~~

~~POLICY 6-C-3 MANATEES — Recognizing that the waters of the town provide important habitat for the endangered West Indian manatee, the town will cooperate with local, state, and federal agencies in the establishment of manatee protection programs, including restriction of activities known to adversely affect manatees. The town shall cooperate in the designation, marking, and enforcement of slow-speed manatee protection areas. The town shall cooperate with Lee County in preparing and implementing a manatee protection plan, particularly in providing educational materials and programs to inform the town's boating population of the presence of manatees and of how to avoid destruction of manatee habitat and avoid manatee/boat collisions. The town supports the incorporation of the SWFRPC's 1995 marina siting study into Lee County's Manatee Protection Plan.~~

~~POLICY 6-C-4 GOPHER TORTOISES — The town's policy is to protect gopher tortoise burrows wherever they are found. If unavoidable conflicts make on-site protection infeasible, then off-site mitigation may be provided in accordance with FGFWFC requirements.~~

~~POLICY 6-C-5 SEA TURTLES — The town shall prepare and adopt a new sea turtle ordinance by the end of 1998 to supersede Lee County's existing Sea Turtle Protection Ordinance. The new ordinance shall provide standards for coastal uses and development and shall prohibit, during sea turtle nesting season, any point source of light or any reflective surface of a light fixture being visible from the beach; also, areas seaward of a frontal dune must not be directly, indirectly, or cumulatively illuminated. Other beach activities to be regulated include:~~

- ~~i. Beach raking, scraping, and other activities that unnecessarily compact the sand and/or damage dunes or prevent the re-creation of dunes;~~
- ~~ii. Unauthorized vehicular traffic on the beach;~~
- ~~iii. Storage of beach furniture, cabanas, jet skis, sailboats, and other equipment on the beach that may interfere with sea turtle nesting;~~
- ~~iv. Drainage of swimming pools, parking lots, and building roofs into point discharges directly onto the beach.~~

~~OBJECTIVE 6-D WETLANDS — Preserve all remaining wetlands; protect them from further degradation; and improve their condition and natural functions.~~

~~POLICY 6-D-1 Wetlands include tidal marshes, salt flats, and mangrove swamps that provide valuable habitat, buffering from storms, shoreline stabilization, and production of food for estuarine and coastal waters. The town will cooperate with state and federal agencies in the formulation, monitoring, and enforcement of regulations restricting activities that contribute to the destruction of wetlands and/or of the adjacent upland communities that cleanse stormwater inflows. Such potentially destructive activities include construction fill that encroaches on edges of canals and bay waters, dredging of boat basins and channels, use of seawalls, rip rap, and other similar forms of shoreline stabilization, ditching for mosquito control, and any filling or removal of mangrove systems.~~

~~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.~~

~~POLICY 6-D-3 In accordance with F.S. 163.3184(6)(c), the town will not undertake an independent review of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a state Environmental Resource Permit or exemption. However, no development approval shall be issued by the town for any project which impacts wetland resources until all requisite permits from other agencies have been obtained and provided to the town. All conditions placed on such permits shall be incorporated into the final development approval issues by the town. Violations of such conditions shall be prosecuted through the town's code enforcement procedures.~~

~~POLICY 6-D-4 The following activities in and near wetlands may be desirable and are not forbidden by~~

~~this comprehensive plan: —~~

- ~~i. Activities necessary to prevent or eliminate a public hazard, such as elimination of a dangerous curve in a road, dredging in order to clean up a spill of hazardous waste, or removal of underwater obstructions to boat traffic.~~
- ~~ii. Activities which provide a direct benefit to the public at large which would exceed any public loss as a result of the activity, such as removal of exotic species, restoration of natural hydroperiods, impacts associated with the maintenance of existing drainage works, or providing water access that is open to the public.~~
- ~~iii. Resource-oriented activities such as passive recreation, outdoor education, or other uses where protection of wetland functions and values is the primary attraction.~~
- ~~iv. Structures or facilities that will improve the functional value of wetlands or provide “no impact” use for observation, education, research, or passage (walking or non-motorized boats); these could include such structures as public boardwalks, observation decks, or launching areas for non-motorized watercraft.~~

~~POLICY 6-E-1 For any beachfront development approved after the adoption of this plan and for all~~

~~public beach areas within the town, state-approved dune walk-over structures shall be required at appropriate crossing points. These same structures are also encouraged wherever pedestrians will be crossing dune areas.~~

~~POLICY 6-E-2 All coastal construction projects, including beach restoration and renourishment, shall~~

~~protect sea turtle nesting areas by limiting construction in dune and beach areas to non-nesting periods (except under emergency conditions). In historic shorebird nesting areas, construction must be completed prior to shorebird nesting.~~

~~POLICY 6-E-3 The town will implement the following measures to promote the restoration of beach and dune systems:~~

- ~~i. Initiate a program to recreate a dune line and plant appropriate vegetation such as sea oats wherever sand dunes have been destroyed.~~
- ~~ii. Require the use of indigenous plants species for public and private dune restoration or renourishment projects.~~
- ~~iii. Require that lots and parcels created after the adoption of this plan shall be of sufficient size and dimension to ensure a 50-foot buffer between any structures (except dune cross-overs) and the landward edge of the primary dune. This buffer shall remain in its natural state except for the minimum disturbance necessary to accommodate dune crossovers.~~
- ~~iv. Undertake a management and maintenance program to control invasive exotic vegetation as a cooperative effort of the town and its citizenry.~~
- ~~v. Consider erosion control taxing/benefit units, grants, and other cost sharing funding mechanisms to provide funds for beach renourishment and management projects (see Coastal Management Element for strategies on beach renourishment).~~

~~POLICY 6-E-4 The following activities are prohibited to protect dunes and beaches:~~

- ~~i. Removal of dune vegetation and stabilization of submerged and exposed beach by artificial means other than replenishment with compatible sand.~~
- ~~ii. Excavation or destructive alteration of beach and dune systems. (Minimal disturbance necessary to accomplish approved beach restoration or renourishment activities or construct dune cross-overs is allowable under this policy.)~~
- ~~iii. Operation of motor vehicles on beaches and dunes (except in association with law enforcement activities, emergency medical services, public land/resources management, state-licensed sea turtle monitoring, once-daily delivery and pickup of beach equipment, minimal cleaning of litter and of excessive accumulations of natural debris, or as necessitated by an approved restoration, renourishment, or emergency project).~~
- ~~iv. Any construction activity seaward of the Coastal Construction Control Line not specifically approved by the DEP.~~
- ~~v. Construction of artificial shoreline hardening structures except the emergency use of such structures constructed in compliance with Chapter 161, F.S. If a hardened structure is absolutely necessary along the beach, riprap revetments are preferred. New seawalls are not permitted.~~

~~OBJECTIVE 6-F AIR QUALITY—Continue to meet or exceed federal air quality standards based on monitoring results from state agencies.~~

~~POLICY 6-F-1 Ensure that the town's land development regulations do not include any disincentives to the use of clean alternative energy sources such as active and passive solar technology.~~

~~POLICY 6-F-2 Reduce automobile emissions through programs developed in the Transportation Element to reduce single-occupant automobile trips. Mobility alternatives include increased ridership on the trolley system; introduction of an electric tram system throughout the Island; incentives for visitors to park off island or park once on island; a water taxi or water shuttle system; and an interconnected system of bicycle and pedestrian paths.~~

~~POLICY 6-F-3 Establish criteria for any new facility that would require an air quality permit including monitoring procedures to supplement those provided by the state and enter into agreements with Lee County and other relevant agencies to ensure that the town's concerns are addressed during the permitting stages of potential point source pollution generators.~~

~~OBJECTIVE 6-G SOIL EROSION—Conserve and protect soils to reduce water and air pollution from wind and water erosion.~~

~~POLICY 6-G-1 The town shall implement the following measures to ensure conservation of native soils and prevention of erosion and its polluting impacts:~~

- ~~i. To reduce airborne pollutants and protect tidal waters from dust caused by wind erosion, adopt requirements for protecting cleared land during construction.~~
- ~~ii. Land clearing prior to issuance of a building permit or development order.....~~

~~iii. An erosion control plan shall be submitted and approved by the town prior to the issuance of a development order. Such plan shall reference the property's topography, vegetation, and hydrology and utilize the best management practices such as the use of staked hay bales or filter cloth between the development site and adjacent swales, surface waters, or wetlands; sodding, seeding, or mulching immediately after final grading; and maintenance of vegetation following development activities in order to reduce the erosion by wind or water.~~

~~OBJECTIVE 6-H WATER QUALITY—Improve the water quality and economic value of the water bodies surrounding the Town of Fort Myers Beach beyond the levels existing in 1997.~~

~~POLICY 6-H-1 As an integral part of the Estero Bay estuary system, the town shall take all feasible measures in an intergovernmental effort to protect, maintain, and improve water quality in Estero Bay.~~

~~POLICY 6-H-2 No garbage or untreated sewage shall be discharged into tidal waters.~~

~~POLICY 6-H-3 Maintain or improve estuarine water quality by requiring new development or redevelopment to meet the following standards:~~

- ~~i. Development shall not degrade the estuarine quality of Estero Bay below those standards established by the state for Class II Outstanding Florida Waters.~~
- ~~ii. Development shall not degrade surface or ground water quality below state standards established in Chapter 62-302 FAC for surface water; Chapter 52-520, for ground water; and Chapter 10D-6 for bathing places.~~

~~POLICY 6-H-4 In cooperation with Lee County and other agencies, encourage continued water quality monitoring and identify sources of non-point water pollution, especially those found to be occurring from within the town. Develop a program to reduce or eliminate those pollution sources that may include education, regulation, and incentives, and follow-up enforcement.~~

~~POLICY 6-H-5 The town will implement the measures adopted in the Stormwater Management Element to reduce the polluting impacts of stormwater runoff.~~

~~POLICY 6-H-6 The town shall comply the requirements of the National Pollutant Discharge Elimination System by prohibiting the discharge of runoff, wastewater, or other potential sources of contamination into surface waters which results in the degradation of the quality of the receiving water body below the applicable standards.~~

~~OBJECTIVE 6-I WATER SUPPLY—Ensure continued supplies of drinking water of sufficient quantity and quality to meet the projected demands of all consumers and the environment.~~

~~POLICY 6-I-1 Incorporate into the land development code measures~~ applicable to new development and

~~redevelopment to encourage water and wastewater management such as low volume irrigation systems, xeriscape landscaping techniques, potential hook ups to re-use water systems, and use of other conservation and recycling techniques.~~

~~POLICY 6-I-2 The town will cooperate with emergency water conservation measures of the South Florida Water Management District.~~

~~POLICY 6-I-3 The town will continue to purchase bulk water from Lee County Utilities in lieu of providing an independent supply of potable water. Lee County Utilities considers the Town of Fort Myers Beach to be part of its potable water service area and has demonstrated its ability to expand raw water supply and treatment facilities to meet anticipated growth consistent with the 2005-2006 Lower West Coast Water Supply Plan Update (prepared by the South Florida Water Management District).~~

~~OBJECTIVE 6-J GROUNDWATER—Maintain the quality of groundwater resources and improve as necessary to meet state or federal standards.~~

~~POLICY 6-J-1 Commercial excavation and mining activities are prohibited in the Town of Fort Myers Beach due to potentially detrimental effects to groundwater, surface water, wildlife habitats, and surrounding land uses and values.~~

~~POLICY 6-J-2 The Town of Fort Myers Beach opposes offshore gas and oil exploration and excavation activities which may be reasonably expected to threaten the quality of coastal beaches and estuarine ecosystems; or would place oil or gas related facilities on coastal beaches, islands, or wetlands; or would require the placement of oil or gas storage facilities on the island.~~

~~POLICY 6-J-3 The dredging of additional tidal canals is prohibited.~~

~~POLICY 6-J-4 The town shall support Lee County's programs to properly dispose of hazardous wastes.~~

~~POLICY 6-J-5 The town shall require connection to central water and sewer systems to eliminate demands on groundwater and reduce the potential for contamination from septic tanks.~~

~~POLICY 6-J-6 Identify any remaining septic tanks and require their use be discontinued~~

Historic Preservation Element

Town of FMB: HISTORIC PRESERVATION (HP)

EXISTING		PROPOSED	
GOAL 13	To maintain “the best of the old” when redeveloping our community by appreciating, protecting, and promoting the historic resources of Fort Myers Beach. To provide stewardship of the legacy of our predecessors, cultivating our understanding of the past as a means of sustaining our future.	GOAL 13 <u>HP-1</u>	To maintain “the best of the old” when redeveloping our community by appreciating, protecting, and promoting the historic resources of Fort Myers Beach. To provide stewardship of the legacy of our predecessors, cultivating our understanding of the past as a means of sustaining our future. <u>Create a lasting heritage as the foundation of the town’s historic preservation with key principals: environmental resources, character, sustainability, and preservation maintenance to protect for future generations.</u>
OBJECTIVE 13-F	GENERAL STRATEGIES — Begin in 1999 to develop programs to aggressively identify, document, and evaluate historic and archaeological resources in and around the Town of Fort Myers Beach in order to encourage their long-term protection.	OBJECTIVE 13-F <u>HP-1-A</u>	GENERAL STRATEGIES — Begin in 1999 to develop programs to aggressively identify, document, and evaluate historic and archaeological resources in and around the Town of Fort Myers Beach in order to encourage their long-term protection. <u>IDENTIFY AND EVALUATE HISTORIC RESOURCES</u> <u>The town shall identify historic resources to help protect the town’s heritage and to coincide with its Land Development Codes for historically significant structures.</u>
POLICY 13-F-1	In 1999 the town shall convene an ad hoc historic working group to develop programs, organize volunteers, and make recommendations to the LPA and Town Council relating to Policies 13-A-2, 13-A-3, 13-A-5, 13-B- 1, 13-B-3, 13-B-6, and 13-C-3. This group shall include representatives of the Estero Island Historic Society, the LPA, the Lee County Planning Division, and others with expertise in archaeology, history, and/or construction.	POLICY 13-F-1 <u>HP-1-A-1</u>	In 1999 the town shall convene an ad hoc historic working group to develop programs, organize volunteers, and make recommendations to the LPA and Town Council relating to Policies 13-A-2, 13-A-3, 13-A-5, 13-B- 1, 13-B-3, 13-B-6, and 13-C-3. This group shall include representatives of the Estero Island Historic Society, the LPA, the Lee County Planning Division, and others with expertise in archaeology, history, and/or construction. <u>HISTORIC RESOURCE MAP</u> <u>The Town shall explore efforts to regularly update the historic resources map for properties and historic districts listed on the Local and/or National Registers of Historic Places. Architectural, archaeological, and other related cultural resource surveys shall be conducted pursuant to the standards and policies of the Florida Department of State, Division of Historical Resources and/or the provisions of the National Historic Preservation Act (1966).</u>

POLICY 13-F-2	Acquire high-quality reproductions of all files and photographs from the Florida Master Site File and the Florida Archives for buildings on Estero Island, and make copies available to the public at Town Hall and the public library. This files should be supplemented by an accurate listing of street addresses and parcel numbers, plus a listing of buildings that have been demolished or renovated beyond recognition. After this updating, the town shall notify all property owners of sites listed on the Florida Master Site File.	POLICY 13-F-2 HP-1-A-2	<u>FLORIDA MASTER SITE FILES AND PHOTOGRAPHS</u> Acquire high-quality reproductions of all files and photographs from the Florida Master Site File and the Florida Archives for buildings on Estero Island, and make copies available to the public at Town Hall and the public library. These This files should be supplemented by an accurate listing of street addresses and parcel numbers, plus a listing of buildings that have been demolished or renovated beyond recognition. After this updating, the town shall notify all property owners of sites listed on the Florida Master Site File.
POLICY 13-F-3	Periodically review and update Lee County's 1986 and 1992 surveys of historic buildings on Estero Island. Additional buildings shall be documented for submission to the Florida Master Site File, and buildings that have been demolished or altered shall be so noted. New information shall be transmitted to the Florida Department of State via the Lee County Planning Division.	POLICY 13-F-3 HP-1-A-3	Updates to Historic Building Survey <u>The town shall periodically review and support efforts to</u> update Lee County's 1986 and 1992 surveys of historic buildings on Estero Island. Additional buildings shall be documented for submission to the Florida Master Site File, and buildings that have been demolished or altered shall be so noted. New information shall be transmitted to the Florida Department of State via the Lee County Planning Division.
POLICY 13-F-4	Require all applications for development review to identify the location and status of historic resources and archaeological sites, utilizing as data bases the 1986 Lee County Historic Sites Survey, the 1987 Archaeological Site Inventory and Zone Management Plan for Lee County, the 1992 Historical Report and Survey Supplement for Lee County, and updated information from implementation of Policies 13-A-3 and 13-A-6. This identification of historic and archaeological resources will assist in administering protective regulations.	POLICY 13-F-4	Require all applications for development review to identify the location and status of historic resources and archaeological sites, utilizing as data bases the 1986 Lee County Historic Sites Survey, the 1987 Archaeological Site Inventory and Zone Management Plan for Lee County, the 1992 Historical Report and Survey Supplement for Lee County, and updated information from implementation of Policies 13-A-3 and 13-A-6. This identification of historic and archaeological resources will assist in administering protective regulations.
POLICY 13-F-5	Continue the program begun by Lee County for formally designating historic and archaeological resources, with the following changes: i. Designate the town's Local Planning Agency to serve as the historic preservation board required by the Land Development Code. ii. Contract with Lee County for consultation, technical assistance, and on-going staff support for the town's historic preservation program.	POLICY 13-F-5	Continue the program begun by Lee County for formally designating historic and archaeological resources, with the following changes: i. Designate the town's Local Planning Agency to serve as the historic preservation board required by the Land Development Code. ii. Contract with Lee County for consultation, technical assistance, and on-going staff support for the town's historic preservation program.

POLICY 13-F-6	By 1999, the town shall begin the process of designating one or more historic districts which would include most of the buildings listed on the Florida Master Site File.	POLICY 13-F-6	By 1999, the town shall begin the process of designating one or more historic districts which would include most of the buildings listed on the Florida Master Site File.
POLICY 13-F-7	Request the Estero Island Historic Society to identify appropriate buildings or sites for nomination by the town to the National Register of Historic Places.	POLICY 13-F-7 HP-1-A-4	<u>NATIONAL REGISTER OF HISTORIC PLACES</u> The town shall engage with the Request the Estero Island Historic Society to <u>regularly</u> identify any remaining appropriate buildings or sites for nomination by the town to the National Register of Historic Places.
POLICY 13-F-8	Encourage a private program that would visibly recognize historic building through plaques, certificates, historic markers, awards programs, or certificates of historical and/or archaeological significance.	POLICY 13-F-8	Encourage a private program that would visibly recognize historic building through plaques, certificates, historic markers, awards programs, or certificates of historical and/or archaeological significance.
POLICY 13-F-9	Develop a process and criteria for identifying specific scenic resources, view corridors, and vistas that should be preserved or enhanced as new development and redevelopment occurs. Particular attention should be given to recommendations in the Community Design Element.	POLICY 13-F-9 HP-1-A-5	<u>PROCESS FOR PRESERVING SCENIC RESOURCES</u> The town shall explore the Develop development of a process and criteria for identifying specific scenic resources, view corridors, and vistas that should be preserved or enhanced as new development and redevelopment occurs. Particular attention should be given to recommendations in the Community Design Element.
		<u>OBJECTIVE HP-1-B</u>	<u>DESIGNATION</u> Maintain and increase the town's historic resources listed in the Local and/or National Historic Registers of Historic Places. To promote the preservation of the town's historic character, encourage the maintenance and potential expansion of historic resources listed in the Local and/or National Historic Registers of Historic Places.
		<u>POLICY HP-1-B-1</u>	<u>HISTORIC DESIGNATION OF BUILDINGS</u> Explore potential to designate historic structures from all historic resources.
		<u>POLICY HP-1-B-2</u>	<u>HISTORIC DESIGNATION OF DISTRICTS</u> The town shall explore the designation of a historic districts which would include most of the buildings listed on the Florida Master Site File.
OBJECTIVE 13-G	REGULATIONS AND INCENTIVES — By the end of 1998, establish and maintain a regulatory and incentive system that promotes restoration, reconstruction, and re-use of the town's historic buildings.	OBJECTIVE 13-G HP-1-C	REGULATIONS AND INCENTIVES — <u>REGULATORY TECHNIQUES</u> By the end of 1998, e The town shall evaluate Establish and maintain the establishment of a regulatory and incentive system that promotes restoration, reconstruction, and re-use of the town's historic buildings.
POLICY 13-G-1	Evaluate the provisions of the Certified Local Government program to determine if the town should become certified.	POLICY 13-G-4 HP-1-C-1	<u>CERTIFICATION</u> The Town shall evaluate the provisions of the Certified Local Government program to determine if the town should become certified.

POLICY 13-G-2	Implement Community Design and Housing Policies that call for preparing and adopting land development regulations that will encourage the revitalization of older and historic housing using elements from the cottage design tradition.	POLICY 13-G-2 HP-1-C-2	<u>COMMUNITY DESIGN HOUSING POLICIES</u> The town shall consider the implementation of <u>Implement</u> Community Design and Housing Policies that call for preparing and adopting <u>land development codes</u> that will encourage the revitalization of older and historic housing using elements from the cottage design tradition.
POLICY 13-G-3	Using specific existing historic properties in Fort Myers Beach, determine additional regulatory relief that could be provided to designated historic properties to promote their preservation and rehabilitation.	POLICY 13-G-3 HP-1-C-3	<u>REGULATORY RELIEF</u> The town shall explore the use of <u>Using</u> specific existing historic properties in Fort Myers Beach, determine additional and consider regulatory relief that could be provided to designated historic properties to promote their preservation and rehabilitation.
POLICY 13-G-4	Study the feasibility of a variety of incentives including transfer of development rights and property tax relief to encourage preservation and rehabilitation of historic properties.	POLICY 13-G-4 HP-1-C-4	<u>REGULATORY INCENTIVES FOR HISTORIC PRESERVATION</u> The town shall explore <u>Study</u> the feasibility of a variety of incentives including transfer of development rights and property tax relief to encourage preservation and rehabilitation of historic properties, <u>and consider</u> . Continue to develop new land use and zoning incentives for eligible and historic resources within the land development codes, such as encouraging the adaptive reuse of historic structures within mixed-use zoning districts and providing parking relief strategies.
POLICY 13-G-5	Consider financial incentives for historic preservation that might include a revolving loan fund, grants, federal and state funds for income-eligible recipients, tax increment funds (if a CRA is established), or technical support for the use of investment tax cred- its.	POLICY 13-G-5 HP-1-C-5	<u>FINANCIAL INCENTIVES FOR HISTORIC PRESERVATION</u> Consider <u>Evaluate</u> financial incentives for historic preservation that might include a revolving loan fund, grants, federal and state funds for income-eligible recipients, tax increment funds (if a CRA is established), or technical support for the use of investment tax cred-its.
POLICY 13-G-6	The town shall adopt the Standard Existing Buildings Code into its land development code to encourage the rehabilitation of older buildings throughout the town.	POLICY 13-G-6 HP-1-C-6	<u>STANDARD EXISTING BUILDING CODE</u> The town shall adopt the Standard Existing Buildings Code into its land development code to encourage the rehabilitation of older buildings throughout the town.
		<u>POLICY HP-1-C-7</u>	<u>IDENTIFYING HISTORIC AND ARCHAEOLOGICAL RESOURCES</u> Require all applications for development review to identify the location and status of historic resources and archaeological sites, utilizing as databases information available from the Town, Lee County's Historic Preservation program, and Florida Department of State as appropriate.
		<u>POLICY HP-1-C-8</u>	<u>AMENDMENTS TO LAND DEVELOPMENT CODES</u> The Town will encourage sensitive, adaptive reuse and rehabilitation of structures eligible for historic designation as a preferred alternative to demolition. To this end, as necessary, the Town will regularly evaluate and, where

			<u>necessary, amend the Land Development Codes to ensure the protection — of historic resources.</u>
OBJECTIVE 13-H	CELEBRATING OUR HERITAGE — Continually heighten the appreciation of the town's recent and ancient history and cultural life, and improve opportunities for appropriate public access to publicly supported resources.	OBJECTIVE 13-H HP-1-D	CELEBRATING OUR HERITAGE — Continually heighten the appreciation of the town's recent and ancient history and cultural life, and improve opportunities for appropriate public access to publicly supported resources. <u>PRESERVATION PROGRAMS-</u> <u>Support and expand the city's historic preservation program with the State of Florida office and to comply with the town's ordinances for preservation to coincide with Land Development Codes.</u>
POLICY 13-H-1	Continue to pursue the acquisition of the William Case home (Long Estate). Assist the foundation that will provide long-term management with funding for start-up costs (with the amount needed to be evaluated annually). Link this facility to other cultural, scientific, educational, and recreational activities.	POLICY 13-H-1 HP-1-D-1	Continue to pursue the acquisition of the William Case home (Long Estate). Assist the foundation that will provide long-term management with funding for start-up costs (with the amount needed to be evaluated annually). Link this facility to other cultural, scientific, educational, and recreational activities. <u>CHANGES TO FORMAL DESIGNATION</u> <u>The town shall consider continuing the program begun by Lee County for formally designating historic and archaeological resources. It shall explore the designation of the town's Local Planning Agency to serve as the historic preservation board as required by the Land Development Code. Contract with Lee County for consultation, technical assistance, and on-going staff support for the town's historic preservation program.</u>
POLICY 13-H-2	Support the nomination of the Fort Myers Beach Elementary School and the William Case home (and its site) for the National Register of Historic Places.	POLICY 13-H-2 HP-1-D-2	Support the nomination of the Fort Myers Beach Elementary School and the William Case home (and its site) for the National Register of Historic Places. <u>Encourage privately run programs that would visibly recognize historic building through plaques, certificates, historic markers, awards programs, or certificates of historical and/or archaeological significance.</u>
POLICY 13-H-3	Examine methods that the town could use to aid in the protection of Mound Key.	POLICY 13-H-3 HP-1-D-3	Examine methods that the town could use to aid in the protection of Mound Key. <u>HISTORIC PRESERVATION BOARD</u> <u>The town shall consider the establishment of a qualified Historic Preservation Board that meets the Florida Certified Local Government Guidelines to oversee and further develop the functions of the historic preservation program.</u>

POLICY 13-H-4	Work with Lee County in establishing a net- work of canoe and kayak trails linking the sites of historic and archaeological significance from Pine Island to Estero Bay.	POLICY 13-H-4 HP-1-D-4	Work with Lee County in establishing a net- work of canoe and kayak trails linking the sites of historic and archaeological significance from Pine Island to Estero Bay. <u>STATE COMPREHENSIVE PLAN AND HISTORIC PRESERVATION PLAN</u> <u>Continue to work cooperatively and in conjunction with the State Historic Preservation Office to achieve the goals set forth in the State Comprehensive Plan and the Comprehensive Statewide Historic Preservation Plan.</u>
POLICY 13-H-5	Establish a task force to develop and implement the town's eco/heritage program. The task force would work with the Marine Resources Task Force to advise the town about implementing the recently adopted recommendations of the Governor's Advisory Committee on Eco-heritage Tourism.	POLICY 13-H-5 HP-1-D-5	Establish a task force to develop and implement the town's eco/heritage program. The task force would work with the Marine Resources Task Force to advise the town about implementing the recently adopted recommendations of the Governor's Advisory Committee on Eco-heritage Tourism. <u>CONSISTENCY WITH HISTORIC PRESERVATION ORDINANCES</u> <u>Ensure historic resources remain consistent with the Historic Preservation Ordinances relating to affirmative maintenance, demolition by neglect and boarding, which are adopted in the Land Development Codes and the Code of Ordinances.</u>
POLICY 13-H-6	In cooperation with the Estero Island Historic Society, develop self-guided walking/biking tours of the island's historic points of interest; interpretive panels; and other ways to share the history of the island with visitors.	POLICY 13-H-6 HP-1-D-6	In cooperation with the Estero Island Historic Society, develop self-guided walking/biking tours of the island's historic points of interest; interpretive panels; and other ways to share the history of the island with visitors. <u>ACQUIRING HISTORIC AND CULTURAL RESOURCES</u> <u>The town shall consider the acquisition of historic and cultural resources when ownership would provide a public benefit and when financial resources can be secured.</u>
POLICY 13-H-7	Continue to improve availability and appropriate public access to historic and cultural resources by implementing Community Design Policies 2-A-1/4, 3-D-4, and 3-D-6 and Recreation Policy 10-A-4.	POLICY 13-H-7 HP-1-D-7	Continue to improve availability and appropriate public access to historic and cultural resources by implementing Community Design Policies 2-A-1/4, 3-D-4, and 3-D-6 and Recreation Policy 10-A-4. <u>PUBLIC USES</u> <u>The town shall explore the use historic buildings to accommodate public uses whenever feasible.</u>
		<u>OBJECTIVE HP-1-E</u>	<u>EDUCATION AND PROGRAMMING</u> <u>The town shall support efforts that heighten the appreciation of the town's recent and ancient history and cultural life and</u>

			<u>improve opportunities for appropriate public access to publicly supported resources.</u>
		<u>POLICY HP-1-E-1</u>	<u>Network of Canoe and Kayak Trails</u> <u>Support Lee County in establishing a network of canoe and kayak trails linking the sites of historic and archaeological significance from Pine Island to Estero Bay.</u>
		<u>POLICY HP-1-E-2</u>	<u>TASK FORCE FOR TOWN'S ECO/HERITAGE PROGRAM</u> <u>Consider establishing a task force to develop and implement the town's eco/heritage program. The task force would work with the Marine Resources Task Force to advise the town about implementing the recently adopted recommendations of the Governor's Advisory Committee on Eco-heritage Tourism.</u>
		<u>POLICY HP-1-E-3</u>	<u>SELF-GUIDED WALKING/BIKING TOURS</u> <u>In cooperation with the Estero Island Historic Society, the town shall consider the development of self-guided walking/biking tours of the island's historic points of interest; interpretive panels; and other ways to share the history of the island with visitors.</u>
		<u>POLICY HP-1-E-4</u>	<u>SUBMERGED ARCHAEOLOGICAL SITES</u> <u>Promote knowledge of submerged archaeological sites as cultural heritage and patrimony.</u>
		<u>POLICY HP-1-E-5</u>	<u>PROMOTING HISTORIC AD-VALOREM TAX EXEMPTION PROGRAM</u> <u>Continue to promote the Historic Ad-Valorem Tax Exemption program to property owners of eligible and historic resources. Continue to provide information regarding all local, state and federal financial incentives to the public such as, the City and County Historic Ad- Valorem Tax Exemption program and the Federal Historic Preservation Tax Incentives programs.</u>
		<u>POLICY HP-1-E-6</u>	<u>PROMOTIONAL AND REFERENCE MATERIAL</u> <u>Develop promotional and reference materials about local historic resources, preservation and cultural heritage; such information will be available at City Hall and on the City website.</u>

Housing Element

Town of FMB: Housing Element

Strikethrough: Text to be removed.

Underline: Text to be added.

EXISTING		PROPOSED	
GOAL 12:	To keep a wide variety of housing types available to people at all stages of their lives.	GOAL 42 <u>HOU-1</u>	To keep a wide variety of housing types available to people at all stages of their lives. <u>Encourage the availability of attainable housing options within Fort Myers Beach for residents of all ages.</u>
OBJECTIVE 12-A	GENERAL HOUSING STRATEGIES — Maintain or increase 1997 federal/ state funding levels for affordable housing; maintain an adequate supply of land to meet forecasted housing needs; and maintain current levels of on-island housing suitable for employees working within the town.	OBJECTIVE 42-A <u>HOU-1-A</u>	GENERAL HOUSING STRATEGIES — Maintain or increase 1997 federal/state funding levels for affordable housing; m Maintain an adequate supply of land to meet forecasted housing needs; and maintain current levels of on-island housing suitable for employees working within the town.
POLICY 12-A-1	The town shall pursue the following affordable housing strategies: i. Provide liaison and technical assistance in linking eligible activities to partnerships and governmental funding sources; ii. Encourage a variety of housing types and cost ranges through flexible provisions in the Land Development Code (see Policy 12-C-1); iii. Focus planning efforts on specific areas that are in transition, such as the near-town neighborhoods between Times Square and Bay Oaks, and reinforces the quality of existing stable neighborhoods; iv. Implement an incentive-driven regulatory system and the town's new policy regarding accessory apartments (see Policy 4-C-7); v. Promote revitalization of existing housing including historic structures (see specific programs in the Historic Preservation Element); and vi. Assist service workers to find suitable housing on the island.	POLICY 42-A-1 <u>HOU-1-A-1</u>	The town shall pursue <u>evaluate</u> the following affordable housing strategies: i. Provide liaison and technical assistance in linking eligible activities to partnerships and governmental funding sources; ii. Encourage a variety of housing types and cost ranges through flexible provisions in the Land Development Code, <u>including accessory dwelling units in single family residential areas</u> (see Policy 12-C-1); iii. Focus planning efforts on specific areas that are in transition, such as the near-town neighborhoods between Times Square and Bay Oaks, and reinforces the quality of existing stable neighborhoods; iv. <u>Consider implementation of</u> Implement an incentive-driven regulatory system and the town's new policy regarding <u>create and maintain policies on</u> accessory apartments, <u>pathways for</u> hotel to condo conversions, and single family to duplex, triplex, and quadruplex as appropriate (see Policy 4-C-7); v. <u>Consider development of land development codes that support and enable its aging population to remain independent and in their own home or in a non-health care environment for as long as their health allows. Development</u>

			<u>and design strategies that enable older residents to remain in their community as their housing needs change allowing accessory dwelling units, such as garage apartments and “in law” suites in all residential areas and connecting residential neighborhoods to daily commercial needs by allowing mixed-income and mixed housing types to be located close to neighborhood or commercial shopping areas, civic or cultural institutions, and parks and open space areas;</u> vi. Promote revitalization of existing housing including historic structures (see specific programs in the Historic Preservation Element); and vii. Assist service workers to find suitable housing on the island.
POLICY 12-A-2	This plan's Future Land Use Map shall continually designate sufficient residential and mixed-use land for varying housing densities and housing types to accommodate the town's forecasted housing needs through build-out.	POLICY 12-A-2 <u>HOU-1-A-2</u>	This plan's Future Land Use Map shall continually designate sufficient residential and mixed-use land for varying housing densities and housing types to accommodate the town's forecasted housing needs through build-out.
POLICY 12-A-3	The town shall help provide access to affordable housing services for its residents with special attention to the needs of its low-income and “special needs” population. i. The town shall seek an agreement with Lee County to retain the town's standing as an eligible area for expenditures under the county's federal and state entitlement programs, provided assurances are made that town residents received a reasonable share of these expenditures over time. Unless determined to be infeasible or undesirable, the town shall enter into a cooperative agreement with Lee County before October 1998. ii. The town shall promote the use of public-private partnerships wherever feasible to accomplish the implementation of its housing objectives. Such partnerships could include a Downtown Redevelopment Agency, non-profit housing providers, and private developers and builders. iii. Encourage local lenders to provide affordable homeownership opportunities (including needed renovations) through programs such as mortgage assistance, reduced closing costs, and lower interest rates.	POLICY 12-A-3 <u>HOU-1-A-3</u>	The town shall help provide access to affordable housing services for its residents with special attention to the needs of its low-income and “special needs” population. i. The town shall seek an agreement with Lee County to retain the town's standing as an eligible area for expenditures under the county's federal and state entitlement programs, provided assurances are made that town residents received a reasonable share of these expenditures over time. Unless determined to be infeasible or undesirable, the town shall enter into a cooperative agreement with Lee County before October 1998. ii. The town shall promote the use of public-private partnerships wherever feasible to accomplish the implementation of its housing objectives. Such partnerships could include a Downtown Redevelopment Agency, non-profit housing providers, and private developers and builders. iii. Encourage local lenders to provide affordable homeownership opportunities (including needed renovations) through programs such as

			mortgage assistance, reduced closing costs, and lower interest rates.
POLICY 12-A-4	The town shall strive to eliminate substandard housing conditions and improve the structural and aesthetic qualities of existing housing. The town shall identify unsafe or substandard structures and take appropriate actions to address such conditions by adopting the Standard Housing Code by 1999 and enforcing it to regulate conditions in rental housing. Emphasis shall be on renovation rather than demolition wherever possible.	POLICY 12-A-4 <u>HOU-1-A-4</u>	The town shall strive to eliminate substandard housing conditions and improve the structural and aesthetic qualities of existing housing. The town shall identify unsafe or substandard structures and take appropriate actions to address such conditions by adopting the Standard Housing Code by 1999 and enforcing it to regulate conditions in rental housing. Emphasis shall be on renovation rather than demolition wherever possible. New housing shall be built to <u>comply with the applicable Florida Building Code and FEMA standards.</u>
POLICY 12-A-5	If ever necessary, the town shall provide equitable housing for citizens who must be relocated through government action supported by federal funds consistent with Chapter 421.55 F.S.	POLICY 12-A-5	If ever necessary, the town shall provide equitable housing for citizens who must be relocated through government action supported by federal funds consistent with Chapter 421.55 F.S.
POLICY 12-A-6	The town shall update this element using a state-approved methodology after census data for the year 2000 is available and no later than the town's next scheduled evaluation and appraisal report.	POLICY 12-A-6 <u>HOU-1-A-5</u>	The town shall update this element using a state-approved methodology after census data for the year 2000 <u>2020</u> is available and no later than the town's next scheduled evaluation and appraisal report.
OBJECTIVE 12-B	NEIGHBORHOOD-SPECIFIC HOUSING STRATEGIES — This plan's vision for revitalized and stable neighborhoods shall guide neighborhood-specific strategies to upgrade the housing stock and maintain a wide range of housing types and costs.	OBJECTIVE 12-B <u>HOU-1-B</u>	NEIGHBORHOOD-SPECIFIC HOUSING STRATEGIES — This plan's vision for revitalized and stable neighborhoods shall guide neighborhood-specific strategies to upgrade the housing stock and maintain a wide range of housing types and costs.
POLICY 12-B-1	DOWNTOWN (TIMES SQUARE) — Promote new construction and rehabilitation of existing structures for compact moderate-priced housing on Crescent Street consisting of multi-family units of various sizes, targeted for yearround occupancy for persons who wish to live or work downtown, through: i. The regulatory framework and incentives provided through the redevelopment overlay zone; ii. Activities of a Downtown Redevelopment Agency (if established, see Community Design Element Policy 3-D-1) such as land assembly, provision of infrastructure (drainage, sidewalks, streetscape, undergrounding of utilities etc), and low-interest revolving loans. iii. Other measures to encourage residential uses over retail throughout the downtown area.	POLICY 12-B-1 <u>HOU-1-B-1</u>	DOWNTOWN (TIMES SQUARE) — Promote new construction and <u>redevelopment to include rehabilitation of existing structures</u> for compact moderate-priced housing on Crescent Street consisting of multi-family units of various sizes, targeted for year- round occupancy for persons who wish to live or work downtown, through: i. The regulatory framework and incentives provided through the redevelopment overlay zone; ii. Activities of a Downtown Redevelopment Agency (if established, see Community Design Element Policy 3-D-1) such as land assembly, provision of infrastructure (drainage, sidewalks, streetscape, undergrounding of utilities etc), and low-interest revolving loans.

			iii. Other measures to encourage residential uses ever <u>along with</u> retail throughout the downtown area.
POLICY 12-B-2	HEART OF THE ISLAND – CIVIC CENTER — Promote the revitalization of the School Street (see Community Design Policy 3-A-4) as a walkable palm-lined street of restored and infill cottages for residential use, live-work spaces such as studios or galleries, and small-scale specialty retail uses consistent with the historic theme with retail on the ground floor and residential above. i. Prepare regulations that would allow a compatible mix of uses and would ease setback and parking requirements to accommodate the unique needs of renovations of existing and move-on cottages. ii. Provide architectural and design guidelines which illustrate cost-effective rehabilitation techniques consistent with the historic theme. iii. In partnership with the Estero Island Historic Society, seek grant funds to reduce costs of move-on and rehabilitation of historic cottages.	POLICY 12-B-2 <u>HOU-1-B-2</u>	HEART OF THE ISLAND – CIVIC CENTER — Promote the revitalization of the <u>area</u> School Street (see Community Design Policy 3-A-4) as a walkable palm-lined street of restored and infill cottages for residential use, <u>housing to age in place</u>, live-work spaces such as studios or galleries, and small-scale specialty retail uses consistent with the historic theme with retail on the ground floor and residential above. i. Prepare regulations that would allow a compatible mix of uses and would ease setback and parking requirements to accommodate the unique needs of renovations of existing and move-on cottages. ii. Provide architectural and design guidelines which illustrate cost-effective rehabilitation techniques consistent with the historic theme. iii. In partnership with the Estero Island Historic Society, Seek grant funds to reduce costs of move-on and rehabilitation of historic cottages.
POLICY 12-B-3	RED COCONUT/GULFVIEW COLONY AREA — Support the continued use of the Red Coconut/Gulfview Colony area (see Community Design Policy 3-A-5) as a pleasant home for visitors and long-term residents, and provide a pre-approved option for redevelopment as a traditional neighborhood with a variety of housing types.	POLICY 12-B-3 <u>HOU-1-B-3</u>	RED COCONUT/GULFVIEW COLONY AREA — Support the continued use of the Red Coconut/Gulfview Colony area (see Community Design Policy 3-A-5) as a pleasant home for visitors and long-term residents, and provide a pre-approved option for redevelopment as a <u>traditional mixed-use</u> neighborhood with a variety of housing types.
POLICY 12-B-4	NEAR-TOWN NEIGHBORHOODS — Revitalize the older near-town residential areas using traditional neighborhood techniques for renovations and infill (see Community Design Policy 3-B-1), using methods such as: i. Modify current regulations that have proven to be barriers to redevelopment. ii. Encourage the cottage design tradition of front porches and decks to help frame public spaces and define private areas, promoting neighborhood safety. iii. Permit quiet home offices (and possibly other mixed uses as determined appropriate). iv. Protect residential areas from intrusion by poorly regulated shortterm rentals. v. Provide access to federal and state housing programs available to income qualifying owners through Lee County's programs.	POLICY 12-B-4 <u>HOU-1-B-4</u>	NEAR-TOWN NEIGHBORHOODS <u>PRESERVATION</u> — Revitalize the older near-town residential areas using traditional neighborhood <u>smart-growth</u> techniques for renovations and infill (see Community Design Policy 3-B-1), using methods such as: i. Modify current regulations that have proven to be barriers to redevelopment. ii. Encourage the cottage design tradition of front porches and decks to help frame public spaces and define private areas, promoting neighborhood safety. iii. Permit quiet home offices (and possibly other mixed uses as determined appropriate). iv. Protect residential areas from intrusion by poorly regulated short-term rentals.

			v. Provide access to federal and state housing programs available to income-qualifying owners through Lee County's programs. vi. <u>Promote compact, walkable, neighborhoods that serve the diverse needs of both visitors and residents.</u> vii. <u>Provide for redevelopment of single-family dwellings to multifamily dwellings in the form of duplex, triplex, and quadruplexes, provided the facade is visually consistent with surrounding development.</u>
OBJECTIVE 12-C	REVISE THE CURRENT REGULATORY SYSTEM — Complete a thorough revision of the town's land development regulations by the end of 1999 to provide clear and consistent rules for development and redevelopment.	OBJECTIVE 12-C <u>HOU-1-C</u>	REVISE THE CURRENT REGULATORY SYSTEM — Complete a thorough revision of t The town's land development regulations by the end of 1999 to <u>shall</u> provide clear and consistent rules for <u>housing</u> development and redevelopment.
POLICY 12-C-1	The town's zoning and development regulations shall allow a variety of lot sizes, densities, and housing types.	POLICY 12-C-1 <u>HOU-1-C-1</u>	The town's zoning and development regulations shall allow a variety of lot sizes, densities, and housing types.
POLICY 12-C-2	Implement the town's new policy on accessory apartments in residential neighborhoods and include standards by which to measure compliance.	POLICY 12-C-2 <u>HOU-1-C-2</u>	Implement t The town's <u>land development code new policy on</u> shall provide for attached and detached accessory dwelling units apartments in residential neighborhoods and include standards by which to measure compliance. <u>Where permitted, the Town shall set specific standards and conditions regarding the design, size and occupancy, among other conditions as necessary, to ensure quality development and maintenance of neighborhood standards as appropriate.</u>
POLICY 12-C-3	Adopt the Standard Existing Buildings Code by 1999 (see Historic Preservation Policy 13-B-6).	POLICY 12-C-3 <u>HOU-1-C-3</u>	Adopt <u>Update/Revise</u> the Standard Existing Buildings Code by 1999 (see Historic Preservation Policy 13-B-6).
POLICY 12-C-4	The land development regulations shall include measures to implement Chapter 419 F.S. about the proper siting of group homes and foster care facilities.	POLICY 12-C-4 <u>HOU-1-C-4</u>	The land development regulations shall include measures <u>for</u> to implement Chapter 419 F.S. about the proper siting of group homes and foster care facilities.
POLICY 12-C-5	Consider (and implement as feasible) various methods to reduce the cost of constructing or rehabilitating housing, such as: i. adjusting impact fee schedules so that small units or housing designed for island employees would pay less than larger housing units; ii. supporting DCA's new "residential construction mitigation program" to help lower-income residents	POLICY 12-C-5 <u>HOU-1-C-5</u>	12-C-5 Consider (and implement as feasible) various methods to reduce the cost of constructing or rehabilitating housing, such as: i. adjusting impact fee schedules so that small units or <u>affordable or workforce housing</u> designed for island employees would pay less than larger housing units;

	retrofit their homes to increase their safety and protect their investments before a disaster occurs using low-interest loans or grants; iii. considering a bonus system to allow densities above what is normally allowed if reserved for housing in a price range affordable by low- or moderate-income residents; or iv. relaxing rules that require many sound buildings to be elevated above expected flood levels before they can be structurally improved.		ii. supporting DCA's new "residential construction mitigation program" to help lower-income residents retrofit their homes to increase their safety and protect their investments before a disaster occurs using low-interest loans or grants; iii. <u>considering Utilize a bonus system land with mixed-use designation to allow densities above what is normally allowed if reserved for housing in a price range affordable by low- or moderate-income residents; or</u> iv. relaxing rules that require many sound buildings to be elevated above expected flood levels before they can be structurally improved. v. <u>Expediting permitting and reduction of permitting fees</u>
OBJECTIVE 12-D	HISTORICALLY SIGNIFICANT HOUSING — Retain at least 90% of the town's historically significant housing for residential uses (or appropriate adaptive re-uses).	OBJECTIVE 12-D <u>HOU-1-D</u>	HISTORICALLY SIGNIFICANT HOUSING — Retain at least 90% of the town's historically significant housing <u>where appropriate</u> for residential uses (or appropriate adaptive re-uses).
POLICY 12-D-1	The town shall maintain the inventory of historic structures contained in the Historic Preservation Element.	POLICY 12-D-1 <u>HOU-1-D-1</u>	The town shall maintain the inventory of historic structures contained in the Historic Preservation Element.
POLICY 12-D-2	The town, in cooperation with the Estero Island Historic Society, will assist owners of historically significant housing in locating funds to restore or rehabilitate their homes. Assistance may be provided to move buildings if there is no other option to save the home.	POLICY 12-D-2 <u>HOU-1-D-2</u>	The town, in cooperation with the Estero Island Historic Society, will assist owners of historically significant housing in locating funds to restore or rehabilitate their homes. Assistance may be provided to move buildings if there is no other option to save the home.
POLICY 12-D-3	The town shall consider other incentives to encourage renovation of historic structures, as detailed in the Historic Preservation Element. Such incentives could include property tax relief, transfer of development rights, and below-market interest rate loans.	POLICY 12-D-3 <u>HOU-1-D-3</u>	The town shall consider other incentives to encourage renovation of historic structures, as detailed in the Historic Preservation Element. Such incentives could include property tax relief, transfer of development rights, and below-market interest rate loans.
NEW	NEW	<u>OBJECTIVE HOU-1-E</u>	<u>HOUSING AFFORDABILITY AND ATTAINABILITY -- The Town may evaluate current programs to incentivize the construction and development of affordable housing.</u>

NEW	NEW	<u>POLICY HOU-1-E-1</u>	<u>The Town shall consider implementing an inclusionary zoning ordinance, to encourage construction of affordable housing with new residential construction in its designed activity centers.</u>
NEW	NEW	<u>POLICY HOU-1-E-2</u>	<u>The Town shall continue to review financial and other incentives to assist the private sector in the provision of workforce housing including, but not limited to:</u> • <u>Temporary decreases in property tax assessment</u> • <u>Density bonuses</u> • <u>Tax increment financing (TIF)</u> • <u>Municipal land agreements (land banking and land swapping or conveyance, or rental of land)</u> • <u>Application fee reductions</u> • <u>Other financing that incentivizes the development of affordable and workforce housing</u>
NEW	NEW	<u>POLICY HOU-1-E-3</u>	<u>The Town shall aim to expedite the processing of building permits for Affordable, Attainable and Workforce Housing Units.</u>
NEW	NEW	<u>POLICY HOU-1-E-4</u>	<u>The Town may consider allowing reduced parking requirements for affordable and workforce housing.</u>
NEW	NEW	<u>POLICY HOU-1-E-5</u>	<u>The Town shall explore the creation of pre-approved designs for workforce housing in order to reduce development costs for such developments.</u>
NEW	NEW	<u>POLICY HOU-1-E-6</u>	<u>The Town shall continue to maintain an inventory of Town owned property available for use as affordable housing as required by Florida Statutes.</u>
NEW	NEW	<u>POLICY HOU-1-E-7</u>	<u>The Town shall consider opportunities for partnerships with private and public sector partners to explore the acquisition of vacant parcels and construct new single-family homes for very-low- income, and low-income households that are first-time home buyers.</u>

NEW	NEW	<u>POLICY HOU-1-E-8</u>	<u>The Town shall consider the creation of a community land trust for affordable housing, and consider mechanisms like land assembly of city-owned vacant lots to support development of affordable housing.</u>
NEW	NEW	<u>POLICY HOU-1-E-9</u>	<u>The City shall periodically evaluate minimum unit sizes in its land development regulations to determine impact on housing attainability and amend regulations as needed to enhance local housing availability and affordability.</u>
NEW	NEW	<u>POLICY HOU-1-E-10</u>	<u>To preserve diversity of housing and to prevent over proliferation of undersized units on the basis of affordable or workforce housing, the Town will consider limiting the number of microunits, defined as units between 250 and 500 square feet in size, to 15% maximum of all multifamily developments.</u>
NEW	NEW	<u>POLICY HOU-1-E-11</u>	<u>The Town shall consider incorporating into its code, workforce dwelling bonuses for development of auxiliary dwellings, residential dwellings in commercial spaces, and for affordable and workforce housing in commercial zones of the Town.</u>
NEW	NEW	<u>POLICY HOU-1-E-12</u>	<u>The Town shall consider incorporating into its land development regulations, provisions for conversion of underutilized office space into workforce housing. The Town will encourage form-based zoning in commercial, transient residential, and mixed-use areas of the Town to provide for conversions for additional housing by adopting such regulations into its land development code by 2025.</u>

Intergovernmental Coordination Element

INTERGOVERNMENTAL COORDINATION

GOAL IGC14: To efficiently coordinate plans, policies, and public services among the many public and private agencies that play important community roles.

OBJECTIVE IGC-A14—COORDINATION OF PLANS — Ensure coordination of this comprehensive plan with comprehensive plans of Lee County and the Lee County School Board, other units of local government providing services but not having regulatory authority over the use of land, and with regional and state plans.

POLICY IGC- 14-A-1 The town will coordinate planning activities called for by this comprehensive plan with other local governments, the school board, other units of local government providing services but not having regulatory authority over the use of land, the regional planning council, and the state through informal coordination, working groups, workshops, joint meetings of governing boards, participation in coordinating organizations, special task forces, and by formal interlocal agreements as the need arises.

POLICY IGC- 14-A-2 In the areas where the town's comprehensive plan addresses the subject matter of the State Comprehensive Plan in Chapter 187 F.S. and/or the ~~1995~~ 2002 Southwest Florida Strategic Regional Policy Plan, the town's plan has been designed to be compatible with and further these plans. Future amendments to this plan shall maintain this compatibility. The town will incorporate into the land development code appropriate regulations to further attain mutually held objectives.

POLICY IGC- 14--A-3 Where conflicts with other entities cannot be resolved through discussion among those concerned or other means, the town shall consider resolution through interlocal agreements and/or the informal mediation process of the Southwest Florida Regional Planning Council.

POLICY IGC- 14--A-4 Pursuant to the 1996 amendments to Chapter 163.3177 F.S., the town shall cooperate with the Lee County and other municipalities within the county, the Lee County School Board and any unit of local government providing services in the county in the following activities:

- i. Developing principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plans;
- ii. Describing joint processes for collaborative planning and decision-making on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance

The town will cooperate in establishing, by interlocal or other formal agreement executed by all affected entities, the joint processes described above, pursuant to the schedule to be established by the state land planning agency.

POLICY IGC- 14--A-5 The town will coordinate with Lee County and the South Florida Water Management District to ~~insure~~ ensure that this Comprehensive Plan remains consistent with Lee County's Water Supply Facilities Work Plan (~~last updated in July 2008~~) and SFWMD's ~~2017~~2005–2006 Lower West Coast Water Supply Plan Update (~~approved on July 12, 2006~~). The town commits to updating this Comprehensive Plan in accordance with statutory timeframes, ~~which in 2009 required this update within 18 months after SFWMD updates or amends its 2006 Lower West Coast Water Supply Plan Update.~~

OBJECTIVE IGC-B COORDINATION OF SERVICES — Ensure coordination among relevant entities in establishing level-of-service standards for public facilities, providing for efficient delivery of services, monitoring progress toward goals, and constructing improvements.

POLICY IGC- 14--B-1 Along Old San Carlos and Estero Boulevard, ~~the~~ the town would like to see major power lines placed underground to protect the lines, to avoid interruptions to evacuation due to fallen lines, and to improve the visual experience for tourists and residents.

POLICY ~~IGC- 14--B-2~~ Level-of-service standards for public facilities, as specified in Policies 2-A through 2-D of the Capital Improvements Element, have been coordinated with the level-of-service standards of entities operating these facilities. Future amendments to these standards shall be similarly coordinated.

POLICY ~~IGC- 14--B-3~~ To foster coordination with special districts, the town shall review the annual public facilities report prepared by special districts pursuant to Section 189.415, F.S.

POLICY ~~IGC- 14--B-4~~ The Town Council shall appoint a committee ~~by 1999~~ to evaluate the relationship between the town and the three independent special districts and suggest whether efficiencies could be achieved through closer cooperation.

POLICY ~~IGC- 14--B-5~~ The town shall continue to cooperate with Lee County's process of monitoring for conflicts in level-of-service standards for public facilities, and shall help resolve any conflicts.

POLICY ~~IGC- 14--B-6~~ The town shall work closely with public and private service providers to coordinate expected utility improvements with roadway projects and/or become a party to the county's interlocal agreement with such entities.

POLICY ~~IGC- 14--B-7~~ The town shall seek a significant role in policy matters concerning Lee County Utilities' sewer service, based on the town's dual roles as a major user of this service and its location directly downstream of any effluent discharges into tidal waters.

OBJECTIVE ~~IGC- 14-C~~ COORDINATION OF NEW DEVELOPMENT — Work closely with Lee County in evaluating and addressing the effects of new development.

POLICY ~~IGC- 14-C-1~~ ~~During 1998, resolve the current~~ Resolve any ambiguity over the county's and town's roles in collecting and spending road impact fees.

POLICY ~~IGC- 14-C-2~~ In cooperation with Lee County, establish a process and enter into interlocal agreements as needed to address the following:

- i. Impacts of proposed new development or re-development in Lee County outside the town's boundaries which may impact the town's levels of service, natural resource standards, evacuation times, or other significant impacts.
- ii. Impacts, if any, of development proposed in the town's comprehensive plan upon development in the adjacent county area.
- iii. Resolution of annexation issues that may arise.
- iv. Implementation of joint planning areas and/or joint infrastructure service areas.
- v. Procedure for notification and exchange of information regarding changes in land use or zoning and/or other issues potentially affecting the area adjacent to the town's boundaries.

OBJECTIVE ~~IGC-14-D~~ COORDINATION OF IMPLEMENTATION — Promote cooperative solutions to multi-jurisdictional problems and opportunities through active participation in coordinating entities, strengthening coordination mechanisms, leading by example (particularly through timely implementation of the policies of the town's comprehensive plan), and fostering community involvement in implementing this plan.

POLICY ~~IGC- 14-D-1~~ The town shall continue to participate actively in the Lee County Metropolitan Planning Organization and ~~intends to join~~ the Southwest Florida Regional Planning Council.

POLICY ~~IGC-14-D-2~~ The town shall continue to participate in relevant coordinating entities sponsored by the regional planning council such as:

- i. Southwest Florida Chief Administrative Officers
- ii. Regional Harbor Board
- iii. Estero Bay Agency on Bay Management
- iv. Beach Restoration working group convened by WCIND, SWFRPC, and Lee County Coastal Advisory Council
- v. Southwest Florida Issues Group of the Governor's Commission for a Sustainable South Florida
- vi. Charlotte Harbor National Estuary Program

POLICY ~~IGC-14-D-3~~ The town shall continue to foster close cooperation among WCIND, SFWMD, DEP, FGFWFC, DCA, other state and federal agencies as appropriate, Lee County, local task forces, non-profit organizations and volunteer groups to implement the policies of the town's comprehensive plan.

POLICY ~~IGC-14-D-4~~ The town shall actively participate in efforts that promote the consistent and coordinated management of bays, estuaries, and harbors that fall under the jurisdiction of more than one local government through the entities described in Policies 5- D-1/2/3 and specifically by implementing Policy 5-F-1 of the Coastal Management Element initiating a cooperative planning process for Matanzas Pass and surrounding waterways by 1998.

POLICY ~~IGC-14-D-5~~ The town shall coordinate implementation of the comprehensive plan with the programs and permitting requirements of all relevant regional, state, and federal agencies and shall support the regulatory and enforcement efforts of those agencies by requiring applicants for development orders to obtain approval from these other agencies prior to the city's authorizing commencement of development activities.

POLICY ~~IGC-14-D-6~~ The town will continue cooperating with Lee County over appropriate long-term responsibilities, cost sharing, and the transition process for county-owned facilities within the jurisdictional boundaries of the town, formalizing resolution of these matters through interlocal agreements.

POLICY ~~IGC-14-D-7~~ The town shall continue to coordinate informally with the Fort Myers Beach Elementary School and the Fort Myers Beach Library District to address mutual needs.

POLICY ~~IGC-14-D-8~~ The town will exchange information with the Fort Myers Beach Fire Control District and solicit input from the fire district on development proposals.

POLICY ~~IGC-14-D-9~~ The town will consider joining the Lee County Regional Water Supply Authority.

POLICY ~~IGC-14-D-10~~ Should the need for a new permanent dredge spoil disposal site arise, the town will coordinate with Lee County and the West Coast Inland Navigational District and resolve conflicts between the town and a public agency seeking a dredge spoil disposal site through the Coastal Resources Interagency Management Committee's dispute resolution process.

Property Rights Element

PROPERTY RIGHTS ELEMENT

Goal : **The Town of Fort Myers Beach will make decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.**

Objective 1 The Town of Fort Myers Beach will respect judicially acknowledged and constitutionally protected private property rights.

Policy 1.1 The Town of Fort Myers Beach will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

Policy 1.2 The Town of Fort Myers Beach will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

Policy 1.3 The Town of Fort Myers Beach will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 1.4 The Town of Fort Myers Beach will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

Recreation & Open Space Element

RECREATION AND OPEN SPACE ELEMENT

GOAL: To provide residents and visitors of all ages a comprehensive, accessible system of parks, active recreation areas, open spaces, beach accesses, natural preserves, private recreational facilities, and cultural activities that provide a variety of recreational opportunities and promote an understanding of our community's environmental and cultural heritage.

OBJECTIVE ROS-1-A: PUBLIC ACCESS AT BEACHES AND BAYS

Increase the number and quality of public access points to the Gulf beaches and Estero Bay, parks and natural preserves.

POLICY ROS-1-A -1: Beach Access

Maintain or improve existing levels of beach and bay access which provide for the continued maintenance of existing beach access points, and evaluate the need for more parking.

POLICY ROS-1-A-2: View Corridors

The town shall aim to increase, preserve, and enhance publicly-owned view corridors to the beach and water, and encourage additional preservation of scenic vistas on private property, when possible.

POLICY ROS-1-A-3: Great Calusa Blueway

Support and participate in Lee County's "Great Calusa Blueway" paddling trail by making convenient links between the trail and the town's environmental, cultural, and historical points of interest.

POLICY ROS-1-A-4: Beach Access to Mound House and Mantanza's Pass Preserve

Specifically provide enhancements for beach access and paddling trail points at Mound House and Mantanza's Pass Preserve for additional public access to the beach for the "Great Calusa Blueway" and the natural walking trail that is provided by the continuous beachfront along Estero Island.

POLICY ROS-1-A-5: Natural Preserves

Enhance public access to the town's nature preserve areas, while ensuring their ecological sustainability and providing for their long-term maintenance.

POLICY ROS-1-A-6: Little Estero Island Critical Wildlife Area and Mantanza Pass Preserve

Enhance access for the public enjoyment and protection of the areas.

POLICY ROS-1-A-7: Bowditch Point Park

Increase accessibility for recreational purposes by:

- i. Actively promote alternate means of access to Bowditch Point Park frequent and free trolley service, and especially the construction of public docks on the Bay side for private boats and a water taxis or ferry stop. Actions to support these activities shall include appropriate changes to the Land Development Code, any required rezoning's, and formal requests for funding to Lee County, and may also include further public transit subsidies or financial support for dock construction.
- ii. Bowditch Point Park ensure continued accessibility to visitors from throughout the county and beyond.

POLICY ROS-1-A-8: Encourage Lee County to provide on-site parking for the general public at Bowditch Point (in addition to the existing spaces for the handicapped) by adopting an appropriate resolution of support by the town council and by granting the required zoning changes.

POLICY ROS-1-A-9: Linking Mound House to Great Calusa Blueway
Link the Mound House to other cultural and recreational points of interest by providing appropriate dockage to serve the Great Calusa Blueway paddling trail and water taxis as well as links to bike and pedestrian paths.

POLICY ROS-1-A-10: Wayfinding
Increase public awareness of available recreation opportunities through signage on roadways, at park entrances, and within large parks.

OBJECTIVE ROS-1-B: SUSTAINABILITY
Develop policies to promote sustainability in the parks.

POLICY ROS-1-B-1: Lead Efforts to Improve Natural Areas
Assume a leadership role with other agencies to improve the viability of the natural areas around the town as an integral part of a comprehensive recreational system. Measures of success may include public acquisition of additional beachfront land; designation of canoe trails or water shuttle service linking Fort Myers Beach to surrounding natural resources.

POLICY ROS-1-B-2: Marine Task Force
Expand the purview of the town's Marine Resources Task Force to include the sustainability of recreational use of marine resources.

POLICY ROS-1-B-3: Public Land Acquisition to Meet Sustainability Priorities
Support the following priorities for public land acquisition outside the town's boundaries:

- i. Land that will contribute to the sustainability and enhancement of the comprehensive recreation system;
- ii. Land that can provide opportunities for public appreciation of environmental and archaeological resources;
- iii. Land that will provide additional beach access (such as Bunche Beach) for visitors who cannot reach Fort Myers Beach due to congested roads.

POLICY ROS-1-B-4: Eco/heritage Task Force
Establish a task force on eco/heritage tourism to develop and implement the town's "eco/heritage" program. The task force would work closely with Marine Resources Task Force to advise the town on appropriate components of the statewide plan of the Governor's Advisory Committee on Eco-Heritage Tourism where adopted.

POLICY ROS-1-B-5: Florida Friendly and Native Plants
Use Florida Friendly and native plants in all parks and open spaces to the greatest extent possible.

OBJECTIVE ROS-1-C: Implementation and Coordination
Maintain a comprehensive and cost-effective recreational system that meets the future needs of Fort Myers Beach.

POLICY ROS-1-C-1: Coordinating Funding Sources

The town shall work with the county, surrounding jurisdictions, state and federal agencies, non-profit organizations, national, state and local land trusts, private organizations and corporations, and other groups to identify funding sources and mechanisms and to structure partnerships to implement the policies of this Recreation Element.

POLICY ROS-1-C-2: Cost Sharing Mechanisms

Promote a cooperative effort among the town, Lee County, city of Sanibel, and other counties and regional agencies to develop cost-sharing mechanisms for improvements needed to improve the experience of visitors.

POLICY ROS-1-C-3: Adequate Private Recreational Facilities for New Development

The town shall require through its development regulations that major redevelopment activities include adequate private recreational facilities for their residents.

POLICY ROS-1-C-4: Maintenance

Ensure a high level of maintenance and facility development to preserve and enhance quality of parks and recreational facilities.

POLICY ROS-1-C-5: Matanzas Pass

Maintain a cooperative planning process for Matanzas Pass and surrounding waterways.

POLICY ROS-1-C-6: Agency on Bay Management

Actively participate in the Agency on Bay Management and the Southwest Florida Regional Harbor Board.

OBJECTIVE ROS-1-D: Monitoring

The following measures shall be used to monitor the achievement of the objectives in the Recreation and Open Space Element:

- The number of projects and amount of funds expended for the acquisition and protection of the Town's beaches for preservation and increased public access.
- Achievement of the LOS standard.
- Comparison of park acreage from 2022 to 2029.
- The number of interagency partnerships, school agreements and interlocal agreements.
- The implementation status of strategies to maintain and increase public participation in park planning, construction, and operational issues, and to increase the public's awareness of recreational opportunities.
- Implementing ADA accessibility requirements in Publicly owned park space.

GOALS—OBJECTIVES—POLICIES

~~Based on the analysis of recreation issues in this element, the following goals, objectives, and policies are adopted into the Fort Myers Beach Comprehensive Plan:~~

~~GOAL 10: To provide residents and visitors of all ages a comprehensive, accessible system of parks, active recreation areas, open spaces, beach accesses, natural preserves, private recreational facilities, and~~

cultural activities that provide a variety of recreational opportunities and promote an understanding of our community's environmental and cultural heritage.

OBJECTIVE 10-A NATURAL RESOURCES — Assume a leadership role with other agencies to improve the viability of the natural areas around the town as an integral part of a comprehensive recreational system. Measures of success may include public acquisition of additional beachfront land; designation of canoe trails or water shuttle service linking Fort Myers Beach to surrounding natural resources; or the successful implementation of a plan for the coordinated use and protection of Matanzas Pass.

POLICY 10-A-1 Expand the purview of the town's Marine Resources Task Force to include the sustainability of recreational use of marine resources along with the activities described in Conservation Policy 6-A-4.

POLICY 10-A-2 Implement Coastal Management Policy

5-F-1 initiating a cooperative planning process for Matanzas Pass and surrounding waterways by 1998.

POLICY 10-A-3 Actively participate in the Agency on Bay Management and the Southwest Florida Regional Harbor Board.

POLICY 10-A-4 Promote the use of a water shuttle to link the components of the town's recreational system without adding traffic on the roads.

POLICY 10-A-5 Support the following priorities for public land acquisition outside the town's boundaries: Land that will contribute to the sustainability and enhancement of the comprehensive recreation system; Land that can provide opportunities for public appreciation of environmental and archaeological resources; Land that will provide additional beach access (such as Bunche Beach) for visitors who cannot reach Fort Myers Beach due to congested roads.

OBJECTIVE 10-B BOWDITCH POINT PARK — Enhance

the natural resources at Bowditch Point Park while increasing its accessibility for recreational purposes.

POLICY 10-B-1 Encourage Lee County to plant native shade trees at Bowditch Point and control the spread of invasive exotic vegetation such as Australian pines to improve wildlife habitat and enhance opportunities for bird watching. If the Australian pines are destroyed by high winds, the town encourages their replacement with native shade trees. This encouragement may be expressed by resolution of the town council if requested by Lee County.

POLICY 10-B-2 Actively promote alternate means of access to Bowditch Point Park such as electric trams and more frequent and free trolley service, and especially the construction of public docks on the Bay side for private boats and a water taxis stop. Actions to support these activities shall include appropriate changes to the Land Development Code, any required rezonings, and formal requests for funding to Lee County, and may also include further public transit subsidies or financial support for dock construction.

POLICY 10-B-3 If requested by Lee County, consider the costs and benefits of assuming management responsibility for Bowditch Point Park while ensuring its continued accessibility to visitors from throughout the county and beyond.

POLICY 10-B-4 Encourage Lee County to provide on-site parking for the general public at Bowditch Point (in addition to the existing spaces for the handicapped) by adopting an appropriate resolution of support by the town council and by granting the required zoning changes.

OBJECTIVE 10-C DOWNTOWN AS A RECREATION HUB

— Make the Times Square area the nucleus of the town's comprehensive recreational system.

POLICY 10-C-1 LYNN HALL MEMORIAL PARK:

Enhance Lynn Hall Park as recommended in Community Design Policy 3-D-12, including continuing beach renourishment and the addition of beach volleyball areas.

In cooperation with the town's Main Street Program, encourage entertainment that appeals to residents and visitors while reinforcing the downtown as a recreation and entertainment destination. These could include musical or art-in-the-park events, community festivals, and other family-oriented special events.

After at least one year of experience with such events, consider the feasibility of including a performance pavilion in the southeast corner of Lynn Hall Park.

In cooperation with local environmental and business interests, consider the feasibility of constructing a boardwalk along the beachfront to connect the beach access near the Lani Kai to Lynn Hall Park on the landward side of the dune line (see Community Design Policy 3-D-4(iii)).

~~POLICY 10-C-2 PUBLIC PEDESTRIAN PLAZAS~~

~~TIMES SQUARE~~ — Maintain Times Square as a pedestrian mall and civic plaza consistent with Community Design Policy 3-D-5(ii). Integrate the park with the plaza by creating pedestrian friendly pass-through areas in place of the current fence.

~~MARINA PLAZA~~ — Work with the private sector to establish a site for a new public pedestrian plaza at the north end of Old San Carlos to increase public activity to the marina and cruise ship docks, consistent with Community Design Policy 3-D-4(v). Investigate the feasibility of improving the existing pier within the town's right-of-way under the

Skybridge for public docking, and incorporating the pier and parking area into the Marina Plaza concept. This will provide a second focus for a "walking path" around the core area and a close-by neighborhood common area for local residents; and will link the Times Square area to the water taxi system and dinghy dock. The town can assist in locating grant funding to develop this amenity.

~~CENTRAL GREEN~~ — Promote the establishment of a third public pedestrian plaza to serve the south end of the island by implementing Community Design Policies 3-C-1 and 3-C-2 regarding the redevelopment of Villa Santini Plaza.

~~OBJECTIVE 10-D COMMUNITY RECREATION~~

Increase the already high level of access to recreation facilities, and maintain the required level of service for community parks.

~~POLICY 10-D-1~~ Negotiate with Lee County to determine an appropriate balance for operating Bay Oaks Recreation Center without excluding non-town residents, and establish an equitable system of user fees to help fund its operation and enhancements.

~~POLICY 10-D-2~~ Support the efforts of the "Build-a-Pool

Committee" which has committed to the Town Council to be responsible for raising the funds for the ongoing operation and maintenance of the new public swimming pool. Sources of funds will include user fees, concessions, special events, business sponsorships, and community fund raisers.

~~POLICY 10-D-3~~ The town adopts the following level of service standard for community parks: for each 7,500 permanent residents, 1 centrally located recreation complex that includes 2 ballfields, 2 tennis courts, outdoor basket balls courts, play equipment, an indoor gymnasium, and community meeting spaces. Programming shall address all age groups and encompass active recreation, physical improvement, and social, educational, and cultural activities. The town also will maintain a cultural and environmental learning center at the historic Mound House, and contingent on obtaining grant funding for property acquisition, will purchase the Newton estate to serve as an oasis park with interpretive and rest facilities for those traversing Lee County's "Great Calusa Blueway," Estero Boulevard, and the walking trail provided by the public beachfront.

~~POLICY 10-D-4~~ To identify important gaps in the recreation system, the town shall conduct a community-wide survey to evaluate the adequacy of facilities and programming and measure willingness to pay fees or raise taxes to provide additional services. These services may include the following items that have been suggested in previous community workshops:

- more emphasis on inter-generational programs
- in-line skating and skateboarding facilities
- dog walk areas
- little theater group
- shuffleboard courts
- more tennis courts

~~POLICY 10-D-5 If the survey indicates sufficient demand, the town should investigate acquiring the privately owned Bay Beach Tennis Club which may be replaced by future phases of development of Bay Beach. A tennis club could be the nucleus of a “satellite” recreation center at the south end of the Island.~~

~~OBJECTIVE 10-E NATURAL PRESERVES — Enhance~~

~~public access to the town’s nature preserve areas, while ensuring their ecological sustainability and providing for their long term maintenance.~~

~~POLICY 10-E-1 MATANZAS PASS PRESERVE — Pre-~~

~~pare for the transition of the long term maintenance responsibility of the Matanzas Pass Preserve from Lee County in accordance with Conservation Policy 6-B-3.~~

~~POLICY 10-E-2 LITTLE ESTERO ISLAND CRITICAL~~

~~WILDLIFE AREA — Enhance the public enjoyment and protection of the area in accordance with Conservation Policy 6-B-2.~~

~~POLICY 10-E-3 OTHER NATURAL PRESERVES — Establish a citizen task force to evaluate opportunities to designate additional open spaces and natural preserves, and to identify potential funding sources including grants and a 3% utility tax.~~

~~OBJECTIVE 10-F CULTURAL FACILITIES AND~~

~~PROGRAMS — Achieve a heightened appreciation of the town’s recent and ancient history and cultural life.~~

~~POLICY 10-F-1 Manage the Cultural and Environmental Learning Center in the historic “Mound House” (formerly known as the Long Estate). Thoroughly analyze the archaeological remains on this site. Link this facility to other cultural and recreational points of interest by providing appropriate dockage to serve the Great Calusa Blueway paddling trail and water taxis as well as links to bike and pedestrian paths.~~

~~POLICY 10-F-2 Establish a task force on eco/heritage tourism to develop and implement the town’s “eco/heritage” program. The task force would work closely with the Marine Resources Task Force to advise the town on appropriate components of the statewide plan of the Governor’s Advisory Committee on Eco-Heritage Tourism when adopted.~~

~~POLICY 10-F-3 Acquire the beachfront estate of James and Eleanor Newton and operate it as a small community park with close links to the paddling trail in Matanzas Pass, the pedestrian and bicycle facilities on Estero Boulevard, and the adjoining public beach.~~

~~OBJECTIVE 10-G PUBLIC ACCESS — Increase the num-~~

~~ber and quality of public access points to the Gulf beaches and Estero Bay.~~

~~POLICY 10-G-1 Maintain or improve existing levels of beach and bay access pursuant to Coastal Management Policies 5-E-1, 5-E-2, and 5-E-3 which provide for the continued maintenance of existing beach access points, and evaluate the need for more parking.~~

~~POLICY 10-G-2 Support and participate in Lee County’s “Great Calusa Blueway” paddling trail by making convenient links between the trail and the town’s environmental, cultural, and historical points of interest.~~

~~POLICY 10-G-3 Acquire one or more beach access points at the southern end of the island in addition to acquiring the Newton estate (see Policy 10-~~

F-3) for additional public access to the beach and as a mid-island interpretative facility and rest area for the “Great Calusa Blueway” and the natural walking trail that is provided by the continuous beachfront along Estero Island.

~~OBJECTIVE 10-H NEIGHBORHOOD PARKS — Within five years, begin providing small-scale parks to serve individual neighborhoods and pedestrians.~~

~~POLICY 10-H-1 Provide a mechanism for requesting neighborhoods to create and manage a small children’s play area or “visiting” area, as a part of the “hidden paths” and/or “residential streets” programs described in the Community Design Policies 2-A-1 and 2-B-2. Develop a program of guidelines and technical assistance available to requesting neighborhoods. Evaluate the program within two years of initiation and, based on actual demand, and set standards if necessary to regulate the pace and equity of implementation.~~

~~POLICY 10-H-2 As provided for in Community Design Policy 2-A-1, facilitate the establishment of a local foundation or community land trust which among other responsibilities, would be responsible for planning and acquiring vacant parcels or easements for the hidden path and “postage stamp” park concept.~~

~~POLICY 10-H-3 Provide occasional “oasis” areas (resting places for pedestrians and bicyclists) at selected trolley stops and other strategic locations along Estero Boulevard as a part of the Estero Boulevard Streetscape Plan described in Community Design Policy 1-A-3(iv). The first oasis area shall be the Newton estate at Strandview Avenue (see Policy 10-F-3) which shall be closely linked to the Great Calusa Blueway paddling trail, the public trolleys and sidewalks/bike paths along Estero Boulevard, and to the public beach front.~~

~~OBJECTIVE 10-I — IMPLEMENTATION — Provide a comprehensive and cost-effective recreational system that meets the future needs of Fort Myers Beach.~~

~~POLICY 10-I-1 — Demonstrate through the annual budget and five-year Capital Improvements Program that the park and recreation standards of this plan are being met.~~

~~POLICY 10-I-2 — The town shall work with the county, surrounding jurisdictions, state and federal agencies, non-profit organizations, national, state and local land trusts, private organizations and corporations, and other groups to identify funding sources and mechanisms and to structure partnerships to implement the policies of this Recreation Element.~~

~~POLICY 10-I-3 — Promote a cooperative effort among the town, Lee County, city of Sanibel, and other counties and regional agencies to develop cost-sharing mechanisms for improvements needed to improve the experience of visitors.~~

~~POLICY 10-I-4 — The town shall require through its development regulations that major redevelopment activities include adequate private recreational facilities for their residents.~~

Transportation Element

TRANSPORTATION ELEMENT

GOAL ~~7~~ T-1: To improve ~~peak-season~~ mobility without reducing the permeability of Estero Boulevard to foot traffic or damaging the small-town character of Fort Myers Beach. The town seeks to reduce speeding, improve evacuation capabilities, and improve mobility through balanced transportation improvements such as a continuous system of sidewalks and bikeways, a network of trolleys and water taxis/ferries linked to off-island systems, and parking options matched to road capacity.

OBJECTIVE T-17-A DEFINING THE PROBLEMS — Through this plan, the Town of Fort Myers Beach will address its three major transportation problems: congestion (by supporting public transit and pedestrian improvements), parking (by improving public parking near Times Square), and speeding (through passive traffic calming on Estero Boulevard).

POLICY T-17-A-1 CONGESTION: ~~Every winter~~ During peak times Estero Boulevard can ~~becomes so~~ crowded that traffic backs up, sometimes for miles in both directions. Much of this congestion is caused by visitors, who will continue to frequent the beaches regardless of development levels on Estero Island. Despite the road congestion, the town welcomes visitors and intends to provide mobility alternatives as described in this plan.

POLICY T-17-A-2 PARKING: ~~Even though existing parking lots are not used to capacity, parking is not abundant at Fort Myers Beach. The welcome rebirth of commercial activity near Times Square will increase the demand for parking.~~ The Town of Fort Myers Beach will address parking shortages through the methods outlined in this plan and other appropriate initiatives.

POLICY T-17-A-3 SPEEDING: Despite the virtual crawl of traffic on parts of Estero Boulevard, speeding is also a problem. ~~If motorists didn't speed on Estero Boulevard, many more people would get out of their own cars.~~ The town will protect the pedestrian environment along Estero Boulevard and will ~~not widen travel lanes or discourage~~ encourage safe pedestrian movement across the boulevard and throughout the Town.

OBJECTIVE T-17-B CONVENTIONAL SOLUTIONS — The usual response to traffic congestion is widening roads or building alternate routes. Estero Island's long narrow shape, frequent navigable canals, sensitive environmental, and highly urbanized character preclude these solutions. Congestion management at Fort Myers Beach must aim to reduce delay and improve safety, not just for motorists but for pedestrians and bicyclists as well.

POLICY T-17-B-1 DELAY AND SAFETY: The town recognizes that many efforts to reduce delay and improve safety for motorists have the opposite effect on pedestrians. Creative solutions will be required to address both concerns, particularly for pedestrians.

POLICY T-17-B-2 WIDENING: Under no circumstances shall conventional four-laning of Estero Boulevard be considered as a desirable means of improving traffic circulation on Estero Island.

POLICY T-17-B-3 IMPROVEMENTS TO ESTERO BOULEVARD: The Town of Fort Myers Beach shall initiate additional pedestrian and streetscape improvements along Estero Boulevard ~~beginning in 1999~~, and shall negotiate with Lee County for additional appropriate right-of-way

~~improvements, the turnover of responsibility for its maintenance if necessary to carry out these improvements or to further other town policies.~~

OBJECTIVE T-17-C EVACUATION ROUTE — Estero Boulevard's critical function as the sole evacuation route for Fort Myers Beach shall be considered in all planning and development activities.

POLICY T-17-C-1 EVACUATION CAPACITY: Evacuation routes do not need to be designed as high-speed roadways. The critical factor is the total number of cars that can evacuate in a given period of time. The town shall evaluate all efforts by Lee County or by the town to reduce speeding on Estero Boulevard during the design phase to ensure that these efforts will not hinder an effective evacuation.

POLICY T-17-C-2 FLOODING: The town shall analyze actual flooding of evacuation routes ~~that occurs due to tropical storms or hurricanes~~, and shall initiate physical improvements that can avoid future flooding at those locations.

OBJECTIVE T-17-D VARIETY OF TRAVEL MODES — The Town of Fort Myers Beach shall make efforts every year to improve mobility for its residents and visitors, striving for a balanced transportation system that allows safe movement ~~even during peak periods of traffic congestion of pedestrians and vehicles.~~ These efforts may include further subsidies to improve the trolley system, the use of impact fees to improve sidewalks, and creation of critical links on the hidden-path system.

POLICY T-17-D-1 ARRIVE WITHOUT A CAR: Fewer vehicles would be driven to Fort Myers Beach if scheduled airport shuttle service were available. The town shall encourage this service and the designation of a central drop-off point that could include a trolley stop and taxi stand. The Town will encourage businesses to develop creative programs that incentivize visitors and employees to arrive without a car.

POLICY T-1-D-2 REDUCE NEED OF CAR: Promote compact development, enhance pedestrian realm, and promote modes of transportation other than single occupancy vehicles.

POLICY T-1-D-3 OFF-ISLAND PARKING: Work with Lee County to secure off-island land for the purposes of extended parking. Continue to encourage or incentives visitors to park off the island to reduce number of vehicles.

POLICY T-17-D-24 IMPROVE TROLLEY SERVICE: Trolley ridership increases when service is more frequent and when fares are low or free, yet no long-term funding or operational plan has been developed for providing higher service levels. Practical measures to improve trolley usage include:

- i. Recurring subsidies from tourism sources so that service can be enhanced and congestion minimized during heavy seasonal traffic;

- ii. Pull-offs at important stops along Estero Boulevard so that passengers can safely board and traffic is not blocked excessively; these pull-offs could be built during other improvements to Estero Boulevard or required by the Land Development Code during the re-development process.
- iii. Clear signs at every stop with full route and fare information;
- iv. Bus shelters at key locations, with roofs, benches, and transparent sides;
- v. Replacement of the existing trolley buses with clean-fuel vehicles so that businesses won't object to having trolleys stop at their front doors; and
- vi. Accommodation of the special needs of the transportation disadvantaged.

POLICY ~~T-17-D-35~~ ALTERNATE TRAVEL MODES: The town shall support alternatives to car travel to free up road capacity for trips that do require a car. Public funding sources shall include county/state gasoline taxes and road impact fees. The town shall modify its road impact fee ordinance ~~by 1999~~ to allow these fees to be spent (within legal limits) on capital improvements that relieve road congestion, such as better sidewalks, trolley improvements, and off-island parking areas. ~~The town seeks to at least double the usage of the trolley system by the year 2001 (from its 1996 total ridership level of 238,754).~~

POLICY ~~T-17-D-46~~ ENCOURAGE WATER TAXI TRANSPORTATION: Fort Myers Beach has great potential for water transportation, with its canals, natural waterways, and high levels of tourism. To encourage the private sector to provide this service, the town shall ease regulations or provide assistance, as deemed appropriate by the Town Council, that require a water taxi to provide dedicated parking spaces at every stop and shall encourage restaurants, motels, and marinas to provide dockage for water ~~taxis~~ transportation. Where possible, water ~~taxi~~ transportation drop-off sites should avoid areas of high manatee concentration, or use protective measure such as propeller guards, jet propulsion, or electric motors.

POLICY ~~T-17-D-57~~ HIDDEN-PATH SYSTEM: The town shall support the creation of a quiet network of "hidden paths" running on the Bay side parallel to Estero Boulevard. This network would provide an alternative to walking and cycling along Estero Boulevard (as described further in the Community Design Element). ~~Initial land acquisition shall begin in 1999.~~

T-1-D-8 Coordination with Lee County: The town shall collaborate with Lee County to expand the LeeTran route on Estero Island.

OBJECTIVE ~~T-17-E~~ UPGRADE ESTERO BOULEVARD — As part of its ~~congestion avoidance strategy to enhance pedestrian amenities and reduce the use of single occupancy vehicles~~, the town shall methodically upgrade Estero Boulevard to reduce speeding and encourage walking, as higher traffic speeds and car-oriented businesses are antithetical to its pedestrian character. ~~(If a suitable partnership to this end cannot be achieved with Lee County, the town may consider taking on maintenance responsibility for Estero Boulevard.)~~

POLICY ~~T-17-E-1~~ TIMES SQUARE STREETSCAPE: The town shall ~~begin work by 1999~~ toward extending southward the curbs, colorful sidewalks, and street trees installed by the Estero Island CRA in 1996. Similar side- walks should be placed on both sides of Estero Boulevard as far south as the public library, including drainage, lighting, and trolley improvements. ~~Unspent funds from the Estero Island CRA should be sought from Lee County toward this end.~~ Generous urban sidewalks should also be built in the future around the Villa Santini Plaza as part of its redevelopment (as described in the Community Design Element).

POLICY T-17-E-2 TRAFFIC CALMING: The town shall support two types of traffic calming to reduce speeding, which endangers lives and diminishes the quality of the pedestrian environment of Fort Myers Beach:

- i. The first is “active” or traditional traffic calming along residential streets, using physical techniques such as speed humps, narrowed lanes, landscaping, traffic diverters, jogs, or traffic circles at intersections, where appropriate.
- ii. Preferred method is ~~The second~~ is “passive” traffic calming along Estero Boulevard, to control speeding without reducing the number of vehicles that can use the road. Techniques include full curbs and sidewalks separated by street trees; buildings nearer the road; interesting vistas for drivers; and avoidance of overly wide travel lanes or intersections.

POLICY T-17-E-3 BUILDINGS CLOSE TO THE STREET: ~~Where pedestrian levels are high, buildings~~ Buildings should adjoin the sidewalk rather than be separated by parking spaces. Front walls of stores, offices, and restaurants should have large windows rather than blank walls, preferably shaded by awnings or canopies. Access to parking areas shall be off side streets wherever possible. The town’s Land Development Code shall implement these concepts ~~beginning in 1999~~.

POLICY T-17-E-4 SIDEWALKS AND BIKEWAYS: The town shall work toward major expansion of sidewalks and bikeways. In addition to the next phase of Estero Boulevard sidewalks (see Policy 7-E-1 above), the town shall support the following projects:

- i. Support Lee County’s imminent plans to fill the gaps from Buccaneer to Estrellita Drive and from the Villa Santini Plaza to Bay Beach Lane using federal funds;
- ii. Initiate extensive improvements ~~by 1999~~ to Old San Carlos and Crescent Street in conjunction with parking improvements (see Policy T-1-F-2 ~~7-F-2~~);
- iii. Initiate engineering studies ~~by 1999~~ for bikeways and additional sidewalks on the second side of Estero Boulevard and improved pedestrian crossings, including consideration of a pedestrian overpass at Times Square.

POLICY T-1-E-5: PARTNERSHIPS FOR PEDESTRIAN BRIDGES: The Town will evaluate partnerships between development projects that are across from each other along Estero Boulevard to incentivize pedestrian bridge crossings provided as a public benefit. Collaboration with property owners and the Town shall also be encouraged to provide pedestrian safety and walkability through the implementation of pedestrian bridges.

OBJECTIVE T-17-F OPTIMIZE THE PARKING SUPPLY — Off-island parking facilities served by convenient public transportation should be provided to meet peak-season demands. For year-around demand, the town shall provide additional on-island public parking spaces, based in part on a new peak- season occupancy survey of existing public parking spaces.

POLICY T-17-F-1 ENCOURAGE SHARED PARKING LOTS: Parking lots serving a variety of land uses require much less space than separate on-site lots for each business. Shared lots waste

less land and encourage walking because businesses aren't separated by large parking lots. The town shall encourage shared parking lots when businesses are relatively small, are clustered together, and have different busy periods.

POLICY ~~T-17-F-2~~ SHARED PARKING NEAR TIMES SQUARE: ~~The town shall strive to alleviate parking congestion and enhance accessibility for visitors and residents near Time Square by supporting or encouraging the development of shared parking facilities or a parking garage. The Estero Island CRA recommended a reservoir of shared parking behind businesses along Old San Carlos and adding 165 on-street parking spaces near Times Square (although some of these spaces would merely replace spaces lost to new recreational facilities at Lynn Hall Park). The town shall investigate the feasibility of this concept in 1998-1999 and proceed toward implementation, or create an alternate plan that may include a parking garages near Times Square.~~

POLICY ~~T-17-F-3~~ BETTER PARKING LOTS: Large parking lots or garages are usually more cost-efficient to build and maintain, but may not be the best solution for Fort Myers Beach. Disadvantages of large lots include high capital costs; the possibility of providing more parking than is needed or can be handled by the road system; and the unsightliness of most large parking lots and garages.

POLICY ~~T-1-4 7-F-4~~ DIRECT VISITORS TO AVAILABLE PARKING: Many visitors are unaware of existing parking lots; others would be dissuaded from driving if they were aware of the shortage of parking. Variable message signs can aid both situations. The town should encourage Lee County and FDOT to install these signs with information about all major parking areas, including the state park at Lovers Key.

OBJECTIVE ~~T-17-G~~ THE FUTURE OF THE BRIDGES — Match bridge capacity to Estero Island with the capacity of Estero Boulevard.

~~POLICY 7-G-1 ADEQUACY OF THE SKY BRIDGE: There is little evidence that traffic congestion at Fort Myers Beach is caused by any inadequacy of the Matanzas Pass Sky Bridge, which unlike Estero Boulevard has no interference from intersecting streets, parking spaces, or pedestrians crossing the street.~~

POLICY ~~T-1-G-1 7-G-2~~ CHANGES TO THE SKY BRIDGE: If parking lots at Bowditch Point or Times Square greatly increase demand for north-bound turns at the foot of the bridge, striping a third lane on the existing bridge might be considered, as might a reversible third lane during the peak season.

POLICY ~~T-1-G-2 7-G-3~~ RESPONSIBILITY FOR THE SKY BRIDGE: FDOT may be willing to turn over responsibility for the Sky Bridge to the Town of Fort Myers Beach. This would be advantageous to the town only if part of a congestion management system with peak-period tolls, off-island parking lots, and improved mass transit .

POLICY ~~7-G-4~~ ADDITIONAL BRIDGE CAPACITY: Additional bridge capacity should not be directed to Times Square (except for the potential re-striping in Policy-~~7T-1-D-2~~). New lanes to Old San Carlos or Crescent Street would also be undesirable, as most congestion is caused by conditions on Estero Boulevard south of Times Square. Previously proposed bridges from Winkler

Road or Coconut Road are infeasible from environmental and financial standpoints and need not be considered further.

OBJECTIVE T-17-H EXPERIMENT WIDELY — The town shall constantly search for innovative solutions to long-standing traffic problems and to new problems as they develop, and shall coordinate its efforts with those of the Lee County Metropolitan Planning Organization. The town shall serve as a catalyst for traffic engineering experiments that would evaluate minor improvements that might improve traffic flow at Fort Myers Beach. Some potential improvements are described in the following policies.

POLICY T-17-H-1 PEDESTRIAN OVERPASSES: ~~Although pedestrian overpasses are often ignored by pedestrians, The Town will encourage development of an overpasses throughout the Town that providing a panoramic view of the Gulf might be attractive enough to reduce at-grade crossings at Times Square without discouraging foot traffic in this highly congested area. Even without an overpass, the p~~The Town will encourage development of an overpasses throughout the Town that providing a panoramic view of the Gulf might be attractive enough to reduce at-grade crossings at Times Square without discouraging foot traffic in this highly congested area. Even without an overpass, the p~~Pedestrian-actuated stop lights may be replaceable with a flashing caution lights~~crosswalk beacons may be appropriate where pedestrian overpasses are not warranted to minimize effects of the crossing on traffic flow.

POLICY T-17-H-2 SAN CARLOS BOULEVARD: The five-laning of San Carlos Boulevard has created severe problems near the approach to the Sky Bridge. Creative experiments are needed to discourage drivers from using the right- hand lane, or side streets on San Carlos Island, to bypass the line of cars waiting to enter the bridge.

POLICY T-17-H-3 RESERVED-TRANSPORTATION & MOBILITY MASTER PLAN: The Town shall maintain and regularly update a Transportation & Mobility Master Plan or a Transportation & Mobility Design Standard/Manual, using context-sensitive approaches to enhance safety and improve multimodal infrastructure and connectivity for residents and businesses. The Master Plan/Design Standard will at minimum create a standard approach to the design of Estero Boulevard, including, but not limited to, considerations of sidewalk width, pedestrian crossings, pedestrian bridges, landscaping and barriers as appropriate, beachfront access locations, trolley/bus stops, bicycle facilities, and micromobility options. Any Master Plan for the Town will consider parking locations on and off-island, as well as the necessary transit improvements to alleviate single-occupant vehicle usage.

POLICY T-17-H-4 VARIABLE MESSAGE SIGNS: These signs could advise motorists of congestion delays as well as available parking. The town should urge the detailed study of this concept by Lee County, FDOT, and the Metropolitan Planning Organization.

POLICY T-17-H-5 ORIGIN/DESTINATION DATA: Better data is needed on the origins and destinations of motorists during the peak season, and the town supports the MPO's efforts to obtain this data.

POLICY T-17-H-6 TRANSPORTATION DEMAND MANAGEMENT: This part of a congestion avoidance strategy reduces the number of single-occupant vehicles during peak traffic periods, either by eliminating some trips completely, or by accommodating existing trips in fewer vehicles, or by moving some trips before or after the most congested periods. This strategy may alleviate peak-season traffic congestion if implemented aggressively in cooperation with area businesses.

POLICY T-17-H-7 DELIVERY VEHICLES: To avoid interference with traffic and pedestrian flow, the town shall develop a strategy to limit commercial deliveries during peak traffic periods.

Redevelopment plans shall require loading plan with preference to off-street loading. No on-street loading permitted on Estero Blvd.

POLICY T-17-H-8 FLOODING: During periods of minor flooding, the town shall monitor the performance of roadside drainage systems on and off Estero Island to identify areas where an evacuation could be prematurely halted.

POLICY T-17-H-9 PROFESSIONAL ASSISTANCE: The town may wish to retain a creative traffic engineer to provide advice on these experiments on a continuing basis.

POLICY T-17-H-10 CONNECTIONS TO ESTERO BOULEVARD: An excessive number of streets and driveways have direct access to Estero Boulevard, reducing its ability to handle peak-season traffic. The town shall take advantage of any suitable opportunities to consolidate street connections into fewer access points onto Estero Boulevard.

POLICY T-1-H-11 TRANSPORTATION ALTERNATIVES: The Town will establish within its development standards, as appropriate, measures and requirements of transportation alternatives for new developments, including transportation technologies and approaches that will impact travel patterns, signalization, curb management, cycling, pedestrian travel, parking, loading/unloading demand, supporting infrastructure, and roadway design. The Town will establish, as appropriate, community-oriented solutions and benefits to alleviate traffic impacts from tourist-based industries, including hotels/motels, such as voucher or shuttle programs for visitors and workforce transportation, among other transportation demand management techniques.

Policy T-1-H-12: EMERGING TECHNOLOGIES: The Town will continue to evaluate emerging transportation technologies including, but not limited to autonomous vehicles, traffic signalization, parking information, enhanced real time communication, and artificial intelligence in relation to the impacts these advancements will have on transportation, land use, and the mobility options. This evaluation will also include best practices and methods for the safe and context sensitive implementation of shared mobility and micromobility solutions, such as microtransit, dockless bicycle share, dockless scooters, and e-bikes as appropriate for the Town.

OBJECTIVE T-17-I LEVEL-OF-SERVICE STANDARD — Maintain minimum acceptable levels of service for the transportation system.

POLICY T-17-I-1: Traffic congestion is a serious problem at Fort Myers Beach, caused by a combination of high tourism demand for its beaches and past over-building relative to road capacity. Neither factor is within the control of the Town of Fort Myers Beach, although its residents must tolerate congestion every winter. This comprehensive plan seeks to manage congestion levels and encourage alternate means of mobility including walking, bicycling, and trolleys.

POLICY T-17-I-2: The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 A.M. to 5:00 P.M. during each month do not exceed that level for more than four calendar months in any continuous twelve-month period. Measurements from the permanent count station at Donora Boulevard shall be used for this standard.

POLICY T-17-I-3: Figure 18 of this element is hereby adopted as the future transportation map of the Town of Fort Myers Beach.

OBJECTIVE ~~T-17-J~~ PROTECTING PUBLIC ACCESS — Although no future right-of-way needs have been identified, some existing town and county rights-of-way are substandard and few are wider than needed. The town shall review requests to not vacate or acquiesce in the vacation of existing rights-of-way, and shall make efforts to ensure no recognized public access is negatively impacted by vacating the ~~except where no public purpose would be served by retaining the right-of-way.~~

POLICY ~~T-17-J-1~~ RIGHTS-OF-WAY: Town and county rights-of-way are needed for the undergrounding of utilities; for the expansion of sidewalks and bike paths; for water accesses; for on-street parking; for public transit and road improvements; and for other public purposes. The town shall ~~strictly limit~~ consider limiting vacations of rights-of-way and easements to preserve future access for these purposes.

POLICY ~~T-17-J-2~~ TRAFFIC IMPACT ANALYSES: A thorough traffic impact analysis is currently required only for major rezonings and very large development orders. The town shall amend its Land Development Code ~~during 2010~~ to:

- i. decrease the thresholds for requiring traffic impact analyses;
- ii. require them to study the cumulative impacts of potential development; and
- iii. use the results in assessing whether impacts are acceptable, and whether an improved design could offset some of the impacts.

Utilities Element

UTILITIES ELEMENT

GOAL U-18: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

OBJECTIVE U-1-8-A RELATIONS WITH UTILITIES — Increase the town's role in influencing utility providers about service alternatives, facility locations, and conservation of resources.

POLICY U-1-8-A-1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

POLICY U-1-8-A-2 When considering improvements to utility systems, utility companies should expect involvement by the ~~town~~ Town in evaluating alternatives and seeking the best interests of utility customers and other people and resources affected by those decisions.

POLICY U-1-8-A-3 The ~~town~~ Town shall seek a significant role in policy matters concerning Lee County Utilities' sewer service, based on the ~~town's~~ Town's dual roles as a major user of this service and its location directly downstream of any effluent discharges into tidal waters.

POLICY U-1-8-A-4 The ~~town's~~ Town's potable water supply distribution system is supplied by Lee County Utilities under terms set forth in a bulk water agreement approved in August 2001. Lee County Utilities has a long-term expansion plan that details existing and proposed uses of traditional and alternative water supply sources, in accordance with SFWMD's Lower West Coast Water Supply Plan Update (~~July 2006~~ December 2016). Lee County Utilities' expansion plan, the Water Supply Facilities Work Plan, was last updated in ~~July 2008~~ January 2016 and is incorporated herein by reference.

POLICY U-1-8-A-5 The ~~town~~ Town shares a common interest with Lee County government in ensuring that potable water supplies will be sufficient to meet future demands. The ~~town~~ Town will coordinate with Lee County on an ongoing basis on the following matters:

1. Analyzing peak season demands and providing sufficient allocations of water.
2. Using consistent population projections and level-of-service standards.
3. Conserving water by adopting a conservation rate structure (see Policy 8-C-6).
4. Implementing a leak detection program and replacing obsolete portions of the water supply system.

Policy U-1-A-6: The town shall collaborate with its utility service partners to promote green and environmentally friendly practices, fostering sustainability and environmental stewardship in the town's development.

POLICY U-1-A-7: The Town shall study the feasibility of a microgrid to provide power to the island.

OBJECTIVE U-1-8-B LEVELS OF SERVICE — Maintain minimum acceptable levels of service for potable water, sanitary sewer, and solid waste disposal.

POLICY U-1-8-B-1 The minimum acceptable level of service standards for utility services within the Town of Fort Myers Beach shall be:

i. for potable water service:

(a) available supply, treatment, and delivery capacity of ~~260~~ 275 gallons per day per equivalent residential connection (ERC), and delivery of potable water at a minimum pressure of ~~20~~ 40 pounds per square inch (psi) at the meter anywhere in the system.

(b) Prior to issuance of building permits, the town must obtain assurances from Lee County Utilities that an adequate bulk water supply will be available to the town's water distribution system to serve new development at these same rates.

ii. for sanitary sewer service: Compatible with Lee County's current sanitary sewer standards ~~available capacity to collect, treat, and dispose of wastewater of 175 gallons per day per equivalent connection (ERC).~~

iii. for solid waste disposal service: the ability to collect and manage 7 pounds of municipal solid waste (or equivalent volume) per day per capita , pursuant to Lee Plan Policy 62.2.5 and Lee County Ordinance 17-19. ~~per person per day.~~

~~An ERC is defined as the total number of meter equivalents using the methodology of the Florida Public Service Commission (and is synonymous with their use of the term "equivalent residential units"). ERCs are used to convert commercial and industrial water or sanitary sewer use into standard units that are based on typical rates of use in dwelling units.~~

POLICY U-1-8-B-2 ~~The town~~ Town will enforce these levels of service under the concurrency requirements of Florida law by requiring one of the following before issuance of development permits:

i. development orders or building permits

will be issued subject to the condition that, at the time of the issuance of a certificate of occupancy, the necessary facilities and services must be in place and available to serve the development being authorized; or

ii. at the time development orders or building permits are issued, the necessary facilities and services are guaranteed to be in place and available to serve the development at the time of issuance of a certificate of occupancy through an enforceable development agreement pursuant to Section 163.3220, *Florida Statutes*, or through an agreement or development order pursuant to Chapter 380, *Florida Statutes*.

POLICY U-1-8-B-3 The concurrency management system in the ~~town's~~ Town's Land Development

Code shall be amended to requirement the assessment of water supply capacity, in addition to treatment plant capacity, when determining compliance with the potable water level of service specified in Policy 8-B-1.

OBJECTIVE U-1-8-C WATER CONSERVATION — Take all reasonable steps to conserve potable water supplies, ~~aiming for a 10% per-capita reduction in water use by 2005.~~

POLICY U-1-8-C-1 The town shall, by resolution, encourage Lee County Utilities to expand its facilities and agreements for recycling treated wastewater for reuse as irrigation water; deep-well injection of surplus wastewater should be limited to emergency use only.

POLICY U-1-8-C-2 The town shall consult with the South Florida Water Management District to obtain suggestions on regulations to conserve water before adopting such regulations.

POLICY U-1-8-C-3 The town will use drought-tolerant vegetation, xeriscape techniques, recycled water, or other available methods for landscaping publicly owned lands, and encourages private landowners to do the same to reduce usage of potable water for irrigation purposes.

POLICY U-1-8-C-4 The town will continue to require, through its building codes, the use of water-saving plumbing fixtures in all new development and redevelopment.

POLICY U-1-8-C-5 The town will support public educational programs that encourage water conservation practices.

POLICY U-1-8-C-6 The town should consider implementing a strong conservation rate program where large water users pay a higher rate per gallon than is charged to frugal users.

OBJECTIVE U-1-8-D SOLID WASTE — Add recycling pickup at commercial enterprises, and maintain an efficient solid waste system that stresses recycling of reusable materials plus safe and efficient disposal of that which cannot be recycled.

POLICY U-1-8-D-1 The town will ensure the routine collection of residential and commercial wastes; special collections of bulky items; separate curbside and bulk collection of recyclable materials; and separate collection of yard wastes and construction debris.

POLICY U-1-8-D-2 The town will continue its participation in Lee County's program of recycling, incineration, and disposal of solid wastes.

POLICY U-1-8-D-3 The town will seek to expand the current program to collect recyclables from motels and other tourist lodgings, and to collect and recycle additional materials.

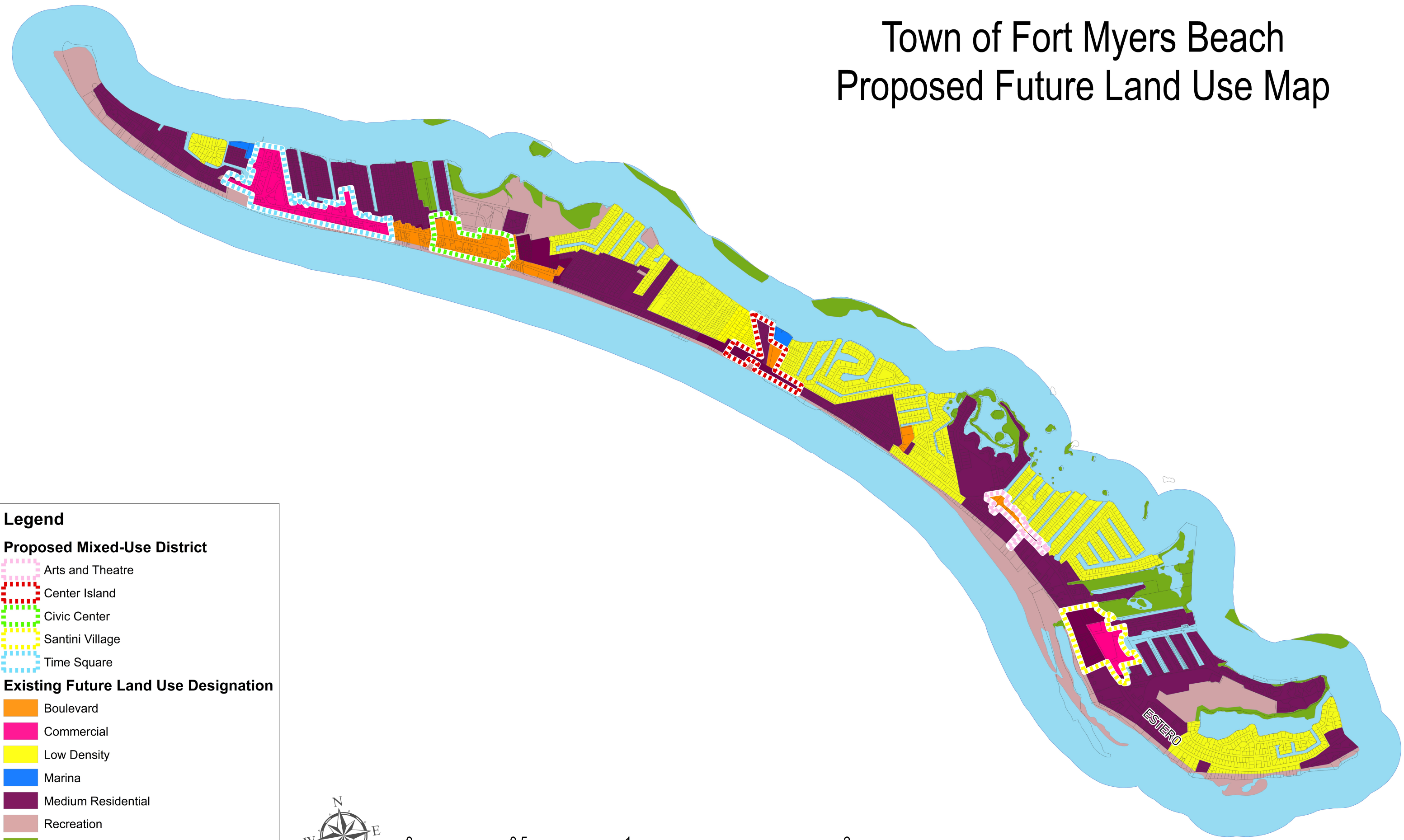
POLICY U-1-8-D-4 The town will consider an ordinance requiring mandatory recycling of solid waste if voluntary participation does not achieve standards set by state or regional agencies.

POLICY U-1-8-D-5 The town will evaluate methods of improving the cost-effectiveness of solid waste collection, and may consider franchising the collection process independently of Lee County.

POLICY U-1-8-D-6 The town will cooperate with Lee County in implementing programs to decrease the volume of solid waste requiring landfilling (e.g. source separation of material which can be reused, recycled, or disposed of in another manner). The town shall also support and assist in programs to reduce roadside litter and illegal dumping, such as Keep Lee County Beautiful' s annual coastal cleanups.

POLICY U-1-8-D-7 The town will cooperate with the Lee County in educating businesses and residents on the proper management of hazardous wastes and the provision of convenient disposal opportunities for the benefit of the town's citizens and visitors. This cooperation shall include distributing written material prepared by Lee County and publicizing their regular schedule of household hazardous waste collection days.

Town of Fort Myers Beach Proposed Future Land Use Map



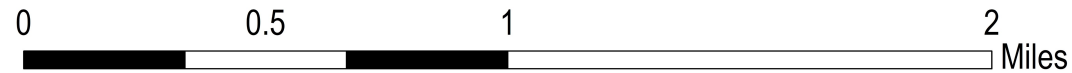
Legend

Proposed Mixed-Use District

- Arts and Theatre
- Center Island
- Civic Center
- Santini Village
- Time Square

Existing Future Land Use Designation

- Boulevard
- Commercial
- Low Density
- Marina
- Medium Residential
- Recreation
- Wetlands
- Tidal Water



May 1, 2024

1. **Request:**

Meeting Date: August 19, 2024

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

Why the action is necessary:

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

What the action accomplishes:

Enables the Town to conduct Physical and Biological Monitoring to satisfy FDEP permit Annual Monitoring conditions.

The LGFR application also request funds to restore beach and dune areas (e.g. scour holes, beach access points, berms) within the permitted fill limits to address storm erosion.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Chadd Chustz, Environmental
Projects Manager

5. **Background:**

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

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

Attachments:

1. 24-160, FDEP LGFR Beach Project - 1
2. Exhibit A 447455_Estero Island Beach Nourish Contract Plans 20240130_20240319
3. TFMB EI FY25_26_LGFR_Beach_Application 20240719-CDC signed

Financial Impact:

FDEP determined that 83.4% of the project is eligible for state cost sharing in the North and Central fill locations (R175-400' to R198) and 100% of the project is eligible for state cost sharing in the South fill location (R203 to R207).

6. **Alternative Action**

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

7. Management Recommendations:

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

8. Recommended Approval:

Chadd Chustz, Environmental Projects Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/13/2024
Approved - 8/13/2024
Approved - 8/13/2024
Approved - 8/14/2024
Final Approval - 8/14/2024

RESOLUTION NUMBER 24-160

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

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

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

WHEREAS, Estero Island’s coastal beach, which is among the Town of Fort Myers Beach (“Town”) most important ecological, economic, and recreational assets, is subject to erosion that results in detrimental impacts to nesting and wintering areas for wildlife species such as sea turtles and shorebirds; loss of outdoor recreational opportunities for the Town’s residents and visitors; and damage to and loss of public and private property; and

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

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

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

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein.

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

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

the Project where possible.

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

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

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

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
John King, Council Member	_____
Scott Safford, Council Member	_____
Karen Woodson, Council Member	_____

ADOPTED this ____ day of August 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

, Town Attorney

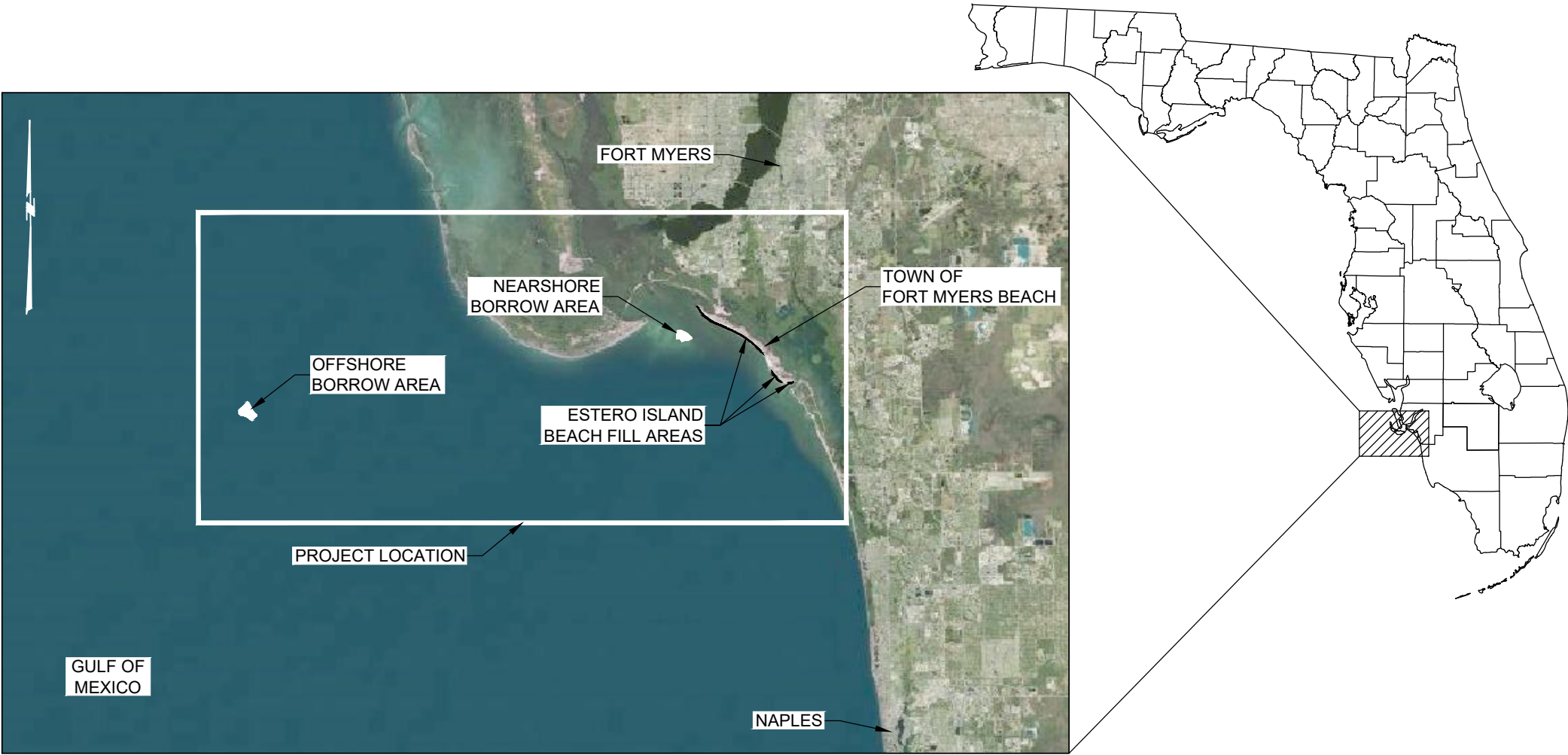
This Resolution was filed in the Office of the Town Clerk on this ____ day of August 2024.

ESTERO ISLAND SHORE PROTECTION PROJECT

CONTRACT PLANS

SHEET INDEX

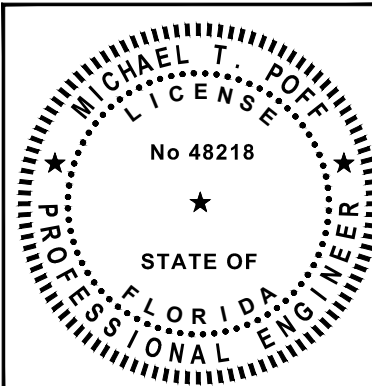
- 1 COVER SHEET
- 2 PROJECT LOCATION MAP
- 3 SURVEY CONTROL
- 4-5 NORTH-CENTRAL ESTERO ISLAND BEACH FILL PLAN VIEW
- 6-9 NORTH-CENTRAL ESTERO ISLAND BEACH FILL TEMPLATE PROFILES
- 10 SOUTH ESTERO ISLAND BEACH FILL PLAN VIEW
- 11 SOUTH ESTERO ISLAND BEACH FILL TEMPLATE PROFILES
- 12 NEARSHORE BORROW AREA PLAN VIEW
- 13-15 NEARSHORE BORROW AREA SECTIONS
- 16 NEARSHORE PIPELINE CORRIDORS OVERVIEW
- 17 OFFSHORE BORROW AREA PLAN VIEW
- 18-21 OFFSHORE BORROW AREA SECTIONS
- 22 OFFSHORE PIPELINE CORRIDORS OVERVIEW
- 23 OFFSHORE PIPELINE CORRIDOR - MAIN PLAN VIEW
- 24 OFFSHORE PIPELINE CORRIDORS - NORTH AND SOUTH PLAN VIEW
- 25-26 ALIGNMENT AND COORDINATE TABLES



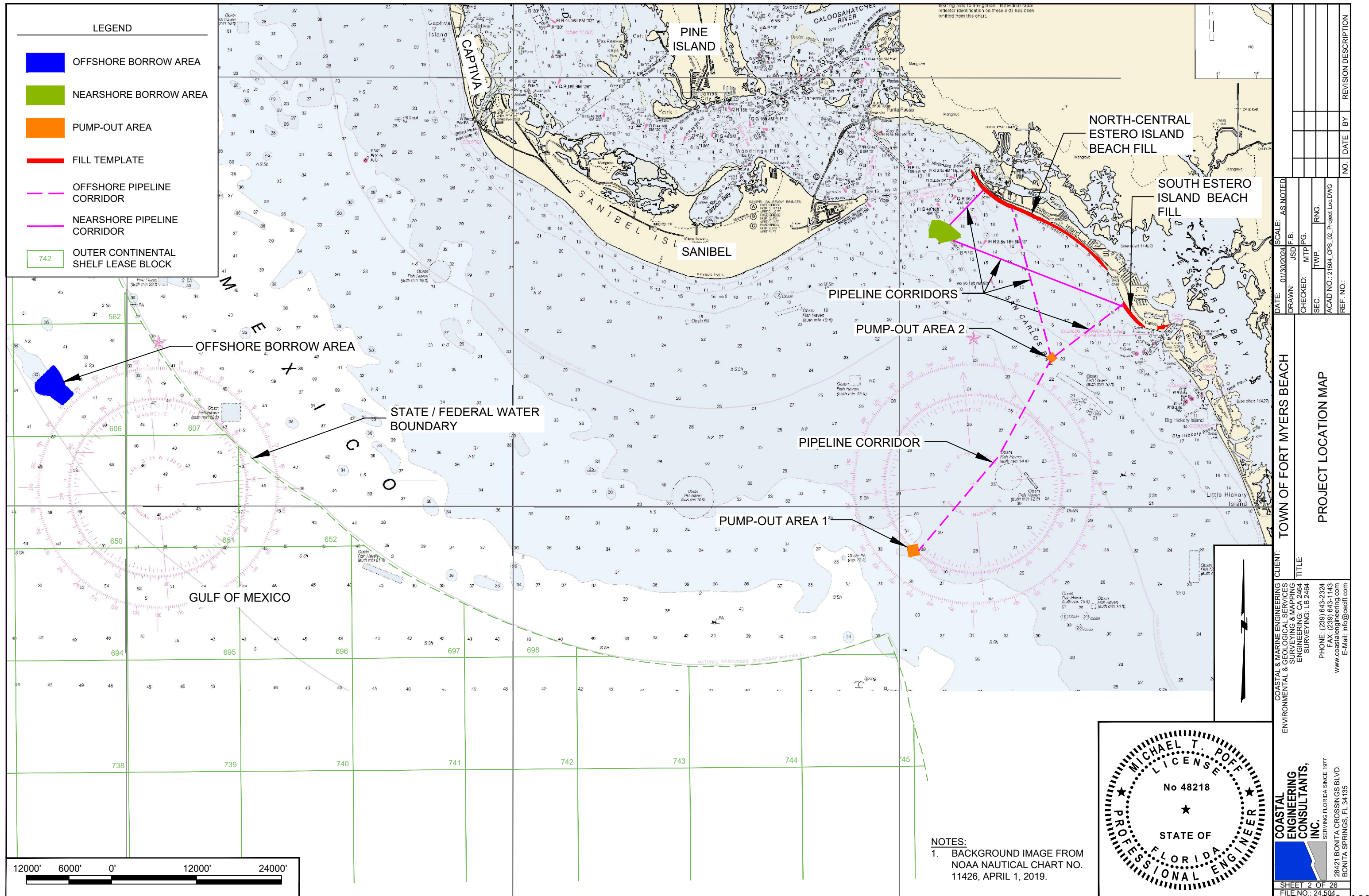
PROJECT LOCATION
N.T.S.

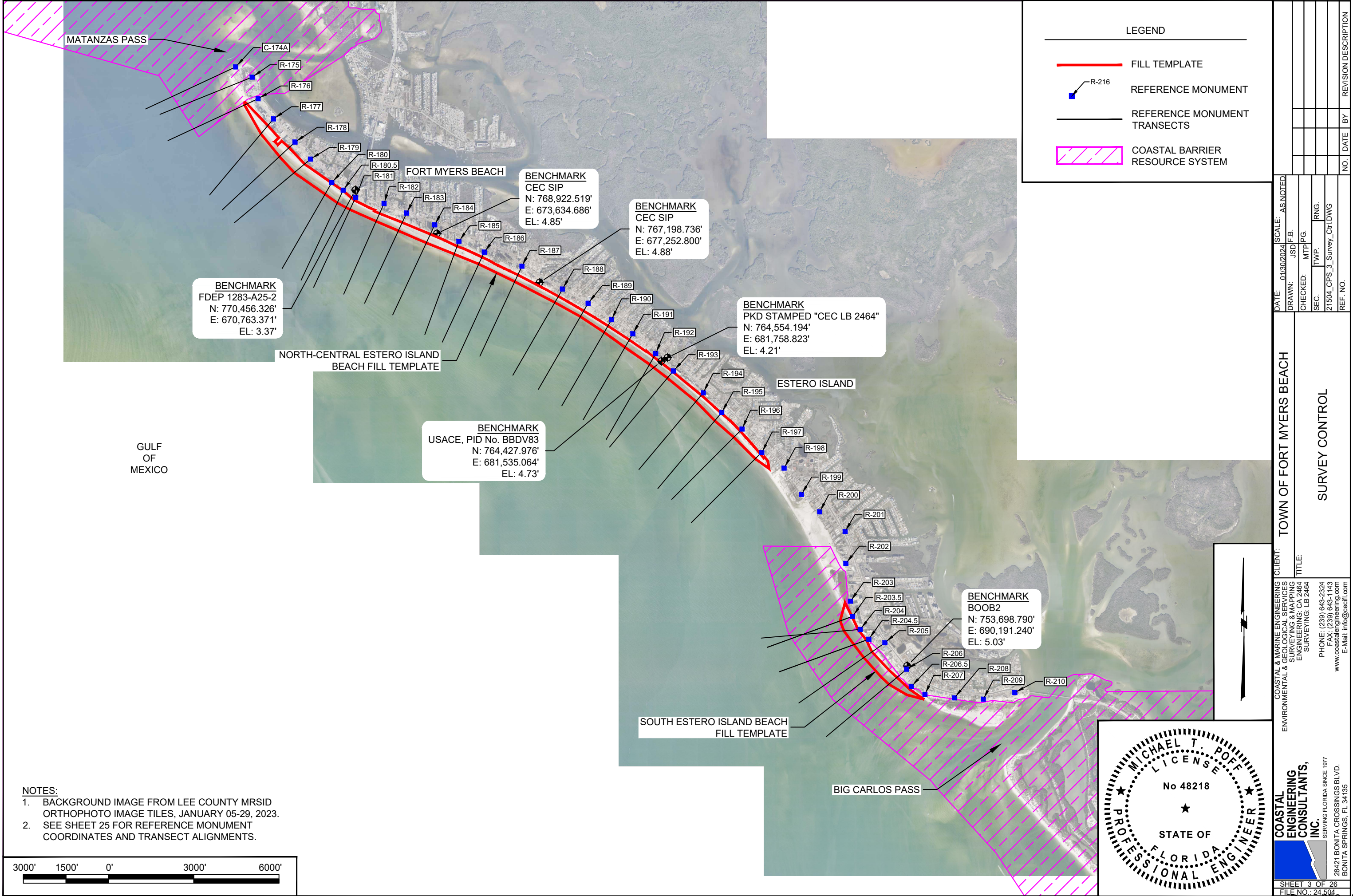
NOTES

1. SURVEYS FOR NORTH-CENTRAL AND SOUTH ESTERO ISLAND CONDUCTED BY COASTAL ENGINEERING CONSULTANTS, INC. (CEC), JUNE 2023.
2. OFFSHORE BORROW AREA SURVEY CONDUCTED BY OCEAN SURVEYS, INC. (OSI), JULY 2021. NEARSHORE BORROW AREA SURVEY CONDUCTED BY OSI, NOVEMBER 2021.
3. OFFSHORE BORROW AREA GEOTECHNICAL INVESTIGATION CONDUCTED BY GFA INTERNATIONAL (GFA) AND AMDRILL, INC., 2020 AND 2021.
4. NEARSHORE PIPELINE CORRIDOR - NORTH BATHYMETRIC SURVEY CONDUCTED BY OSI, JULY 2021. NEARSHORE PIPELINE CORRIDOR - SOUTH BATHYMETRIC SURVEY CONDUCTED BY OSI, NOVEMBER 2021.
5. OFFSHORE PIPELINE CORRIDOR - MAIN BATHYMETRIC SURVEYS CONDUCTED BY OSI IN JULY 2021. OFFSHORE PIPELINE CORRIDOR - NORTH AND SOUTH BATHYMETRIC SURVEYS CONDUCTED BY SONOGRAPHS INC. IN JUNE 2023.
6. NEARSHORE BORROW AREA GEOTECHNICAL INVESTIGATION CONDUCTED BY COASTAL PLANNING AND ENGINEERING, INC (CPE), AUGUST 2000.
7. PLANE COORDINATES ARE BASED ON THE TRANSVERSE MERCATOR PROJECTION FOR THE WEST ZONE OF FLORIDA AND REFERENCED TO THE NORTH AMERICAN DATUM OF 1988 (NAD83).
8. ELEVATIONS SHOWN HEREON ARE IN FEET AND TENTHS AND REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM (NAVD) 1988 GEOID18
9. MEAN HIGH WATER ELEVATION OF +0.3 FEET NAVD88 IS BASED ON THE INFORMATION FROM THE FDEP AND TIDE STATION ID NUMBER 8727366.
10. EROSION CONTROL LINE (ECL) OBTAINED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION ON 1/28/2020, FILE NAME: ECL2505.SHP.
11. BACKGROUND IMAGE FROM LEE COUNTY MRSID ORTHOPHOTO IMAGE TILES, JANUARY 05-29, 2023.
12. HYDROGRAPHIC SURVEY ACCURACIES AND PROCEDURES ARE IN ACCORDANCE WITH GENERAL SURVEY STANDARDS, AS DEFINED BY THE U.S. ARMY CORPS OF ENGINEERS, HYDROGRAPHIC SURVEY MANUAL.
13. INFORMATION SHOWN HEREON REFLECTS CONDITIONS AS THEY EXISTED ON THE SURVEY DATES SHOWN AND CAN ONLY BE CONSIDERED INDICATIVE OF CONDITIONS AT THAT TIME.



DATE: 01/30/2024		SCALE: AS NOTED	
DRAWN: JSD		F.B.	
CHECKED: MTP		PG.	
SEC.		TWP.	
ACAD NO.: 21504		GPS_01_Cover-Notes.DWG	
REF. NO.:			
NO.		DATE	
BY		REVISION DESCRIPTION	
TOWN OF FORT MYERS BEACH			
COVER SHEET			
CLIENT: TOWN OF FORT MYERS BEACH			
TITLE:			
COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEYING & MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464			
PHONE: (239) 643-2324 FAX: (239) 643-1143 www.coastalengineering.com E-Mail: info@cecfl.com			
COASTAL ENGINEERING CONSULTANTS, INC. SERVING FLORIDA SINCE 1977 28421 BONITA CROSSINGS BLVD. BONITA SPRINGS, FL 34135			
SHEET 1 OF 26 FILE NO.: 24-504			





LEGEND

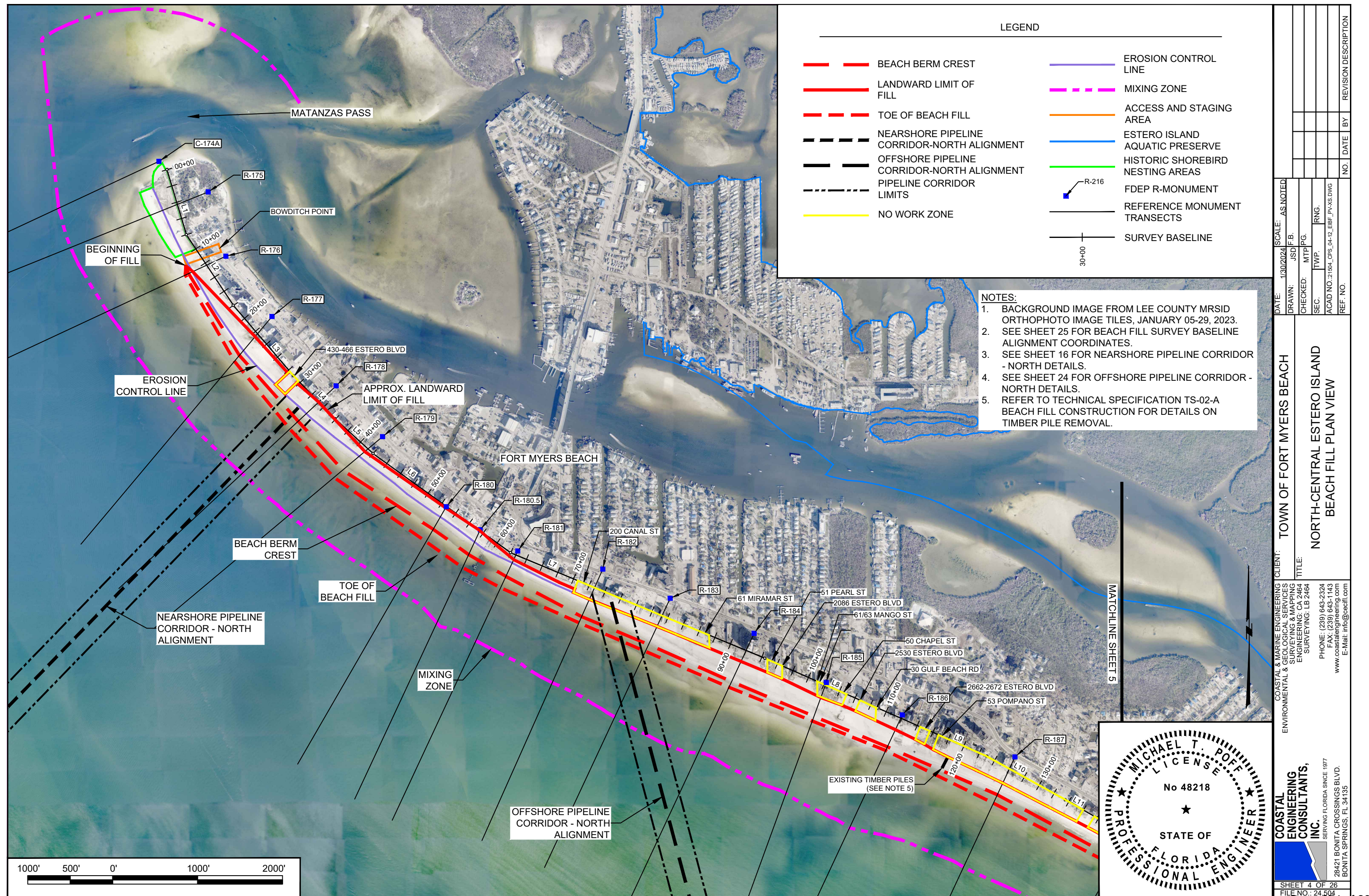
FILL TEMPLATE

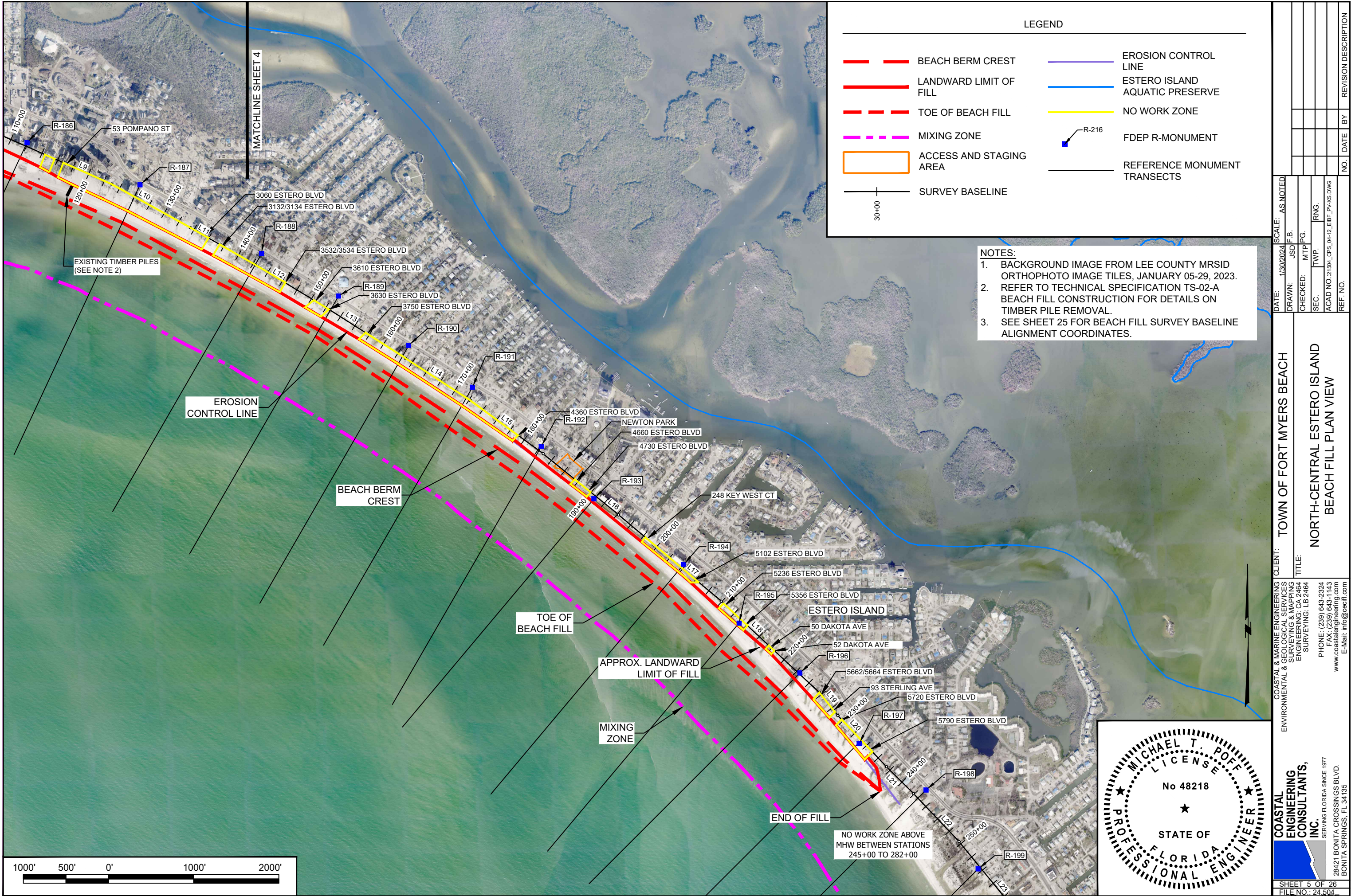
REFERENCE MONUMENT

REFERENCE MONUMENT
TRANSECTS

COASTAL BARRIER
RESOURCE SYSTEM

DATE: 01/30/2024SCALE: AS NOTEDDRAWN: JSDSEC. MTPCHKD: PG.21504_CPS_3_Survey_Ctrl.DWGREF. NO.NO.DATEBYREVISION DESCRIPTIONTOWN OF FORT MYERS BEACHSURVEY CONTROLCLIENT: COASTAL & MARINE ENGINEERINGENVIRONMENTAL & GEOLOGICAL SERVICESSURVEYING & MAPPINGENGINEERING: CA 2464SURVEYING: LB 2464PHONE: (239) 643-2324FAX: (239) 643-1143www.coastalengineering.comE-Mail: info@cecfl.comINC.SERVING FLORIDA SINCE 197728421 BONITA CROSSINGS BLVD.BONITA SPRINGS, FL 34135SHEET 3 OF 26FILE NO: 24-504Page 253 of 394



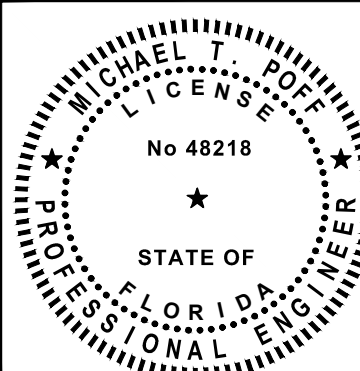


LEGEND

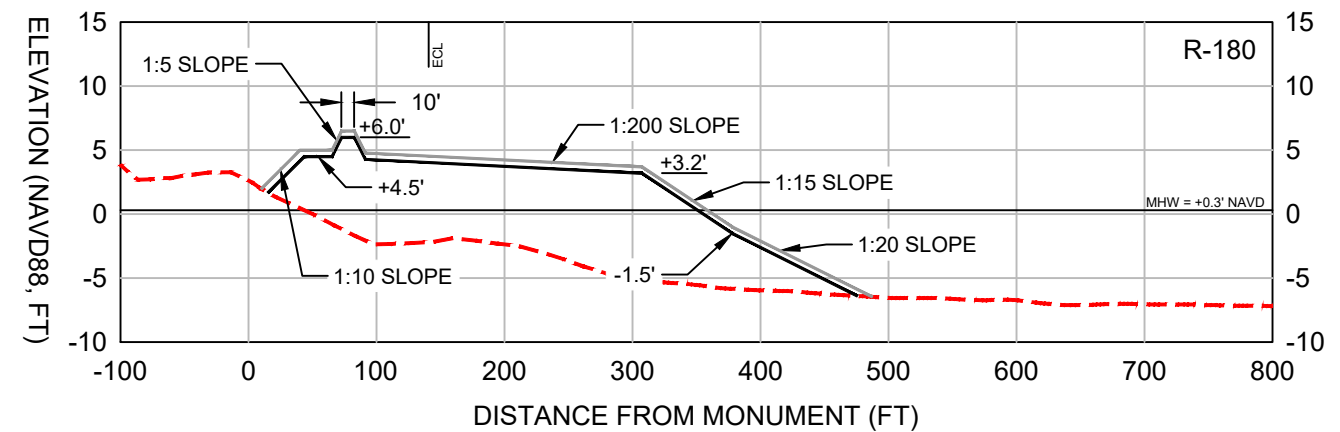
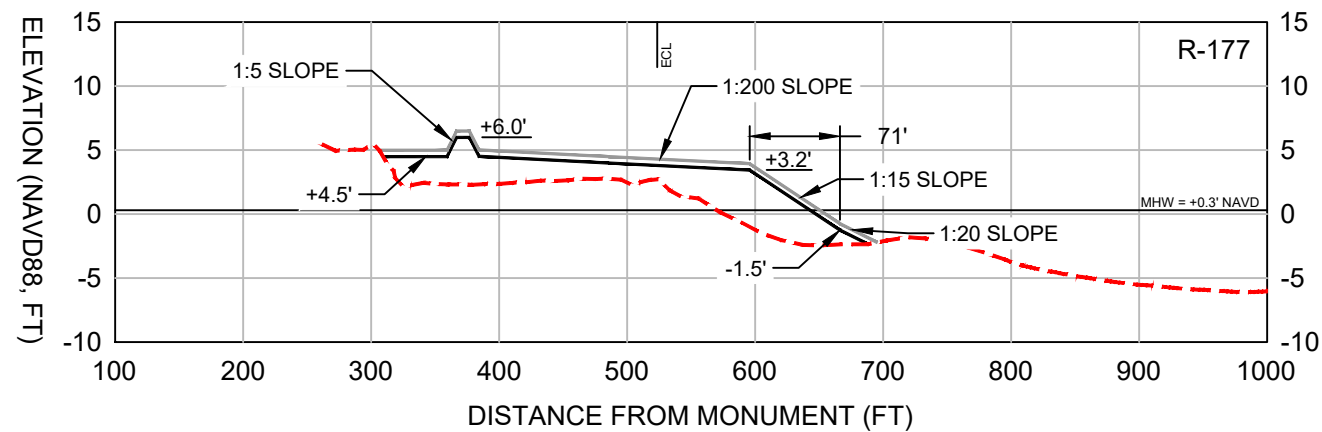
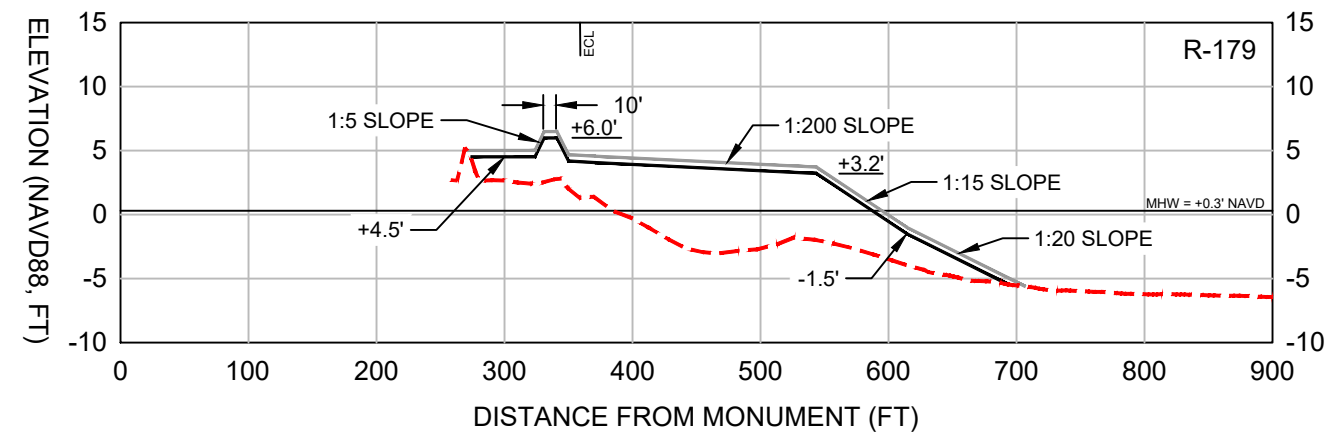
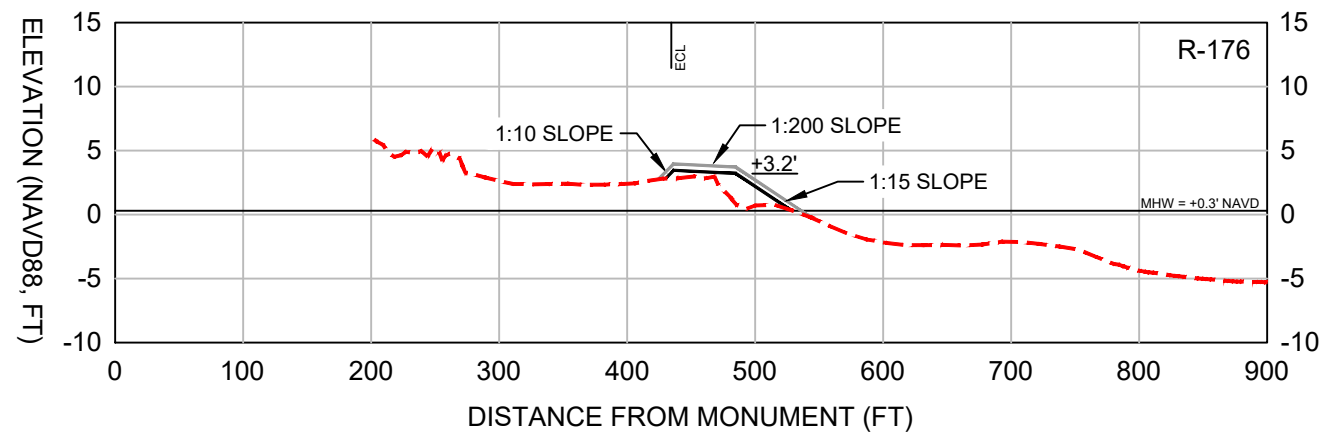
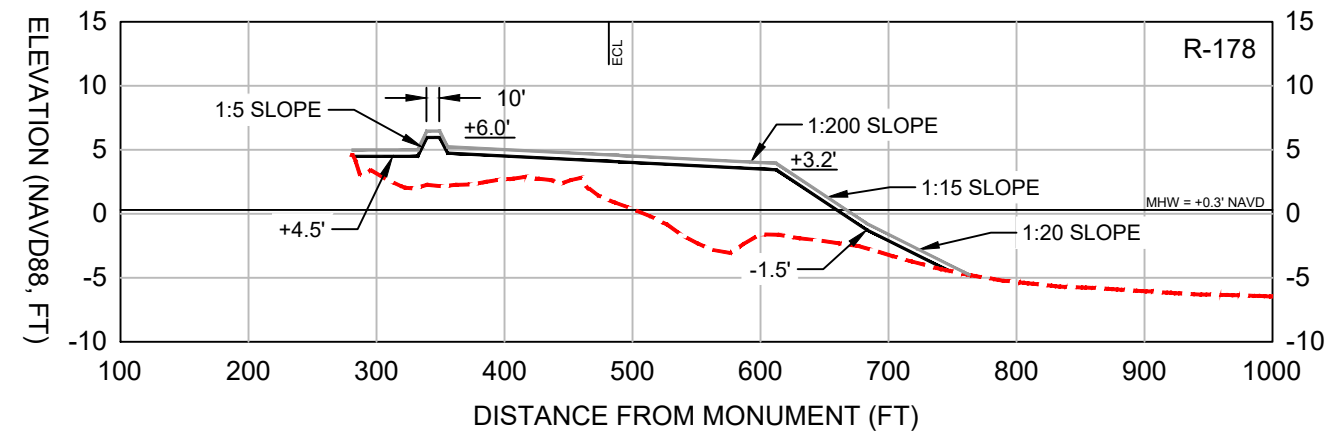
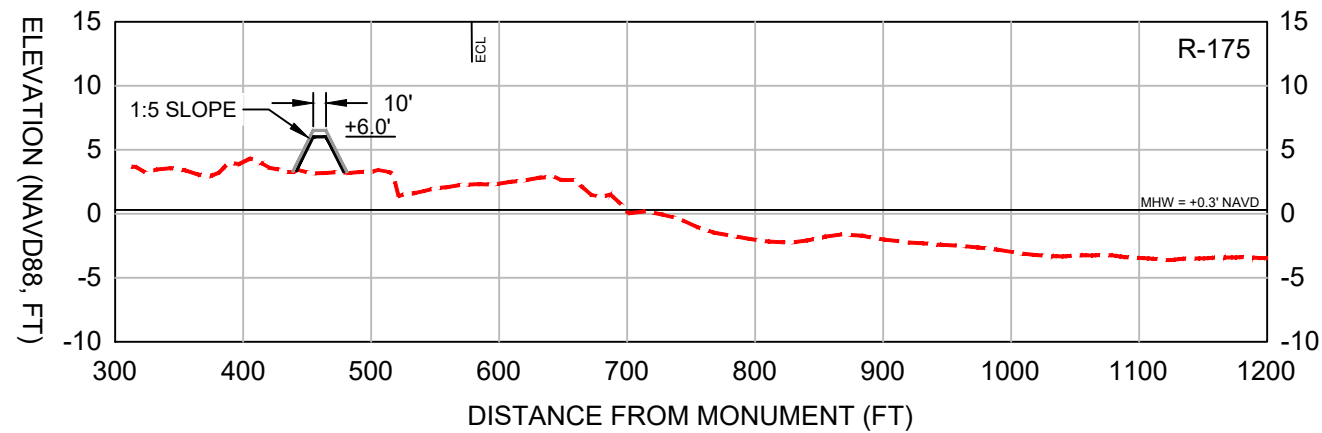
- BEACH BERM CREST
- LANDWARD LIMIT OF FILL
- TOE OF BEACH FILL
- MIXING ZONE
- ACCESS AND STAGING AREA
- SURVEY BASELINE
- EROSION CONTROL LINE
- ESTERO ISLAND AQUATIC PRESERVE
- NO WORK ZONE
- FDEP R-MONUMENT
- REFERENCE MONUMENT TRANSECTS

- NOTES:
- BACKGROUND IMAGE FROM LEE COUNTY MRSID ORTHOPHOTO IMAGE TILES, JANUARY 05-29, 2023.
 - REFER TO TECHNICAL SPECIFICATION TS-02-A BEACH FILL CONSTRUCTION FOR DETAILS ON TIMBER PILE REMOVAL.
 - SEE SHEET 25 FOR BEACH FILL SURVEY BASELINE ALIGNMENT COORDINATES.

DATE: 1/30/2024	SCALE: AS NOTED	CLIENT: TOWN OF FORT MYERS BEACH	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEYING & MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464
DRAWN: JSD	F.B.	TITLE: NORTH-CENTRAL ESTERO ISLAND BEACH FILL PLAN VIEW	PHONE: (239) 643-2324 FAX: (239) 643-1143 www.coastalengineering.com E-Mail: info@cecfl.com
CHECKED: MTP	PG.		
SEC. TWP.	RNG.		
ACAD NO.: 21504_CPS_04-12_EIBF_PV.XS.DWG			
REF. NO.			
NO.	DATE	BY	REVISION DESCRIPTION



COASTAL ENGINEERING CONSULTANTS, INC.
SERVING FLORIDA SINCE 1977
28421 BONITA CROSSINGS BLVD.
BONITA SPRINGS, FL 34135



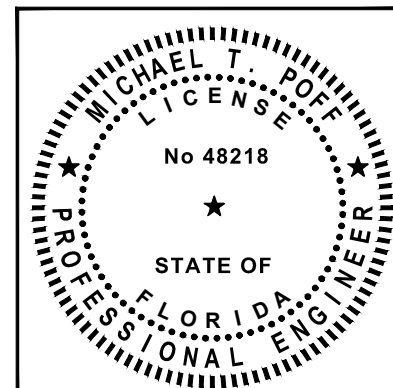
LEGEND:

 DESIGN
 +0.5 FT CONSTRUCTION TOLERANCE
 EXISTING GRADE (2023)

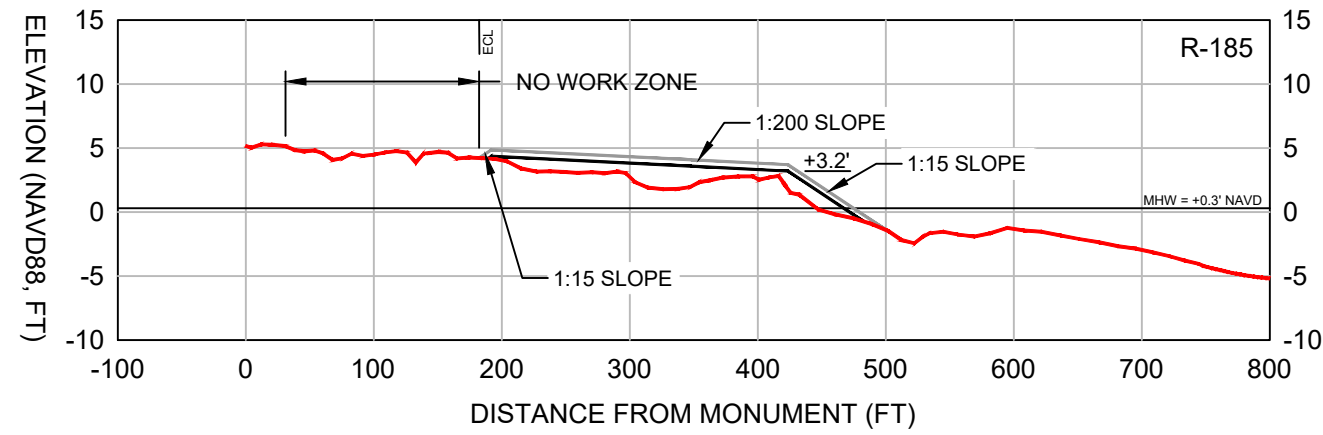
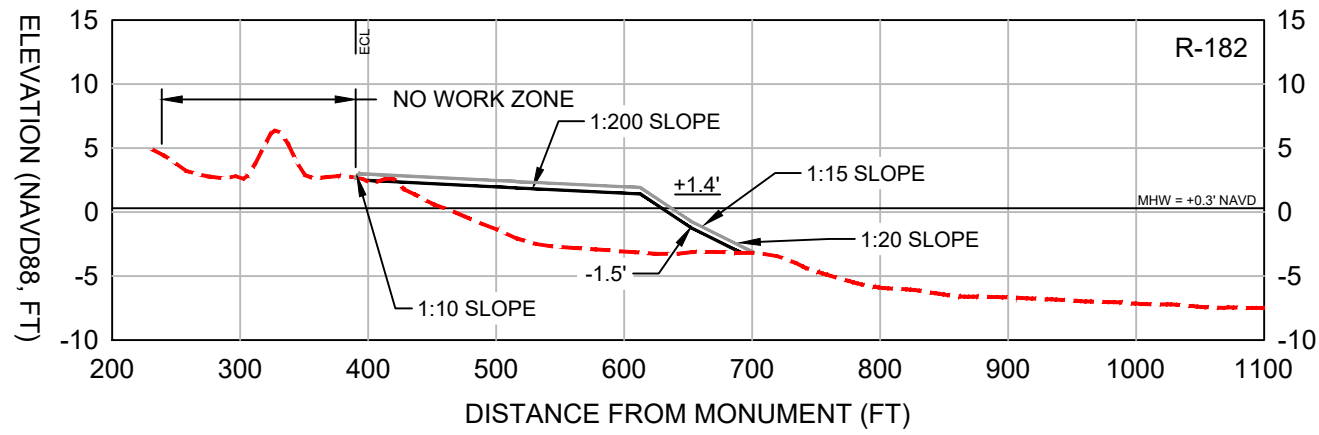
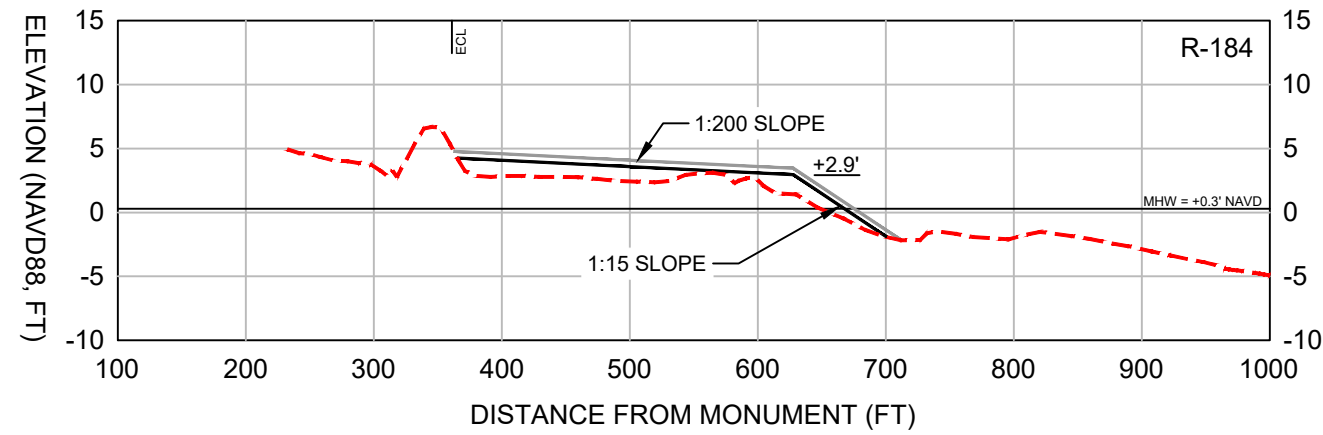
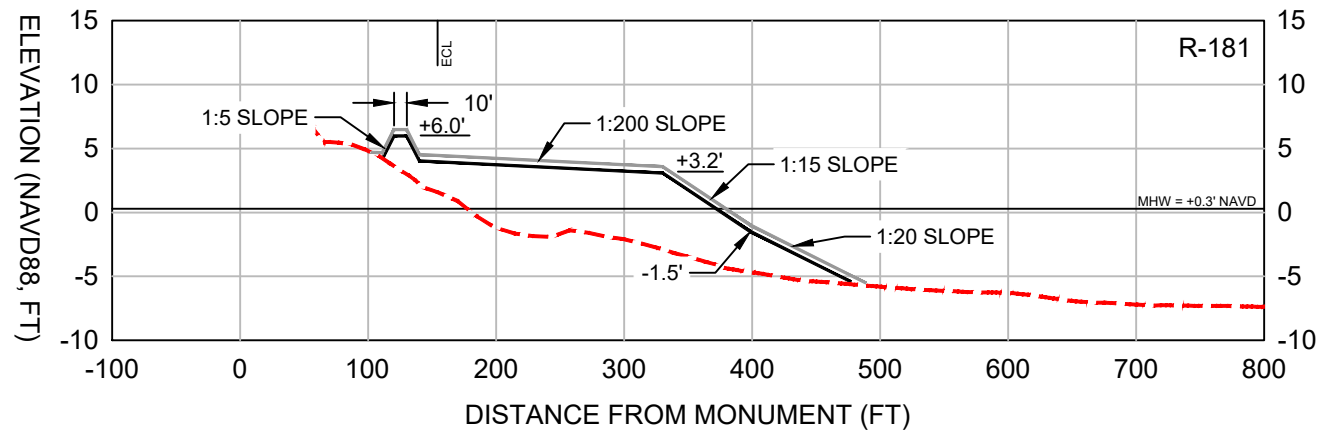
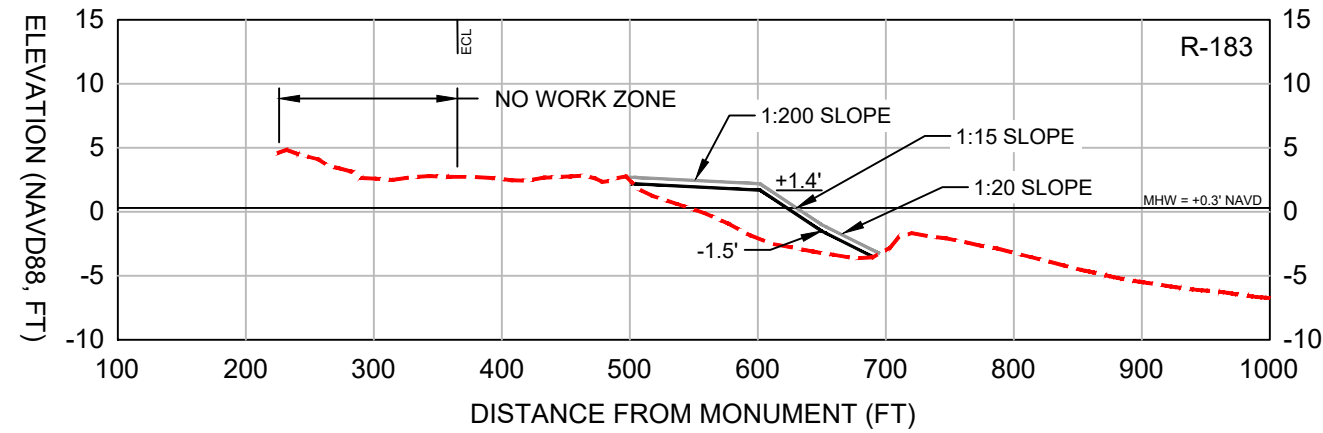
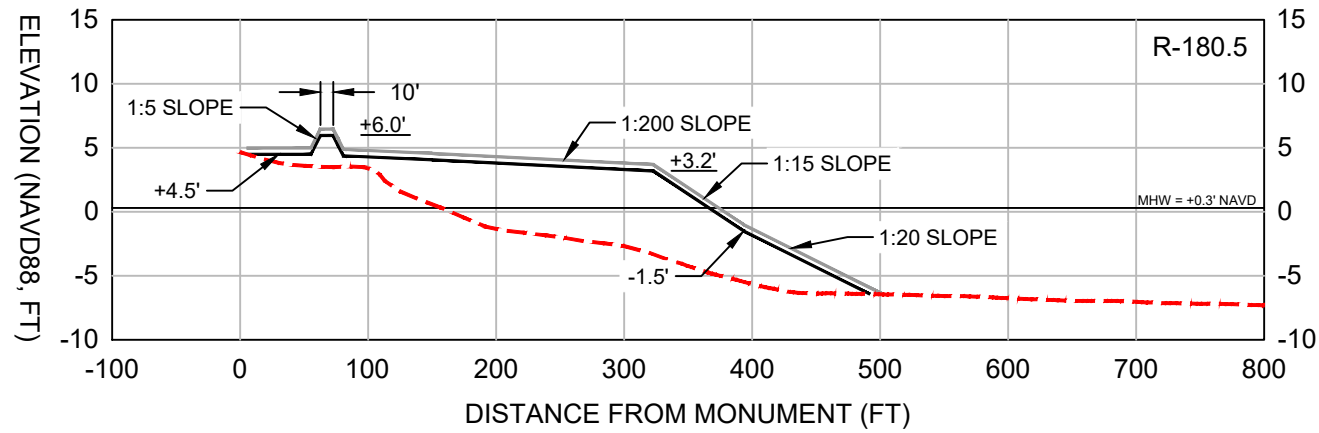
SCALE:
H: 1" = 150'
V: 1" = 15'

NOTES:

1. TOPOGRAPHIC AND BATHYMETRIC DATA COLLECTED BY CEC, JUNE 2023.
2. SEE SHEETS 3 AND 25 FOR SURVEY TRANSECT ALIGNMENT.



 COASTAL ENGINEERING CONSULTANTS, INC. SERVING FLORIDA SINCE 1977	COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEYING & MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464 PHONE: (239) 643-2324 FAX: (239) 643-1143 www.coastalengineering.com E-Mail: info@cecfi.com	CLIENT: TOWN OF FORT MYERS BEACH		DATE: 1/30/2024	SCALE: AS NOTED		
		TITLE: NORTH ESTERO ISLAND FILL TEMPLATE PROFILES		DRAWN: JSD	F.B.		
				CHECKED: MTP	P.G.		
				SEC.	TWP.	RNG.	
		ACAD NO. 221504_OPS_04-12_EIBF_PV-XS DWG					
		REF. NO.		NO.	DATE	BY	REVISION DESCRIPTION



LEGEND:

— DESIGN

— +0.5 FT CONSTRUCTION TOLERANCE

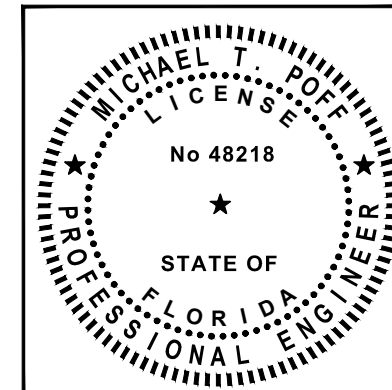
- - - EXISTING GRADE (2023)

SCALE:

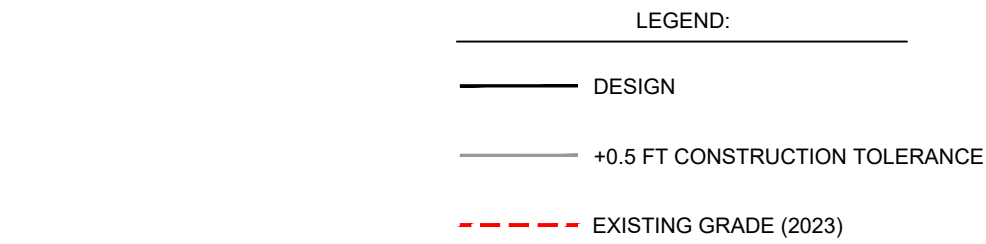
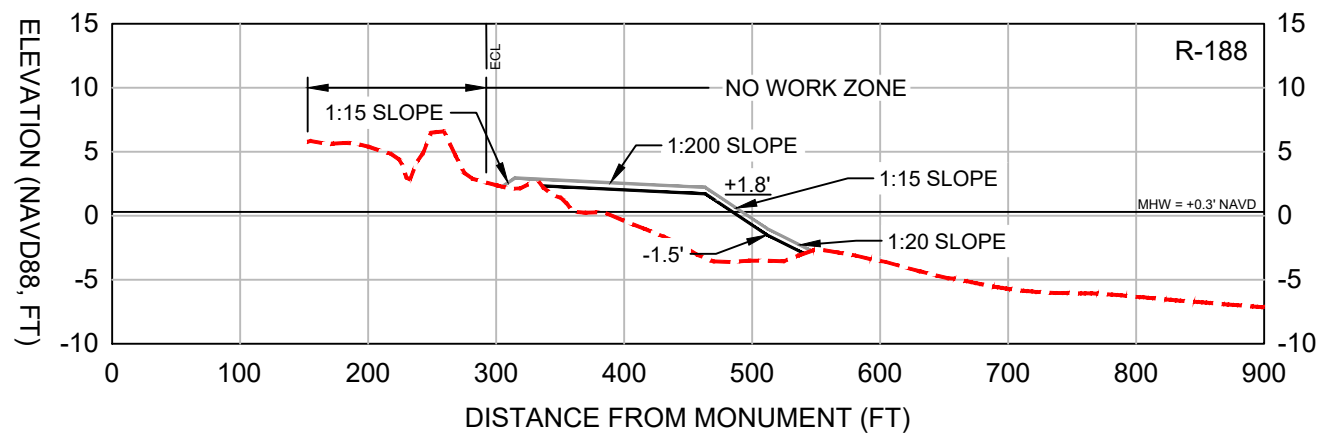
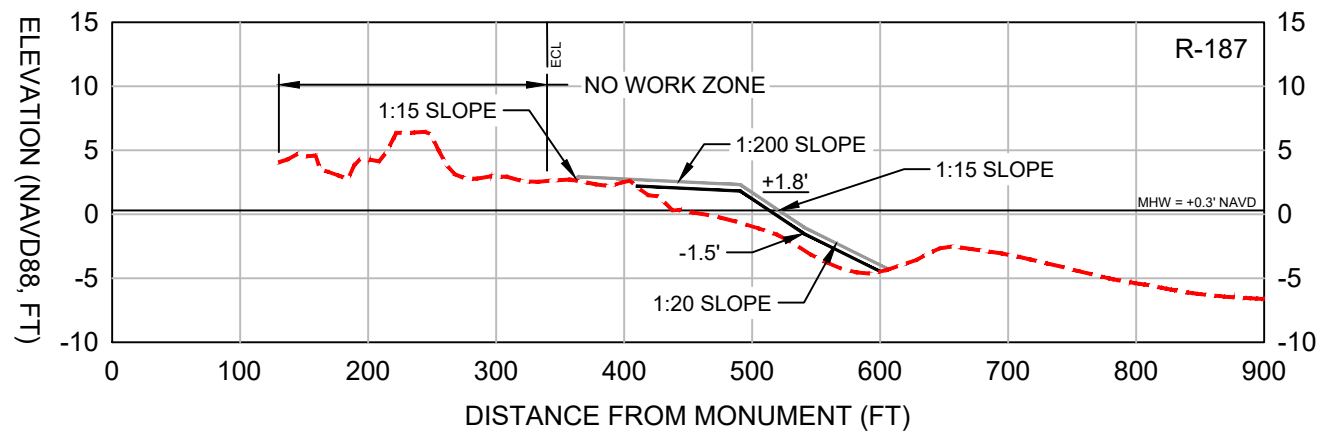
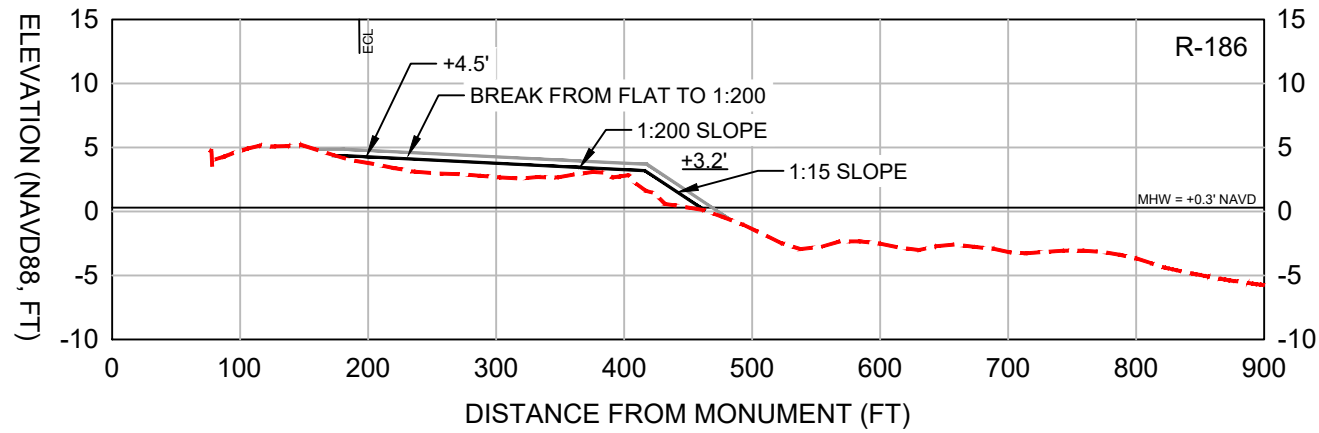
H: 1" = 150'

V: 1" = 15'

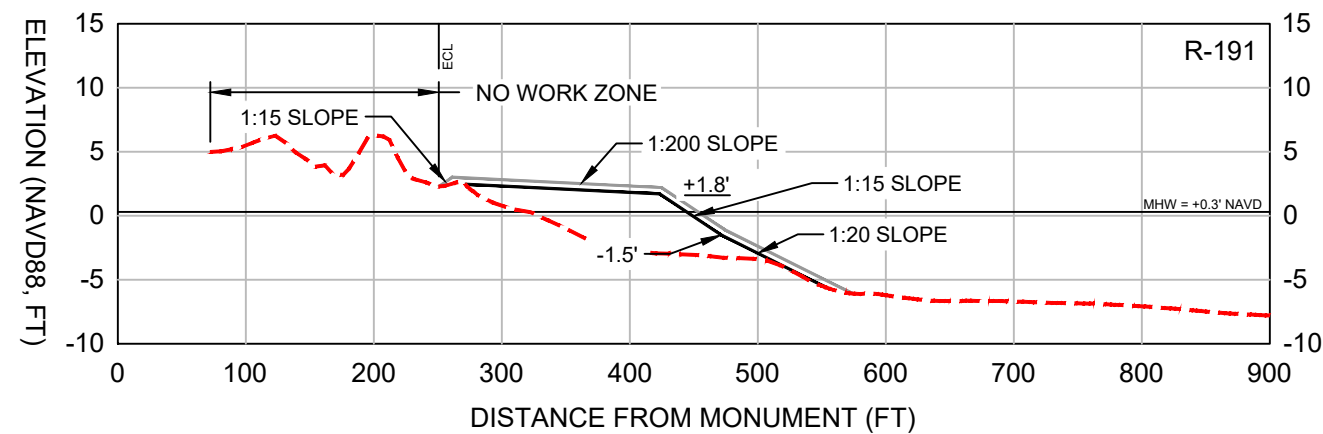
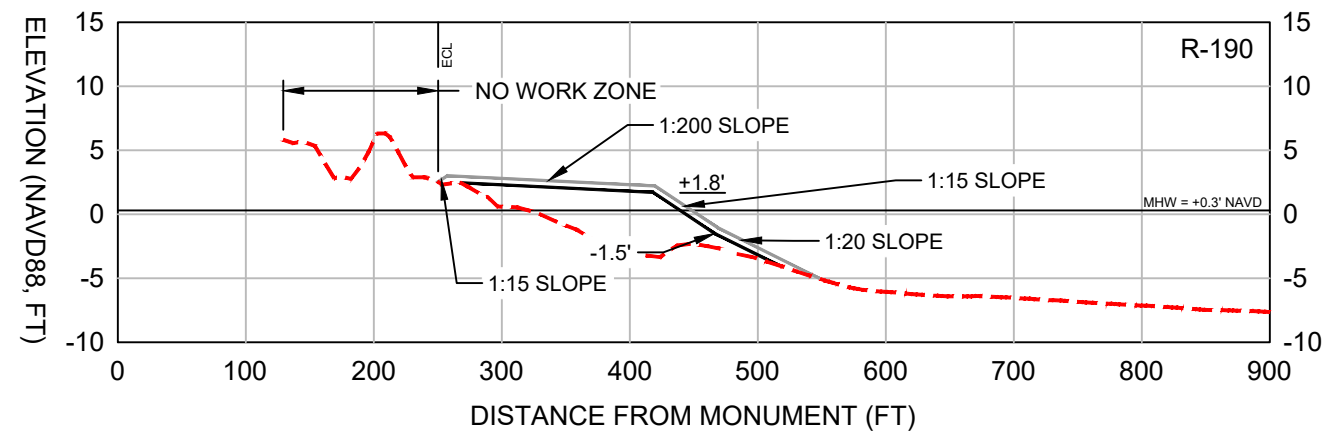
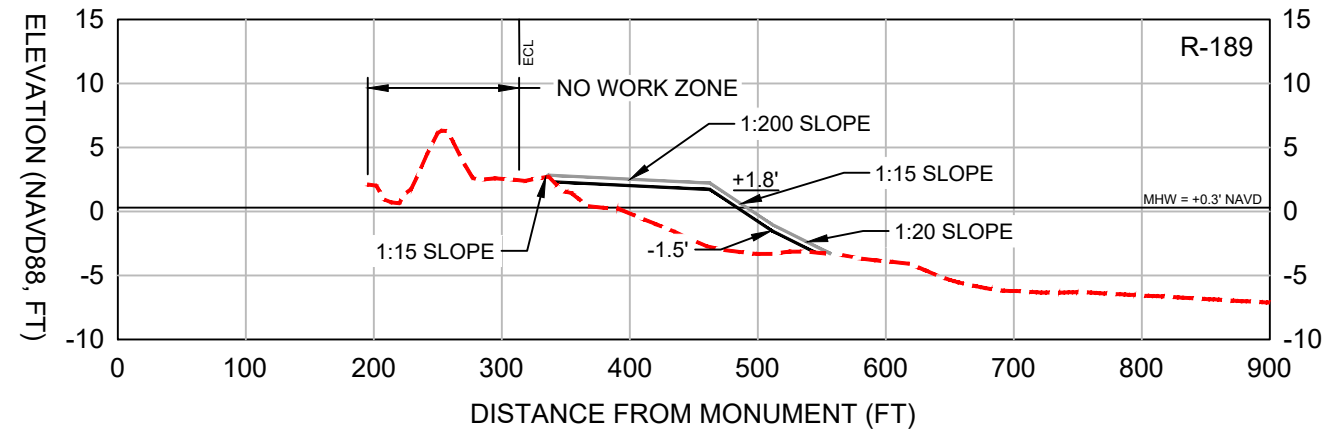
- NOTES:
1. TOPOGRAPHIC AND BATHYMETRIC DATA COLLECTED BY CEC, JUNE 2023.
 2. SEE SHEETS 3 AND 25 FOR SURVEY TRANSECT ALIGNMENT.



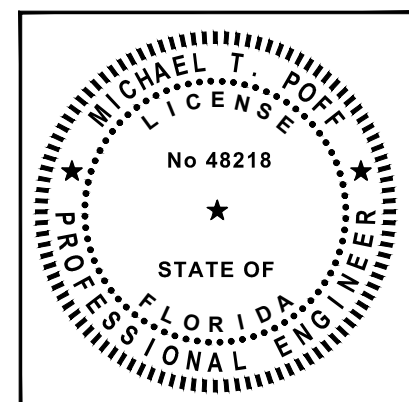
DATE: 1/30/2024	SCALE: AS NOTED	CLIENT: TOWN OF FORT MYERS BEACH	COASTAL & MARINE ENGINEERING
DRAWN: JSD	F.B.	TITLE: NORTH-CENTRAL ESTERO ISLAND FILL TEMPLATE PROFILES	ENVIRONMENTAL & GEOLOGICAL SERVICES
CHECKED: MTP	PG.		SURVEYING & MAPPING
SEC. TWP.	RNG.		ENGINEERING: CA 2464
ACAD NO.: 21504	CPS: 04-12		SURVEYING: LB 2464
REF. NO.			PHONE: (239) 643-2324
			FAX: (239) 643-1143
			www.coastalengineering.com
			E-Mail: info@cecfl.com
			INC.
			SERVING FLORIDA SINCE 1977
			28421 BONITA CROSSINGS BLVD.
			BONITA SPRINGS, FL 34135
			SHEET 7 OF 26
			FILE NO.: 24-504



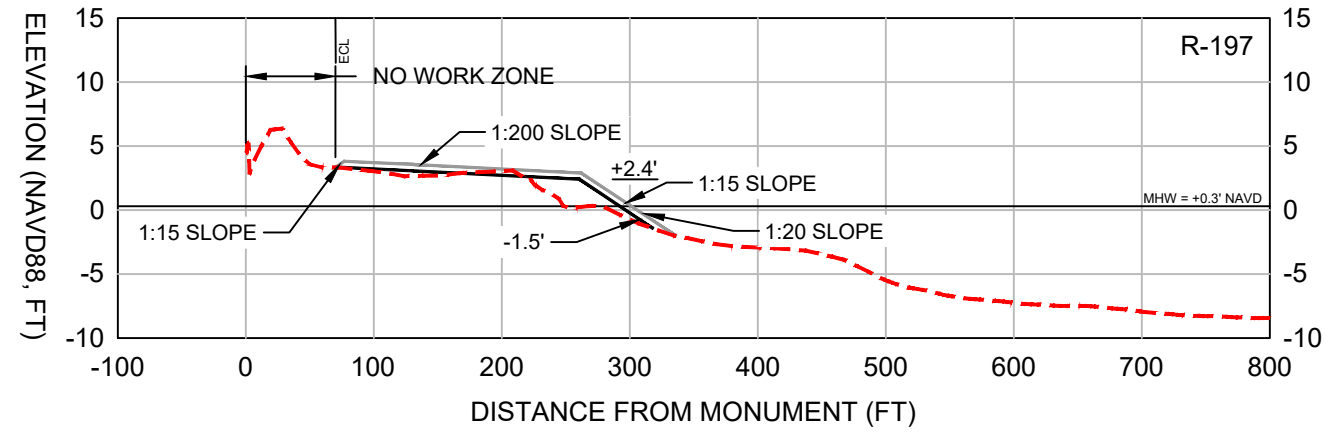
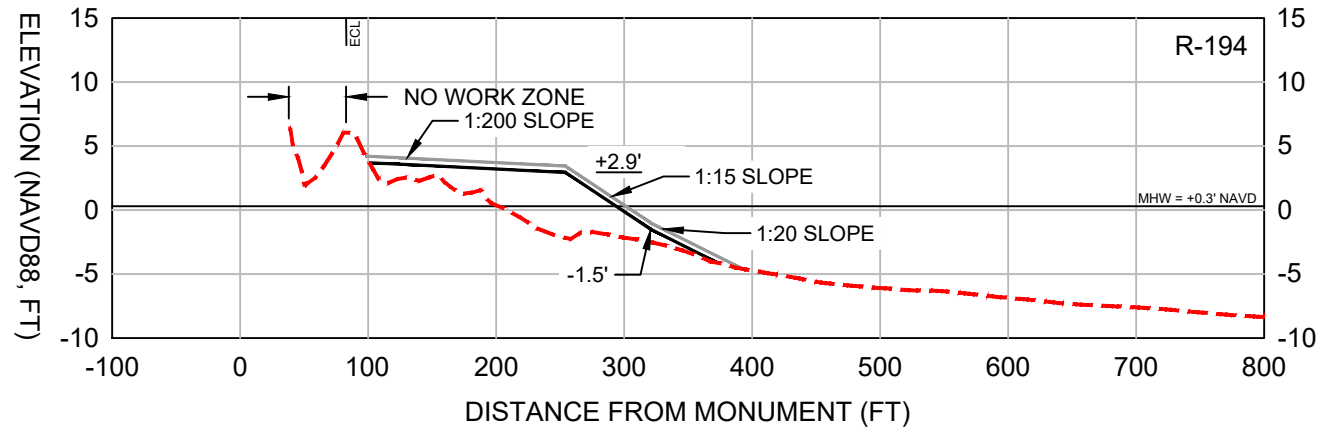
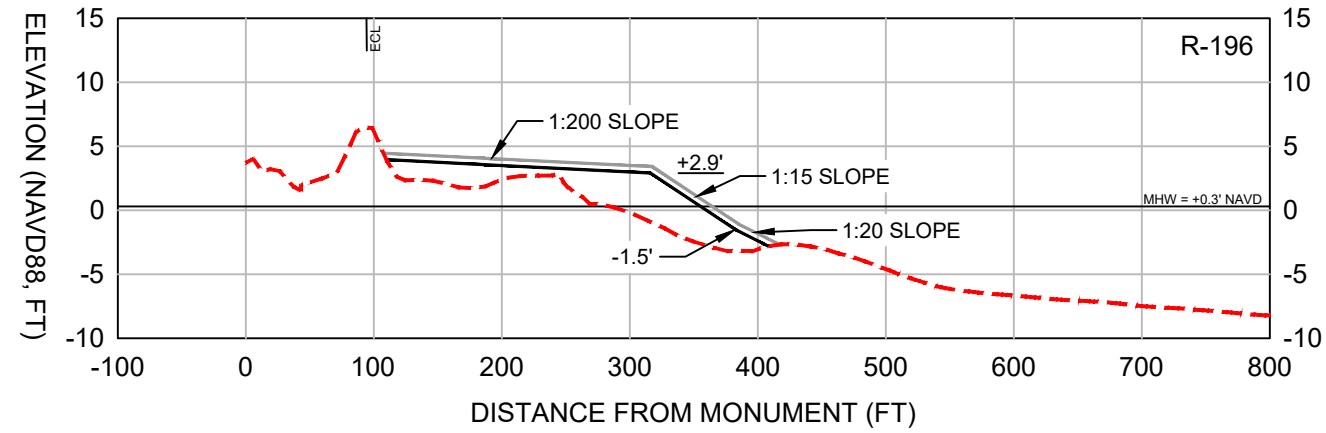
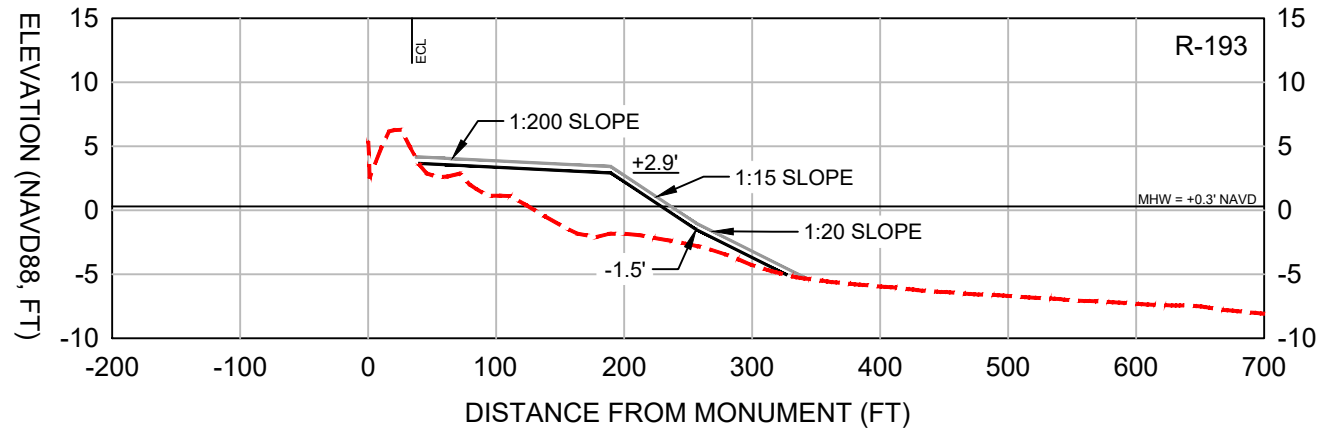
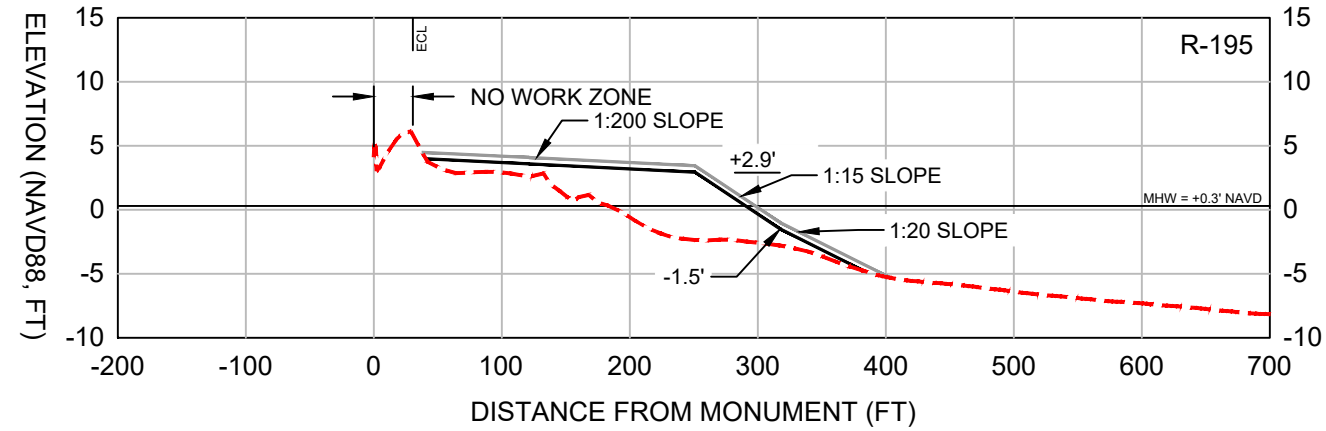
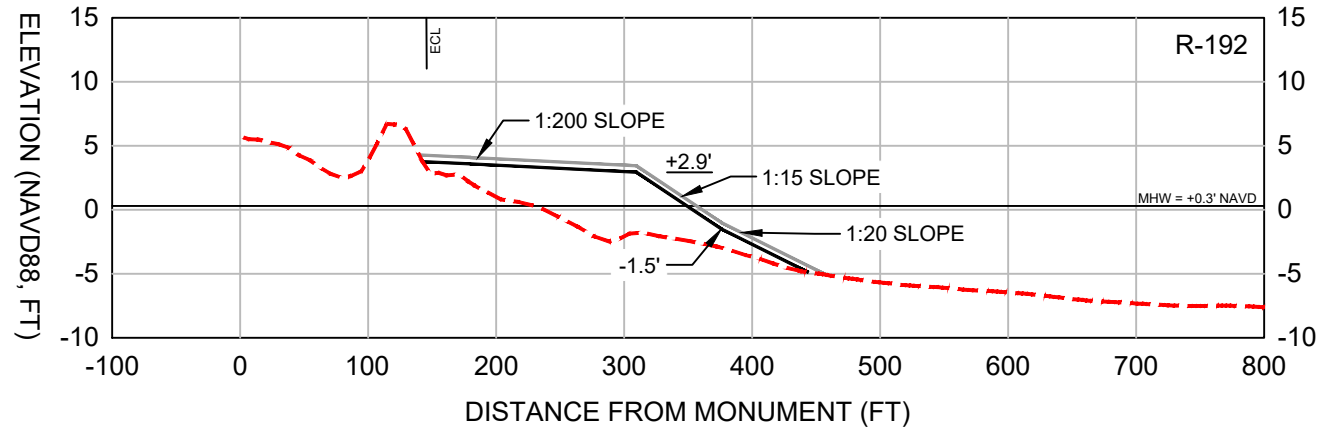
SCALE:
H: 1" = 150'
V: 1" = 15'



- NOTES:
1. TOPOGRAPHIC AND BATHYMETRIC DATA COLLECTED BY CEC, JUNE 2023.
 2. SEE SHEETS 3 AND 25 FOR SURVEY TRANSECT ALIGNMENT.



DATE: 1/30/2024		SCALE: AS NOTED		DRAWN: JSD		CHECKED: MTP		SEC: TWP		ACAD NO: 21504		REF. NO.		NO.		BY		REVISION DESCRIPTION	
TOWN OF FORT MYERS BEACH		CLIENT:		TITLE:		CENTRAL ESTERO ISLAND		FILL TEMPLATE PROFILES		COASTAL & MARINE ENGINEERING		ENVIRONMENTAL & GEOLOGICAL SERVICES		SURVEYING & MAPPING		ENGINEERING: CA 2464		SURVEYING: LB 2464	
PHONE: (239) 643-2324		FAX: (239) 643-1143		WWW.COASTALENGINEERING.COM		E-MAIL: INFO@CECFI.COM		SHEET 8 OF 26		FILE NO: 22-504		28421 BONITA CROSSINGS BLVD.		BONITA SPRINGS, FL 34135		SHEET 8 OF 26		FILE NO: 22-504	



LEGEND:

— DESIGN

— +0.5 FT CONSTRUCTION TOLERANCE

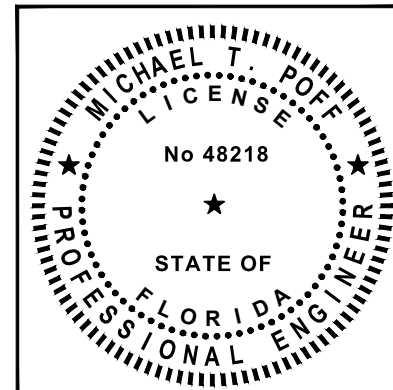
- - - EXISTING GRADE (2023)

SCALE:

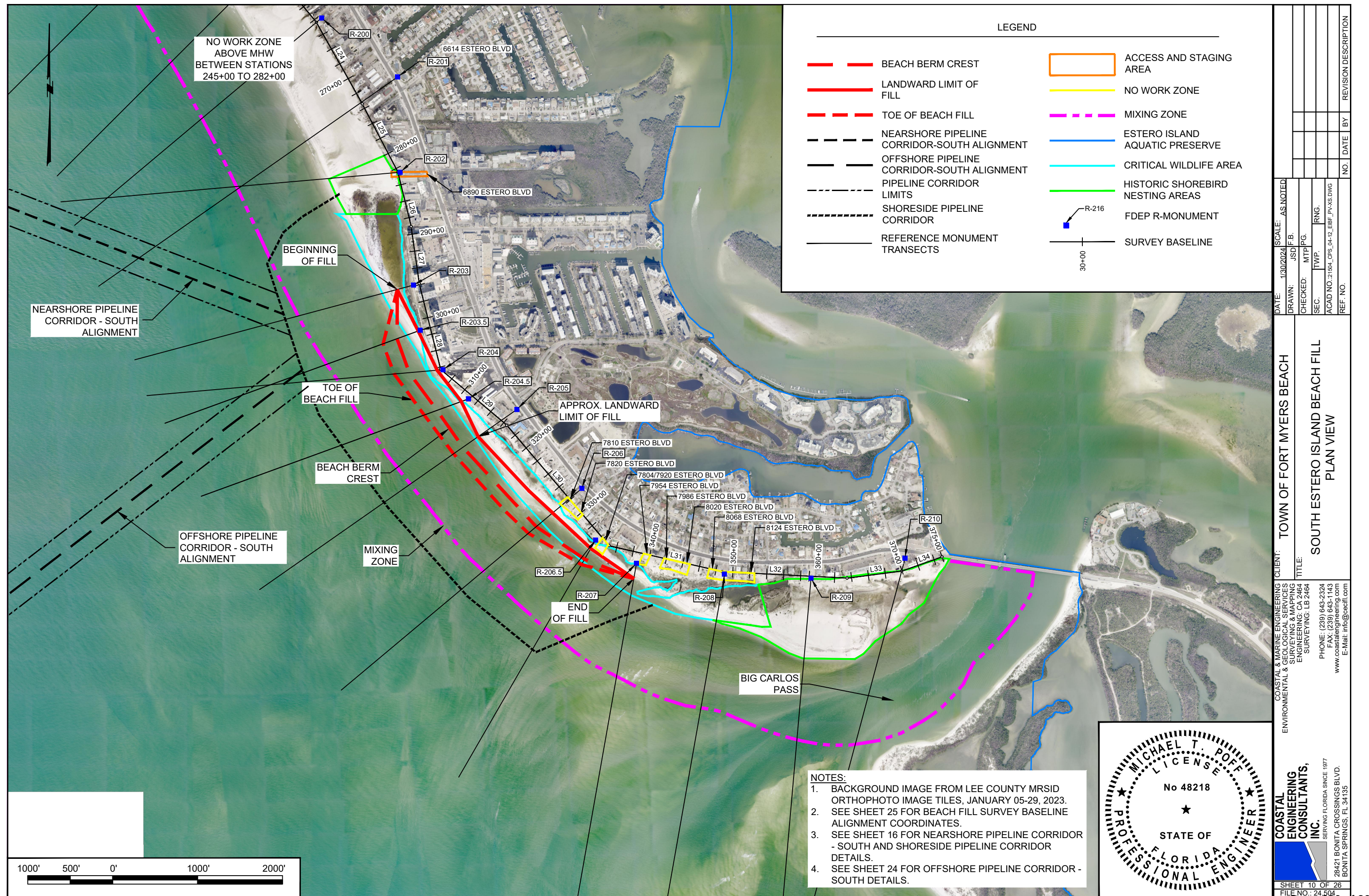
H: 1" = 150'

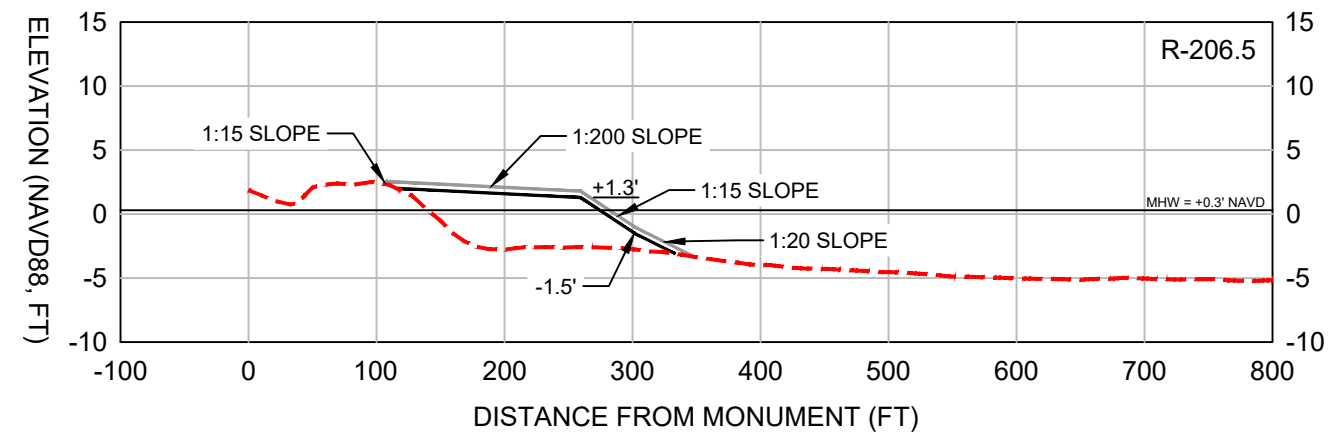
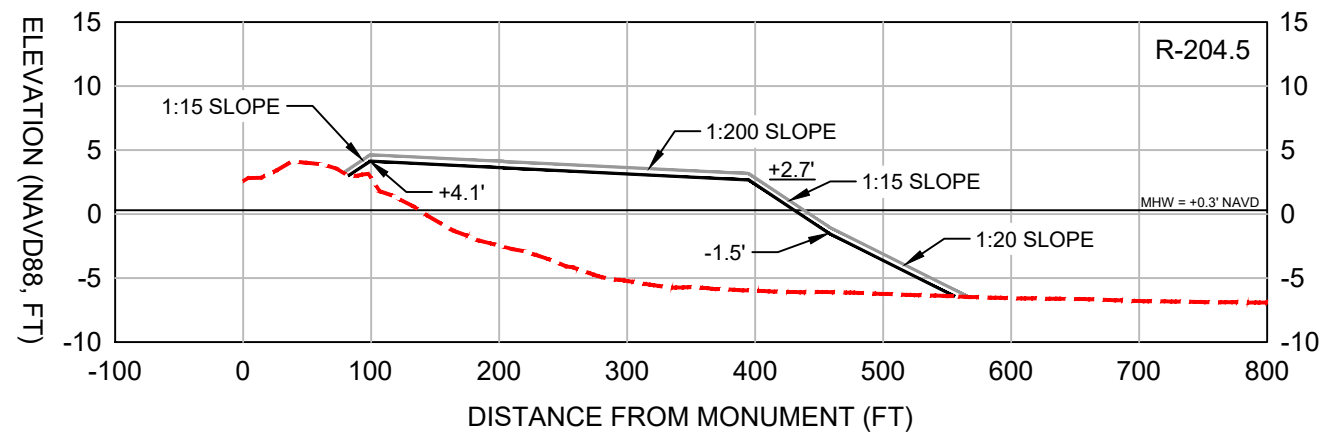
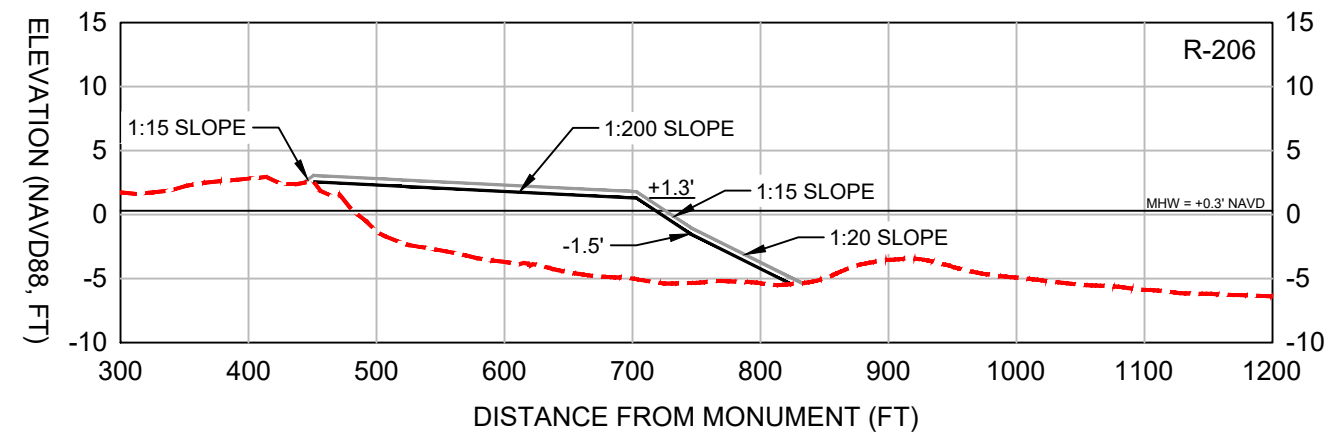
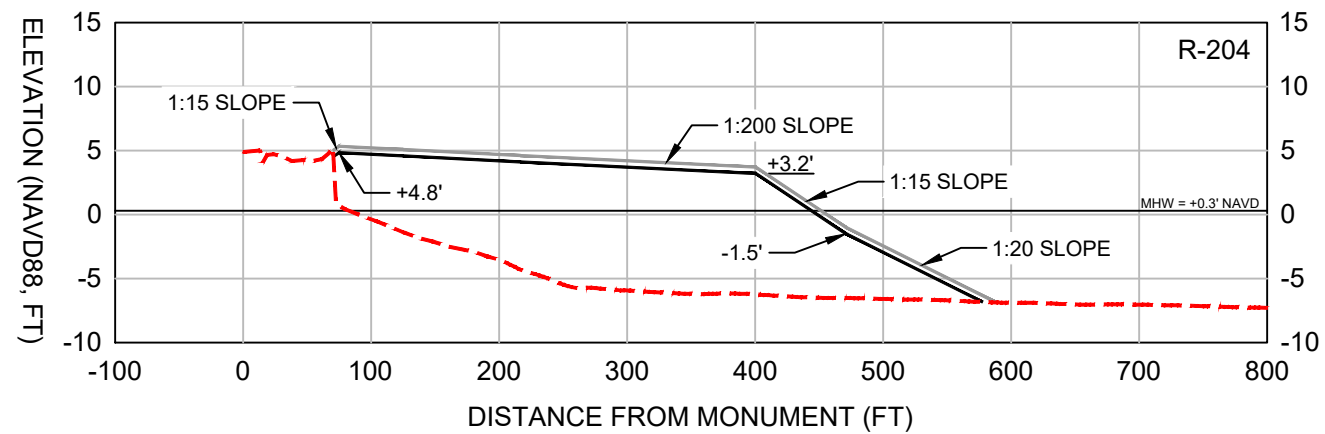
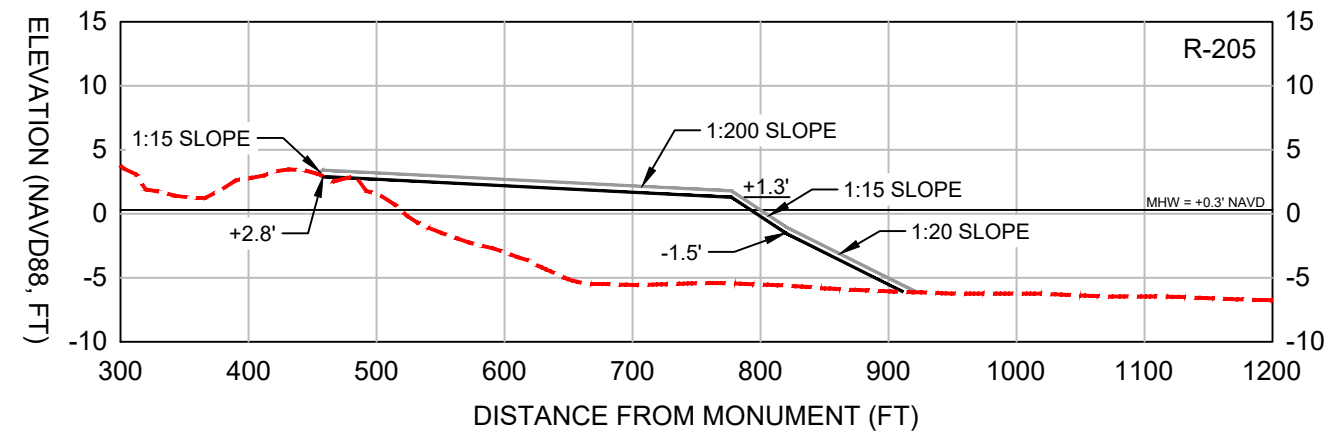
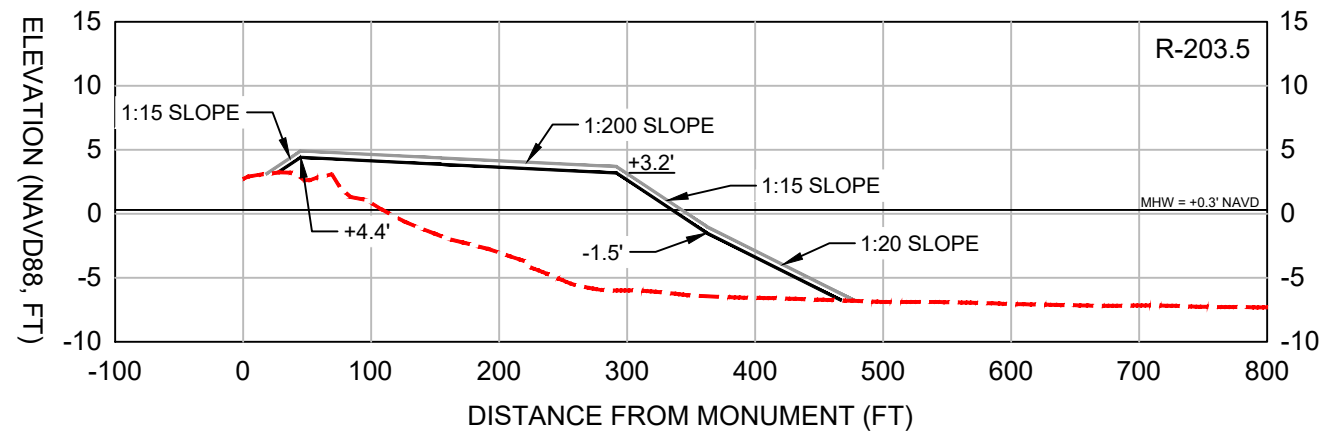
V: 1" = 15'

- NOTES:
1. TOPOGRAPHIC AND BATHYMETRIC DATA COLLECTED BY CEC, JUNE 2023.
 2. SEE SHEETS 3 AND 25 FOR SURVEY TRANSECT ALIGNMENT.



DATE: 1/30/2024	SCALE: AS NOTED	CLIENT: TOWN OF FORT MYERS BEACH	COASTAL & MARINE ENGINEERING
DRAWN: JSD	F.B.	TITLE: CENTRAL ESTERO ISLAND FILL TEMPLATE PROFILES	ENVIRONMENTAL & GEOLOGICAL SERVICES
CHECKED: MTP	PG.		SURVEYING & MAPPING
SEC. TWP.	RNG.		ENGINEERING: CA 2464
ACAD NO.: 21504	CPS: 04-12		SURVEYING: LB 2464
REF. NO.			PHONE: (239) 643-2324
			FAX: (239) 643-1143
			www.coastalengineering.com
			E-Mail: info@cecfl.com
			INC. SERVING FLORIDA SINCE 1977
			28421 BONITA CROSSINGS BLVD.
			BONITA SPRINGS, FL 34135
			SHEET 9 OF 26
			FILE NO.: 24-504





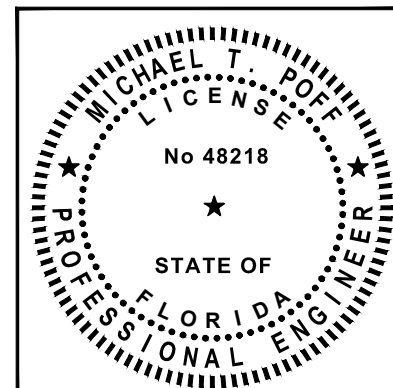
LEGEND:

 DESIGN
 +0.5 FT CONSTRUCTION TOLERANCE
 EXISTING GRADE (2023)

SCALE:
H: 1" = 150'
V: 1" = 15'

NOTES:

1. TOPOGRAPHIC AND BATHYMETRIC DATA COLLECTED BY CEC, JUNE 2023.
2. SEE SHEETS 3 AND 25 FOR SURVEY TRANSECT ALIGNMENT.



**COASTAL
ENGINEERING
CONSULTANTS,
INC.**



SHEET 11 OF 26
FILE NO.: 24.504

FILE NO.: 24.504

Page 261 of 394

DATE:	1/30/2024	SCALE:	AS NOTED
DRAWN:	JSD	F.B.	
CHECKED:	MTP	P.G.	
SEC.	TWP.	RNG.	
ACAD NO. 22184_CPS_04+12_EIBT_PV.XS DWG			
REF. NO.		NO.	DATE BY REVISION DESCRIPTION

TOWN OF FORT MYERS BEACH

SOUTH ESTERO ISLAND FILL TEMPLATE PROFILES

CLIENT:

ENVIRONMENTAL & GEOLOGICAL SERVICES
COASTAL & MARINE ENGINEERING
SURVEYING & MAPPING
ENGINEERING: CA 2464
SURVEYING: LB 2464
PHONE: (239) 643-2324

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

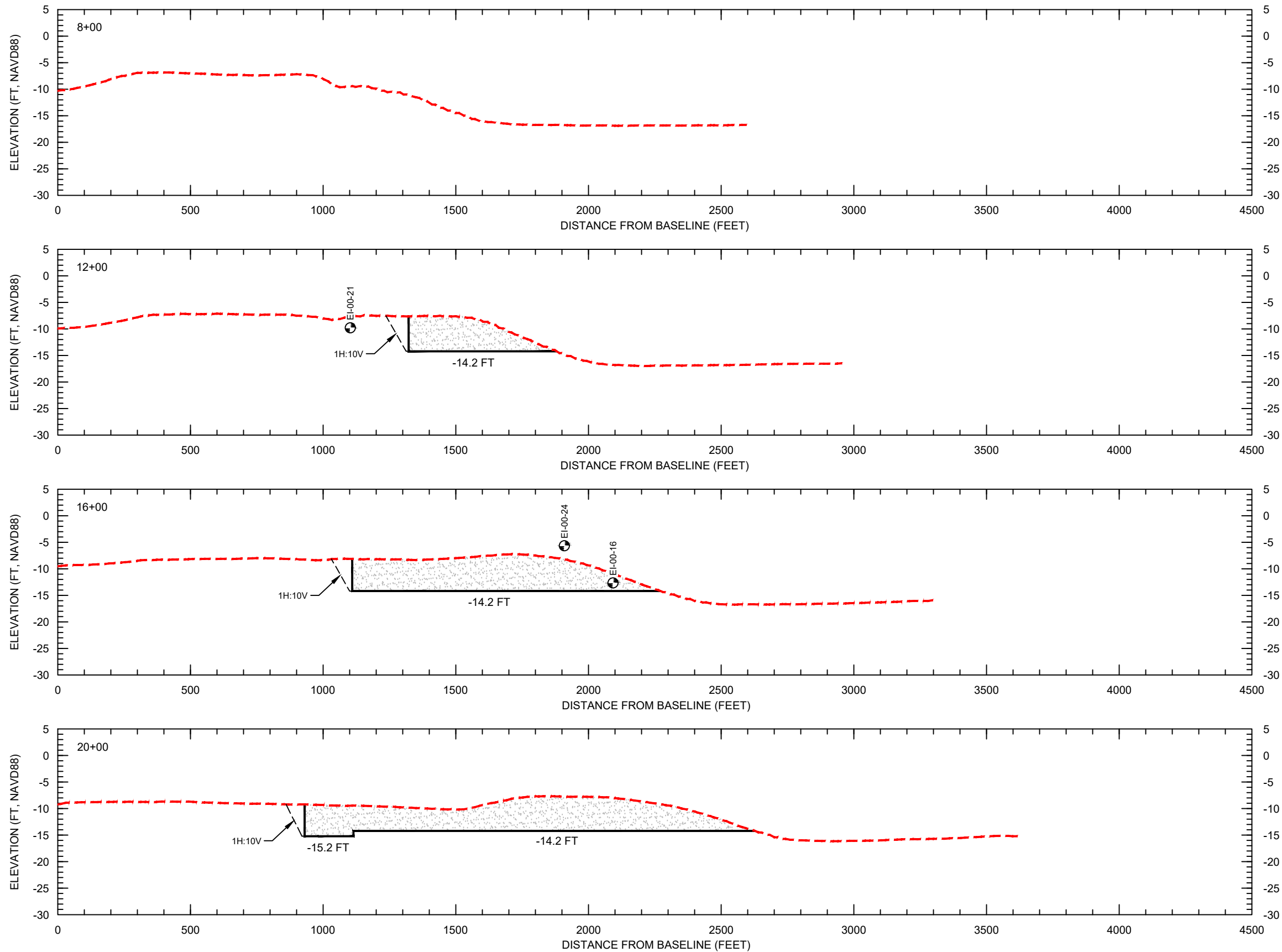
**COASTAL
ENGINEERING
CONSULTANTS,
INC.**



SHEET 11 OF 26
FILE NO.: 24.504

FILE NO.: 24.504

Page 261 of 394



- NOTES:
- BATHYMETRIC SURVEY FROM OSI, NOVEMBER 2021.
 - GEOTECHNICAL VIBRACORES CONDUCTED BY CPE, AUGUST 2020.
 - ELEVATIONS ARE SHOWN IN NAVD88 U.S. SURVEY FEET.

SCALE:
H: 1" = 400'
V: 1" = 20'

LEGEND:

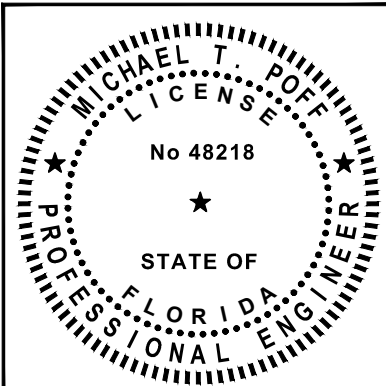
--- EXISTING GRADE

--- BORROW AREA

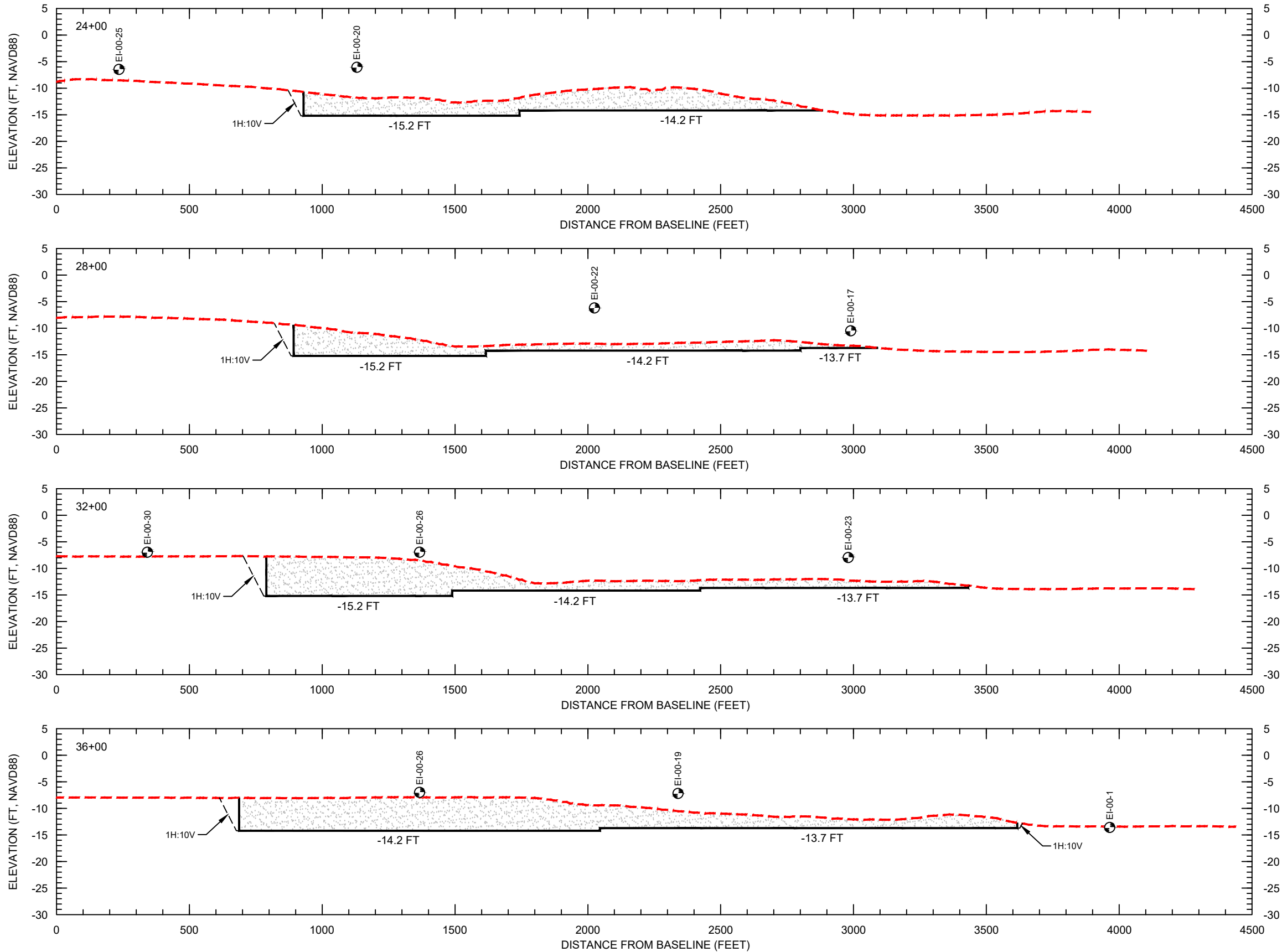
--- DREDGE TOLERANCE

DESIGN DREDGE CUT

EI-00-27 VIBRACORE



COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEYING & MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464		CLIENT: TOWN OF FORT MYERS BEACH		DATE: 1/30/2024		SCALE: AS NOTED	
COASTAL ENGINEERING CONSULTANTS, INC.		TITLE: NEARSHORE BORROW AREA SECTIONS		DRAWN: JSD		F.B.	
SERVING FLORIDA SINCE 1977		CHECKED: MTP		PG.		RNG.	
28421 BONITA CROSSINGS BLVD. BONITA SPRINGS, FL 34135		SEC.		TWP.		ACAD NO.: 21504_CPS_13-16_Nearshore BA.DWG	
SHEET 13 OF 26		REF. NO.		NO.		BY	
FILE NO.: 24-504		REVISION DESCRIPTION		DATE			

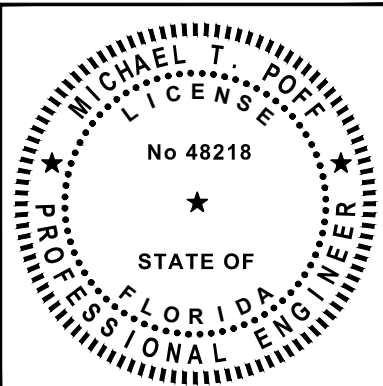


- NOTES:
- BATHYMETRIC SURVEY FROM OSI, NOVEMBER 2021.
 - GEOTECHNICAL VIBRACORES CONDUCTED BY CPE, AUGUST 2020.
 - ELEVATIONS ARE SHOWN IN NAVD88 U.S. SURVEY FEET.

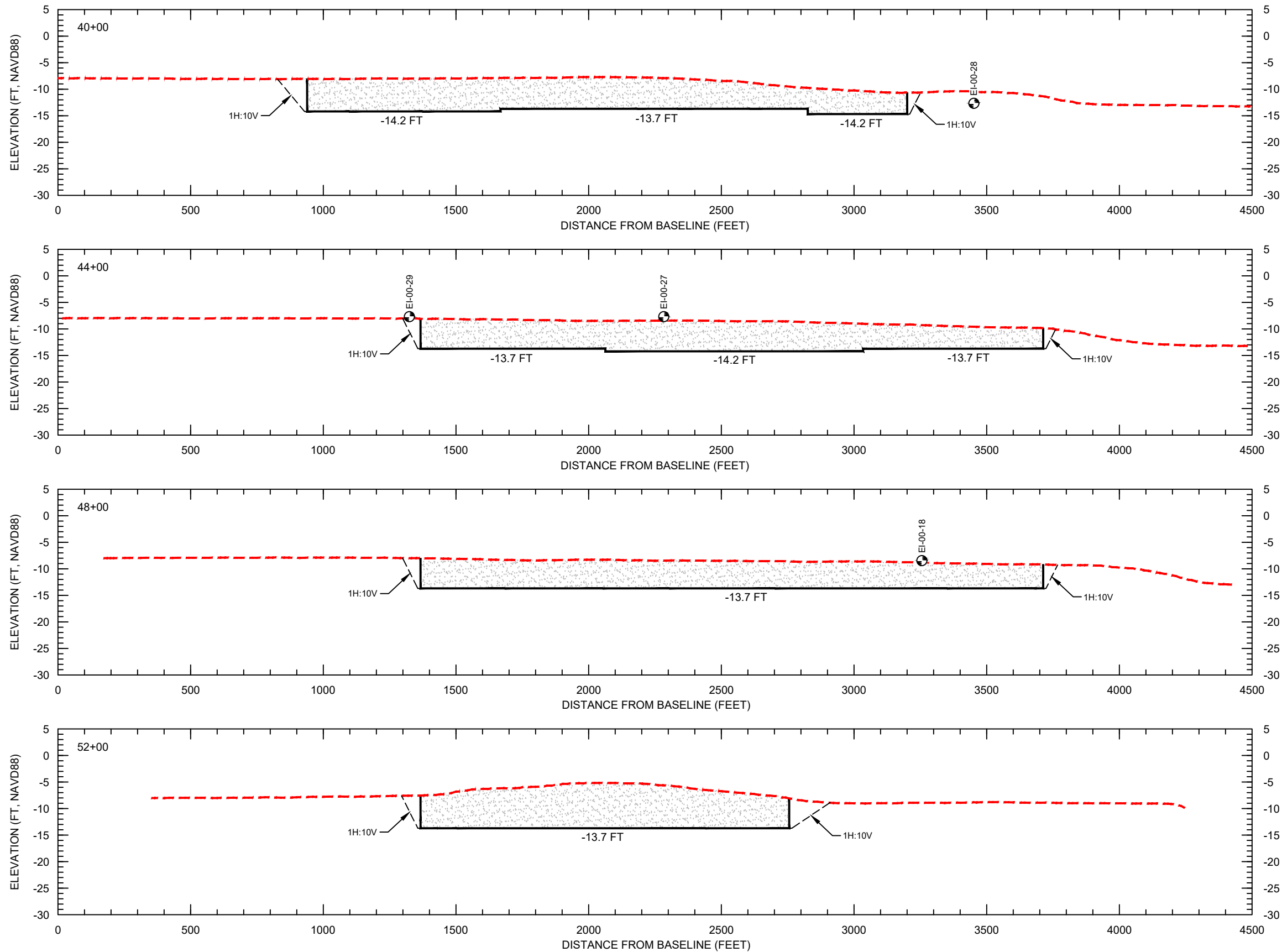
SCALE:
H: 1" = 400'
V: 1" = 20'

LEGEND:

	EXISTING GRADE		BORROW AREA DREDGE TOLERANCE
	DESIGN DREDGE CUT		VIBRACORE

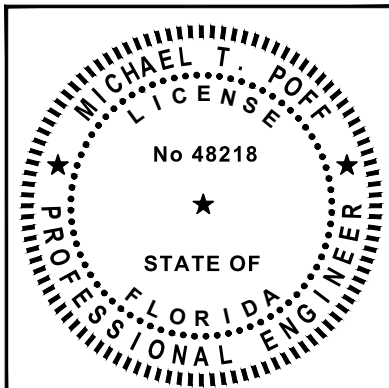
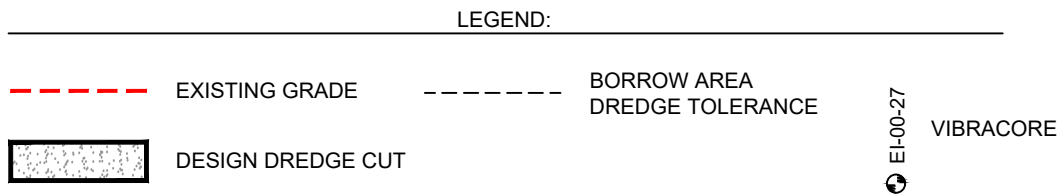


COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEYING & MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464		CLIENT: TOWN OF FORT MYERS BEACH		DATE: 1/30/2024		SCALE: AS NOTED	
COASTAL ENGINEERING CONSULTANTS, INC.		TITLE: NEARSHORE BORROW AREA SECTIONS		DRAWN: JSD		F.B.	
SERVING FLORIDA SINCE 1977		CHECKED: MTP		PG.		RNG.	
28421 BONITA CROSSINGS BLVD. BONITA SPRINGS, FL 34135		SEC.		TWP.		ACAD NO.: 21504_CPS_13-16_Nearshore BA.DWG	
SHEET 14 OF 26		REF. NO.		NO.		DATE	
FILE NO.: 24-504		BY		REVISION DESCRIPTION			

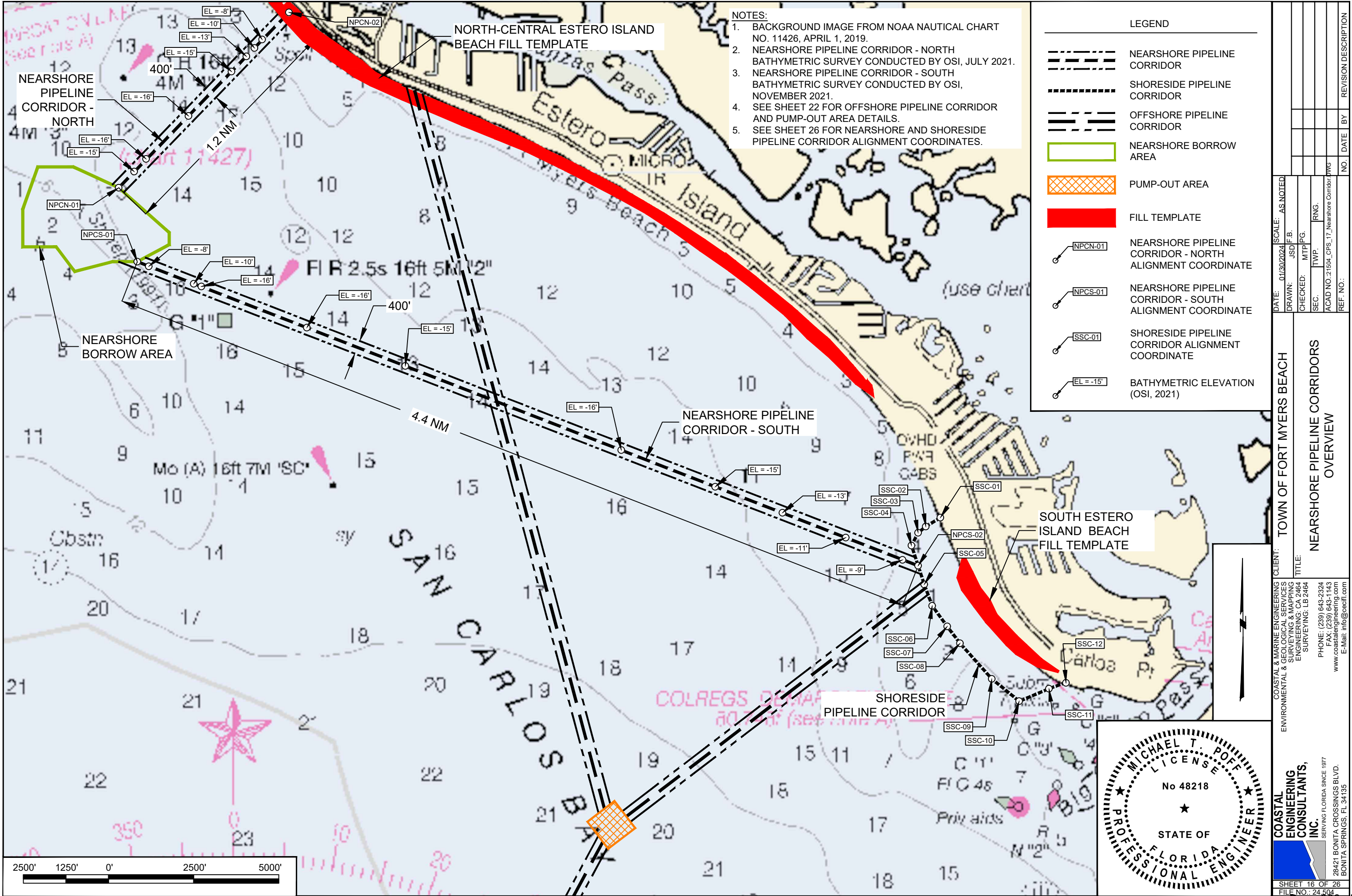


- NOTES:
- BATHYMETRIC SURVEY FROM OSI, NOVEMBER 2021.
 - GEOTECHNICAL VIBRACORES CONDUCTED BY CPE, AUGUST 2020.
 - ELEVATIONS ARE SHOWN IN NAVD88 U.S. SURVEY FEET.

SCALE:
H: 1" = 400'
V: 1" = 20'



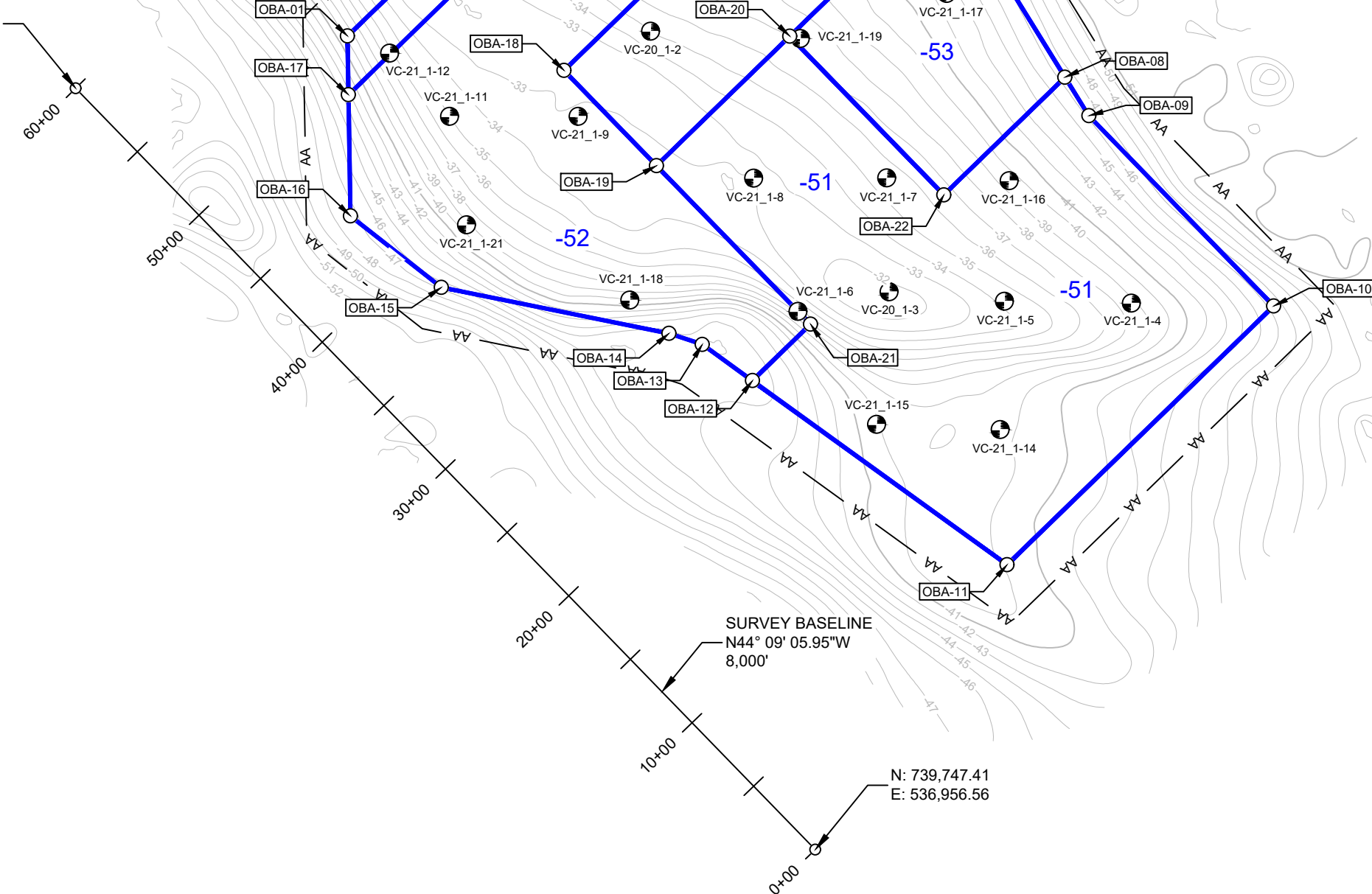
COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEYING & MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464		CLIENT: TOWN OF FORT MYERS BEACH		DATE: 1/30/2024		SCALE: AS NOTED	
COASTAL ENGINEERING CONSULTANTS, INC.		TITLE: NEARSHORE BORROW AREA SECTIONS		DRAWN: JSD		F.B.	
SERVING FLORIDA SINCE 1977		CHECKED: MTP		PG.		RNG.	
28421 BONITA CROSSINGS BLVD. BONITA SPRINGS, FL 34135		SEC.		TWP.		ACAD NO.: 21504_CPS_13-16_Nearshore BA.DWG	
SHEET 15 OF 26		REF. NO.		NO.		DATE	
FILE NO.: 24-504		BY		REVISION DESCRIPTION			



NOTES:

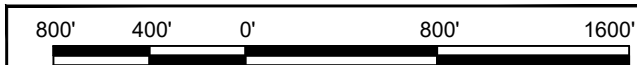
1. BATHYMETRIC CONTOURS FROM SURVEY CONDUCTED BY OSI IN JULY 2021.
2. GEOTECHNICAL INVESTIGATION CONDUCTED BY GFA AND AMDRILL 2020 AND 2021.
3. ELEVATIONS ARE NAVD88, US SURVEY FEET.
4. SEE SHEET 26 FOR BORROW AREA AND VIBRACORE COORDINATES.

N: 744,052.40
E: 532,777.20



SURVEY BASELINE
N44° 09' 05.95\"/>

N: 739,747.41
E: 536,956.56



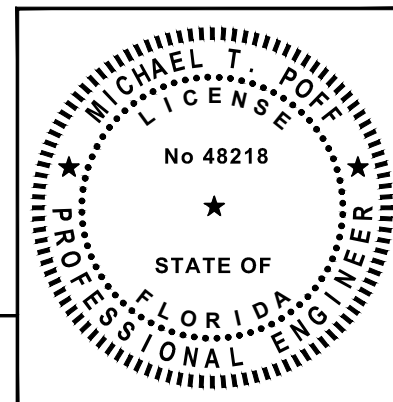
LEGEND

- 55** DESIGN CUT TOE AND ELEVATION (FT)
- 29 BATHYMETRIC CONTOUR (OSI, 2021)
- VC-20_1-1 GEOTECHNICAL VIBRACORE (AMDRILL, 2020)
- VC-21_1-4 GEOTECHNICAL VIBRACORE (AMDRILL, 2021)
- AA LIMITS OF ANCHORING
- OBA-01 OFFSHORE BORROW AREA ALIGNMENT COORDINATE
- 60+00 SURVEY BASELINE

CLIENT: TOWN OF FORT MYERS BEACH
TITLE:

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

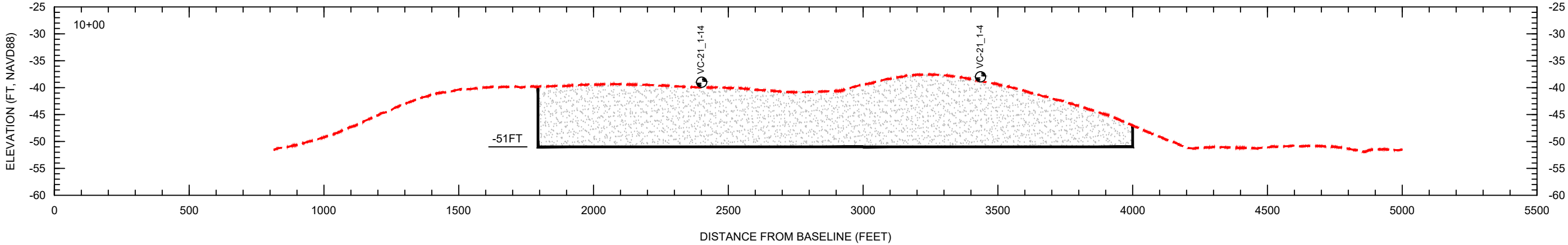
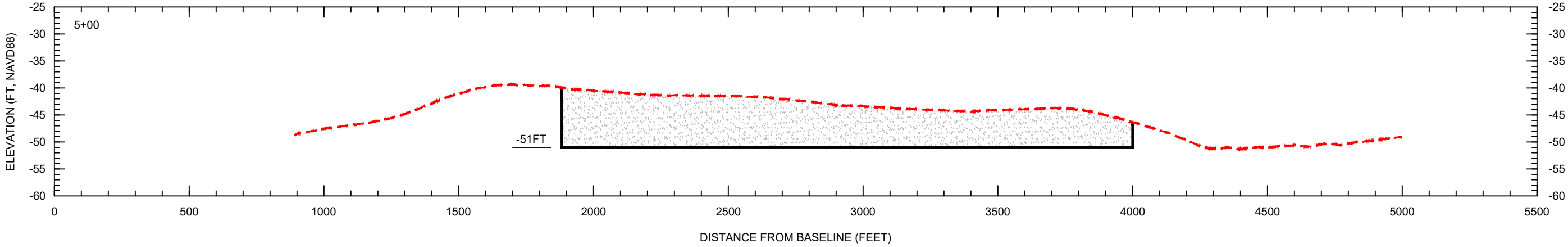
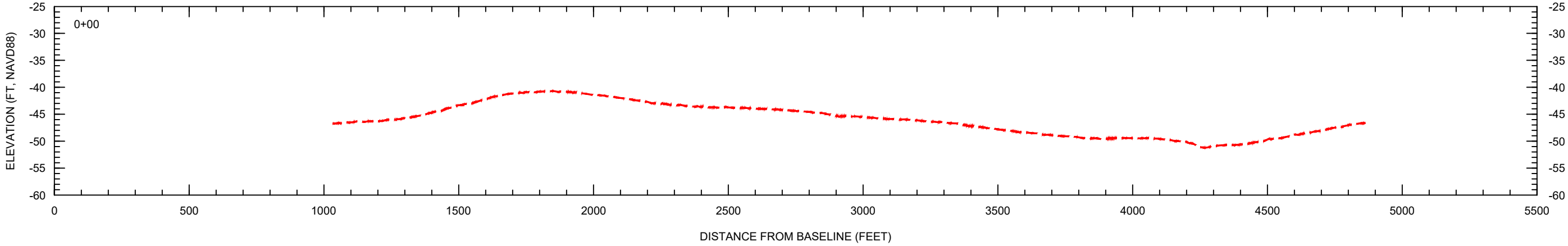
COASTAL
ENGINEERING
CONSULTANTS,
INC.
SERVING FLORIDA SINCE 1977
28421 BONITA CROSSINGS BLVD.
BONITA SPRINGS, FL 34135



SHEET 17 OF 26
FILE NO.: 24-504

DATE: 1/30/2024 SCALE: AS NOTED
DRAWN: JSD F.B.
CHECKED: MTP PG.
SEC. TWP. RING.
ACAD NO.: 21504_CPS_18-22_Offshore BA.DWG
REF. NO.

NO.	DATE	BY	REVISION DESCRIPTION



- NOTES:
1. GEOPHYSICAL DATA FROM OSI, 2021.
 2. GEOTECHNICAL INVESTIGATION CONDUCTED BY GFA AND AMDRILL, 2020 AND 2021.
 3. ELEVATIONS ARE SHOWN IN NAVD88 U.S. SURVEY FEET.

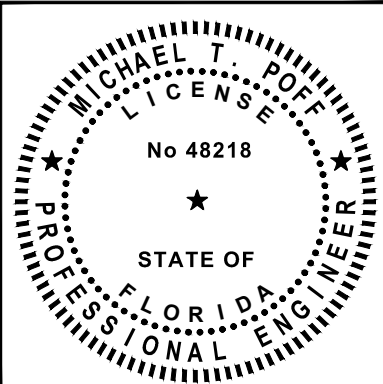
SCALE:
H: 1" = 400'
V: 1" = 20'

LEGEND:

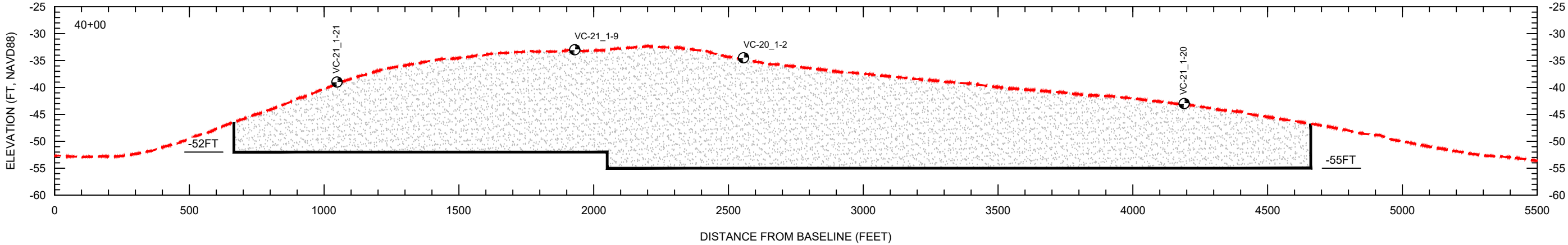
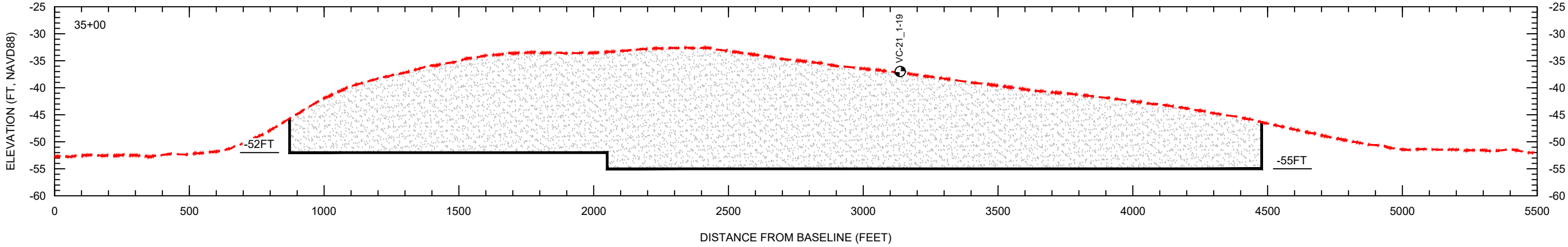
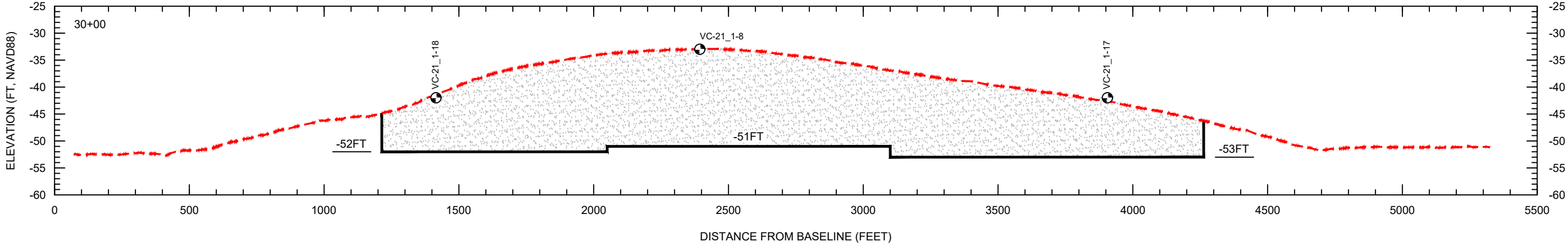
--- EXISTING GRADE

DESIGN DREDGE CUT

VC-21_1-4 VIBRACORE



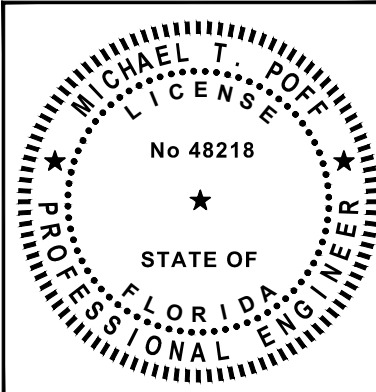
COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEYING & MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464		CLIENT: TOWN OF FORT MYERS BEACH		DATE: 1/30/2024		SCALE: AS NOTED	
COASTAL ENGINEERING CONSULTANTS, INC.		TITLE: OFFSHORE BORROW AREA SECTIONS		DRAWN: JSD		F.B.	
28421 BONITA CROSSINGS BLVD. BONITA SPRINGS, FL 34135		PHONE: (239) 643-2324 FAX: (239) 643-1143 www.coastalengineering.com E-Mail: info@cecfl.com		CHECKED: MTP		PG.	
SHEET 18 OF 26		FILE NO.: 24-504		SEC.		TWP.	
				ACAD NO.: 21504_CPS_18-22, Offshore BA.DWG		RNG.	
				REF. NO.		NO.	
				DATE		BY	
						REVISION DESCRIPTION	



NOTES:
1. GEOPHYSICAL DATA FROM OSI, 2021.
2. GEOTECHNICAL INVESTIGATION CONDUCTED BY GFA AND AMDRILL, 2020 AND 2021.
3. ELEVATIONS ARE SHOWN IN NAVD88 U.S. SURVEY FEET.

SCALE:
H: 1" = 400'
V: 1" = 20'

LEGEND:
- - - - - EXISTING GRADE
[Stippled Area] DESIGN DREDGE CUT
VC-21_1-20 VIBRACORE



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

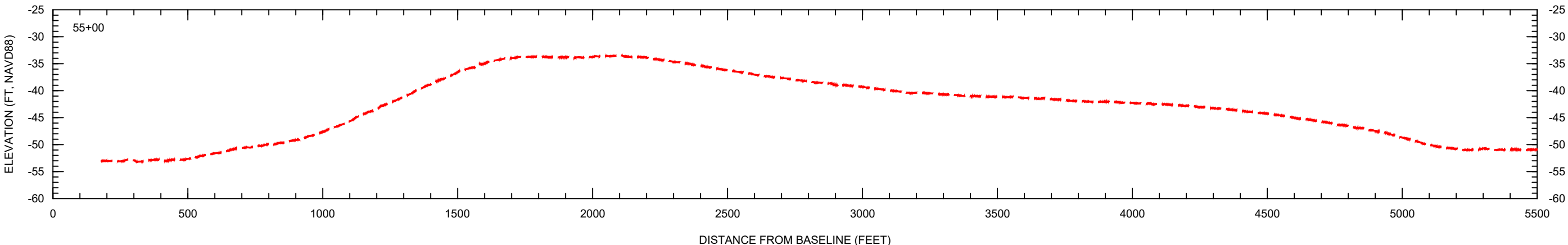
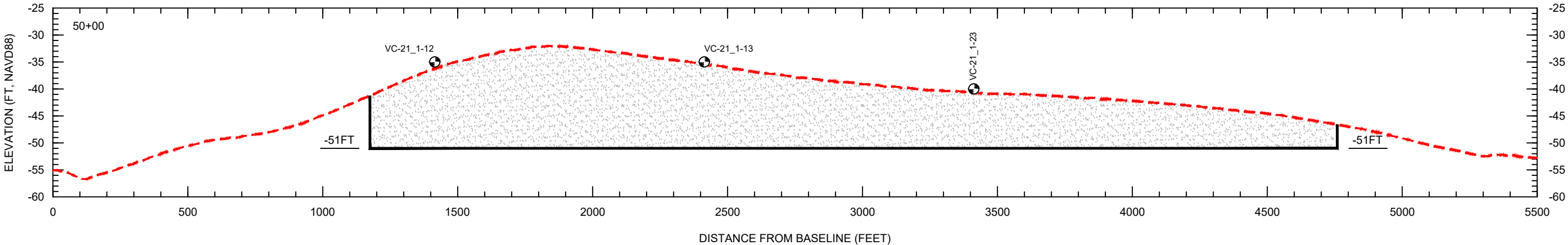
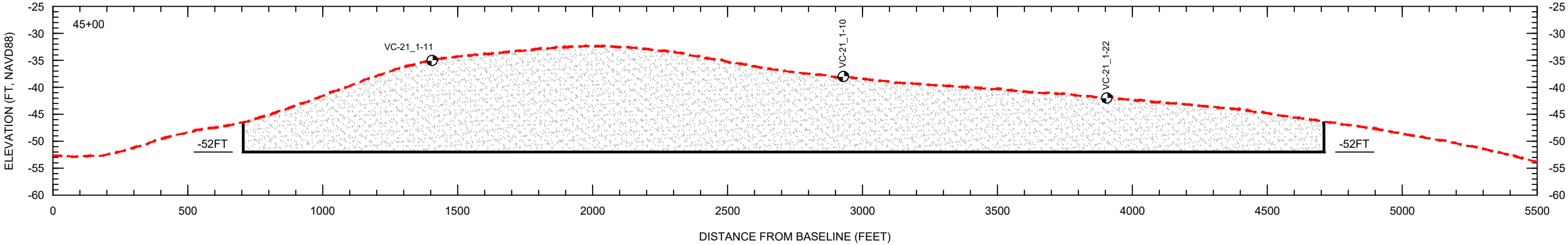
TOWN OF FORT MYERS BEACH
TITLE:
OFFSHORE BORROW AREA SECTIONS

DATE: 1/30/2024
DRAWN: JSD
CHECKED: MTP
SEC: TWP
ACAD NO.: 21504_CPS_18-22_Offshore BA.DWG
REF. NO.

SCALE: AS NOTED
F.B.
PG.
RNG.
NO. DATE BY REVISION DESCRIPTION

COASTAL ENGINEERING CONSULTANTS, INC.
SERVING FLORIDA SINCE 1977
28421 BONITA CROSSINGS BLVD.
BONITA SPRINGS, FL 34135

SHEET 20 OF 26
FILE NO.: 24-504



- NOTES:
1. GEOPHYSICAL DATA FROM OSI, 2021.
 2. GEOTECHNICAL INVESTIGATION CONDUCTED BY GFA AND AMDRILL, 2020 AND 2021.
 3. ELEVATIONS ARE SHOWN IN NAVD88 U.S. SURVEY FEET.

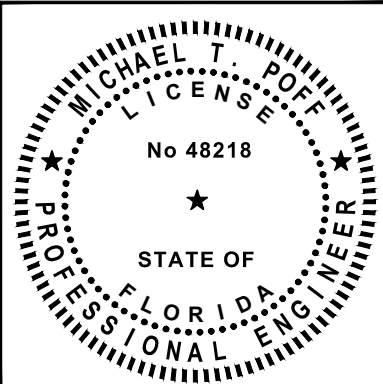
SCALE:
H: 1" = 400'
V: 1" = 20'

LEGEND:

--- EXISTING GRADE

DESIGN DREDGE CUT

VC-21_1-23 VIBRACORE

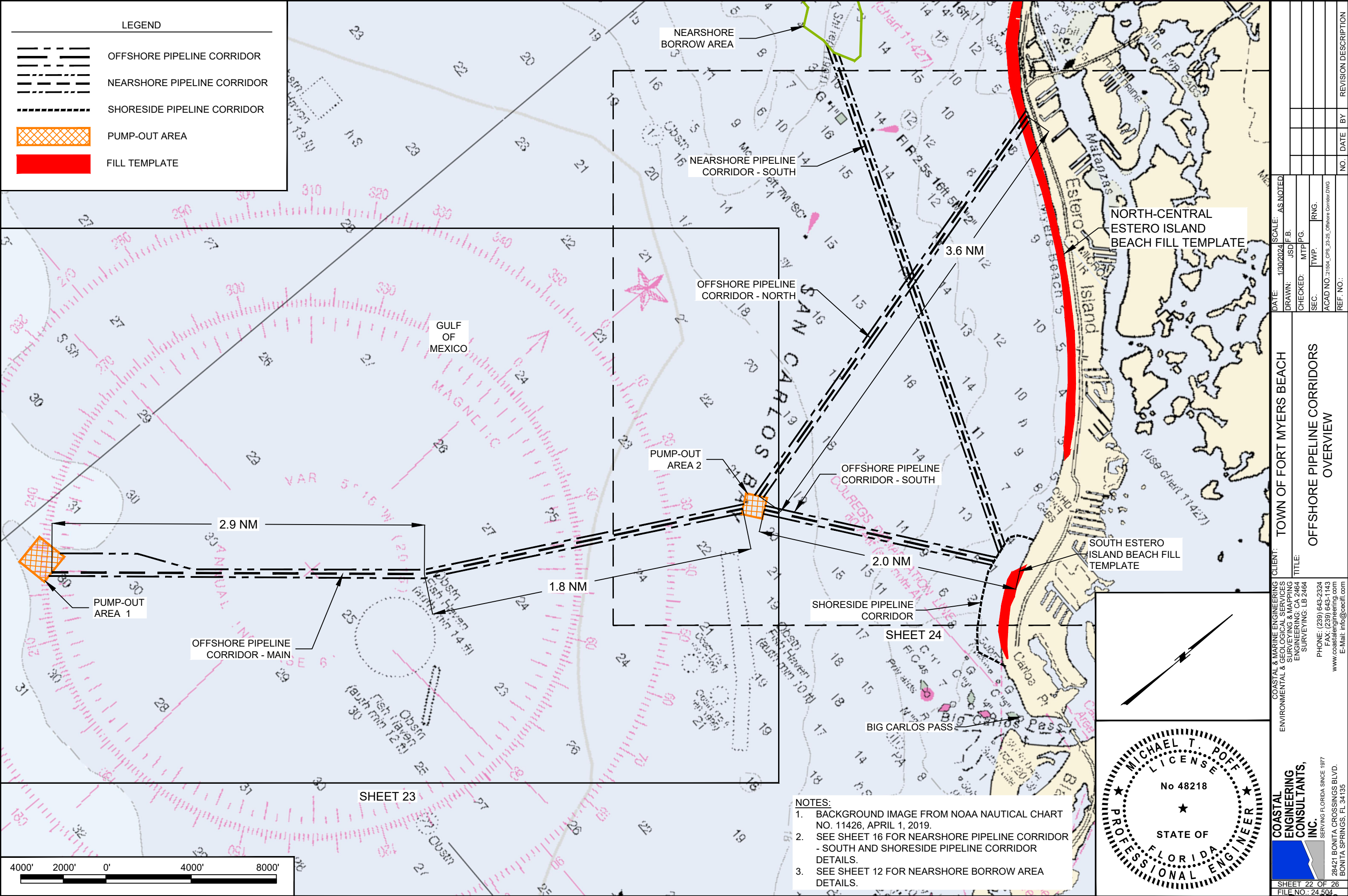


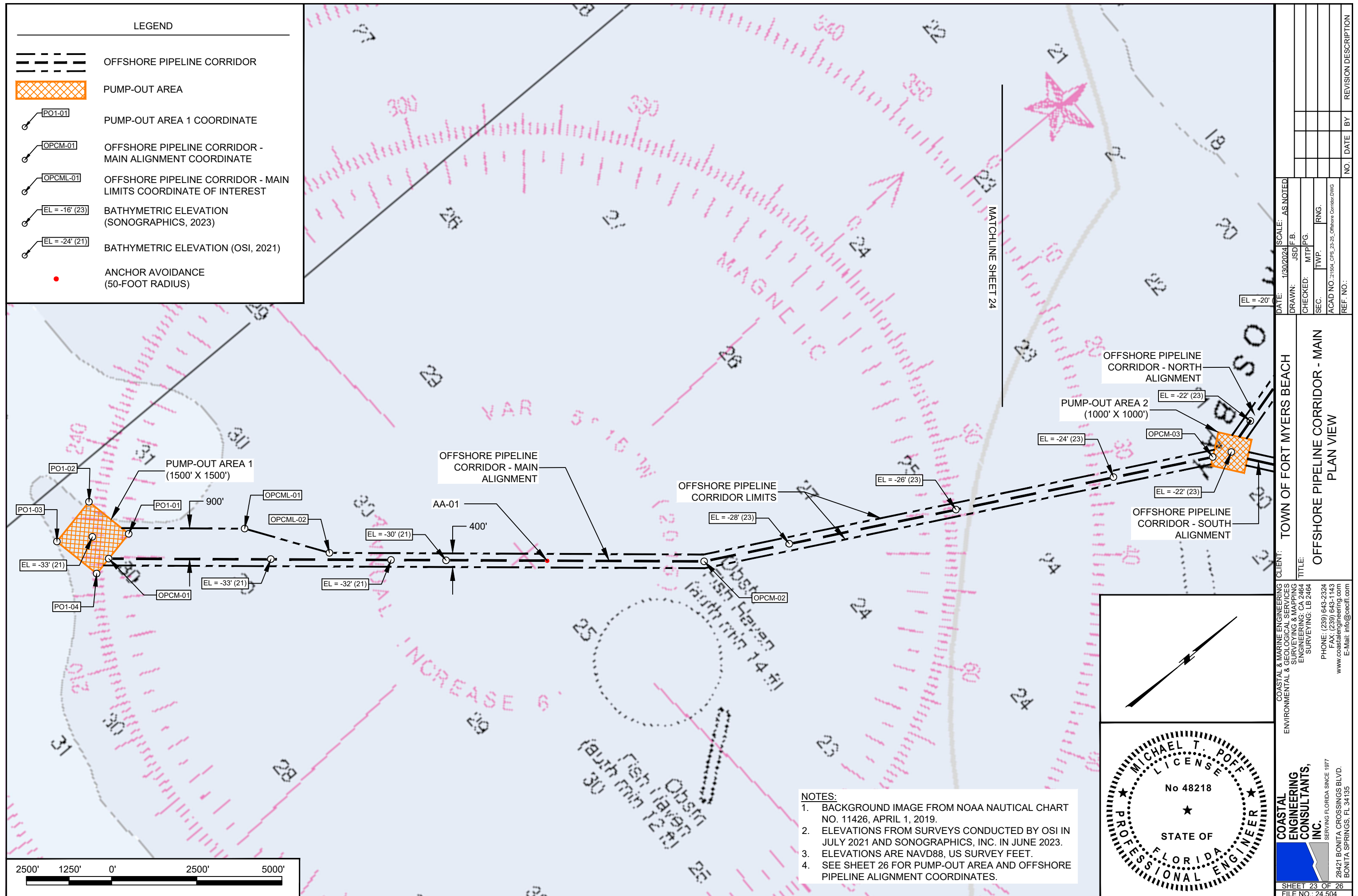
COASTAL & MARINE ENGINEERING		CLIENT: TOWN OF FORT MYERS BEACH		DATE: 1/30/2024		SCALE: AS NOTED	
ENVIRONMENTAL & GEOLOGICAL SERVICES		TITLE: OFFSHORE BORROW AREA SECTIONS		DRAWN: JSD		F.B.	
SURVEYING & MAPPING				CHECKED: MTP		PG.	
ENGINEERING: CA 2464				SEC.		TWP.	
SURVEYING: LB 2464				RNG.		ACAD NO.: 21504_CPS_18-22, Offshore BA DWG	
PHONE: (239) 643-2324				REF. NO.		NO.	
FAX: (239) 643-1143				DATE		BY	
www.coastalengineering.com				REVISION DESCRIPTION			
E-Mail: info@cecfll.com							

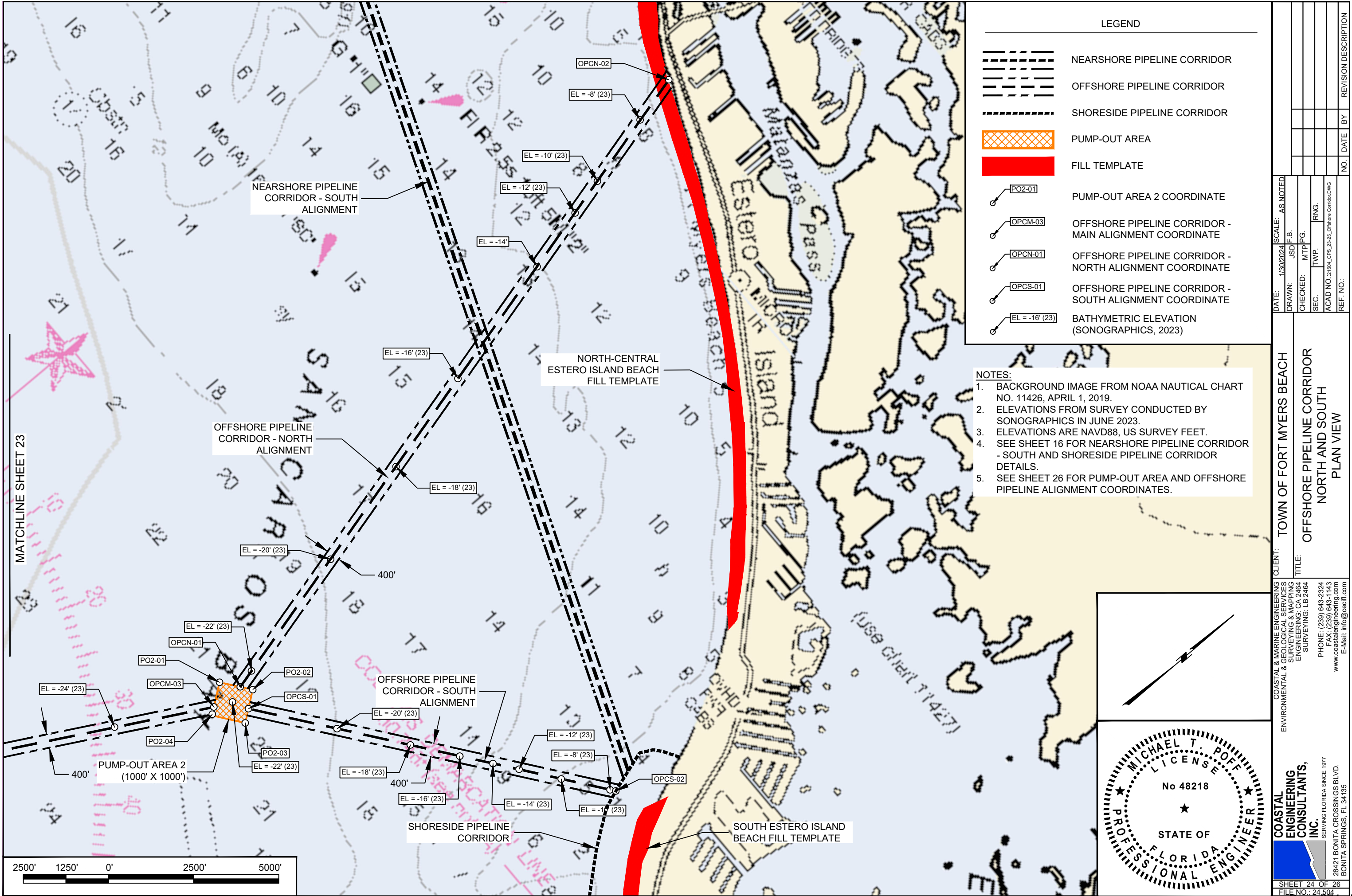
COASTAL ENGINEERING CONSULTANTS, INC.

28421 BONITA CROSSINGS BLVD.
BONITA SPRINGS, FL 34135

SHEET 21 OF 26
FILE NO.: 24-504





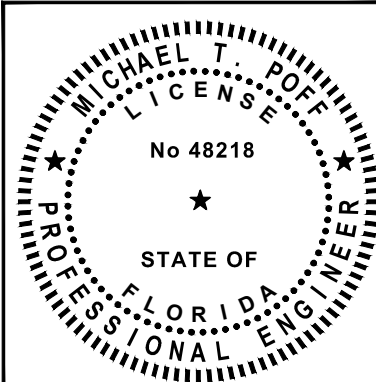


ESTERO ISLAND REFERENCE MONUMENT TRAVERSE ALIGNMENT COORDINATES							
REFERENCE MONUMENT	NORTHING	EASTING	AZ	REFERENCE MONUMENT	NORTHING	EASTING	AZ
C-174A	774,787.69	666,547.88	205	R-189	766,467.06	678,956.91	240
R-175	774,428.13	667,127.38	202	R-190	765,885.99	679,781.22	240
R-176	773,671.13	667,335.63	205	R-191	765,395.55	680,530.91	240
R-177	772,960.31	667,878.69	230	R-192	764,699.35	681,338.71	240
R-178	772,145.13	668,634.38	223	R-193	764,083.95	681,957.91	230
R-179	771,546.13	669,180.00	220	R-194	763,314.31	683,011.24	230
R-180	770,720.50	669,931.13	240	R-195	762,622.48	683,662.44	230
R-181	770,198.63	670,772.88	245	R-196	762,037.10	684,376.00	225
R-182	769,985.63	671,773.88	246	R-197	761,206.97	685,072.25	225
R-183	769,642.63	672,566.88	245	R-203.5	755,443.56	688,271.43	200
R-184	769,229.63	673,555.38	245	R-204	754,979.51	688,538.88	185
R-185	768,650.13	674,405.88	250	R-204.5	754,635.06	688,839.02	200
R-186	768,269.13	675,299.88	245	R-205	754,510.91	689,408.68	215
R-187	767,772.86	676,626.59	245	R-206	753,582.41	690,173.98	220
R-188	766,966.33	678,054.07	240	R-206.5	752,972.21	690,335.33	240

BEACH FILL SURVEY BASELINE LINE COORDINATES									
LINE #	LENGTH (FT)	DIRECTION	START POINT (X, Y)	END POINT (X, Y)	LINE #	LENGTH (FT)	DIRECTION	START POINT (X, Y)	END POINT (X, Y)
L1	800.00	S16° 36' 17.99"E	666642.45, 774690.63	666871.07, 773923.99	L18	1057.00	S53° 46' 57.17"E	680509.67, 765237.50	681362.44, 764612.97
L2	997.00	S33° 35' 51.73"E	666871.07, 773923.99	667422.77, 773093.55	L19	1140.00	S50° 57' 37.21"E	681362.44, 764612.97	682247.89, 763894.93
L3	1089.00	S40° 26' 40.02"E	667422.77, 773093.55	668129.22, 772264.78	L20	1576.00	S49° 54' 15.79"E	682247.89, 763894.93	683453.48, 762879.89
L4	707.00	S44° 04' 49.02"E	668129.22, 772264.78	668621.05, 771756.90	L21	1572.00	S47° 02' 18.42"E	683453.48, 762879.89	684603.89, 761808.56
L5	607.00	S47° 31' 42.82"E	668621.05, 771756.90	669068.78, 771347.04	L22	350.00	S38° 43' 48.44"E	684603.89, 761808.56	684822.87, 761535.52
L6	1996.00	S54° 10' 12.47"E	669068.78, 771347.04	670687.06, 770178.62	L23	828.00	S43° 34' 01.01"E	684822.87, 761535.52	685393.52, 760935.58
L7	1368.00	S67° 10' 39.64"E	670687.06, 770178.62	671947.96, 769648.00	L24	447.00	S45° 11' 49.48"E	685393.52, 760935.58	685710.69, 760620.59
LS	1075.00	S67° 38' 47.46"E	671947.96, 769648.00	672942.18, 769239.16	L25	777.00	S43° 26' 34.18"E	685710.69, 760620.59	686244.98, 760056.44
L9	800.00	S67° 38' 48.00"E	672942.18, 769239.16	673682.06, 768934.91	L26	1273.00	S39° 10' 39.13"E	686244.98, 760056.44	687049.16, 759069.62
L10	779.00	S66° 13' 55.08"E	673682.06, 768934.91	674394.99, 768620.94	L27	1102.00	S29° 22' 44.24"E	687049.16, 759069.62	687589.78, 758109.35
L11	677.00	S66° 13' 53.99"E	674394.99, 768620.94	675014.57, 768348.09	L28	908.00	S27° 33' 24.54"E	687589.78, 758109.35	688009.85, 757304.36
L12	1400.00	S66° 07' 47.00"E	675014.57, 768348.09	676294.82, 767781.55	L29	658.00	S13° 32' 32.85"E	688009.85, 757304.36	688163.93, 756664.65
L13	1057.00	S61° 00' 32.65"E	676294.82, 767781.55	677219.38, 767269.25	L30	677.00	S08° 05' 44.00"E	688163.93, 756664.65	688259.27, 755994.40
L14	878.00	S60° 14' 32.77"E	677219.38, 767269.25	677981.60, 766833.48	L31	1041.00	S13° 58' 48.56"E	688259.27, 755994.40	688510.76, 754984.23
L15	1018.00	S58° 50' 33.42"E	677981.60, 766833.48	678852.75, 766306.77	L32	1022.00	S49° 47' 34.18"E	688510.76, 754984.23	689291.28, 754324.48
L16	1063.00	S57° 22' 40.00"E	678852.75, 766306.77	679748.05, 765733.71	L33	1861.00	S40° 19' 02.15"E	689291.28, 754324.48	690495.38, 752905.51
L17	909.00	S56° 54' 53.57"E	679748.05, 765733.71	680509.67, 765237.50	L34	1367.00	S77° 07' 23.80"E	690495.38, 752905.51	691828.00, 752600.87

NEARSHORE BORROW AREA COORDINATES					
POINT	NORTHING	EASTING	POINT	NORTHING	EASTING
NBA-01	767,347	660,813	NBA-13	765,000	660,371
NBA-02	767,347	661,521	NBA-14	766,109	660,371
NBA-03	767,347	661,860	NBA-15	767,058	661,521
NBA-04	767,273	662,021	NBA-16	767,076	661,404
NBA-05	766,735	663,190	NBA-17	765,888	661,017
NBA-06	765,417	664,671	NBA-18	765,629	661,361
NBA-07	765,063	664,671	NBA-19	766,834	661,811
NBA-08	764,564	663,734	NBA-20	766,834	661,521
NBA-09	764,564	663,016	NBA-21	766,834	662,021
NBA-10	764,356	662,208	NBA-22	765,430	663,440
NBA-11	764,276	661,894	NBA-23	765,017	662,136
NBA-12	765,000	661,352			

NEARSHORE BORROW AREA VIBROCORE COORDINATES					
POINT	NORTHING	EASTING	POINT	NORTHING	EASTING
EI-00-1	767,598	661,994	EI-00-24	765,543	663,982
EI-00-16	765,727	664,220	EI-00-25	763,870	663,346
EI-00-17	766,623	662,798	EI-00-26	765,001	662,287
EI-00-18	766,890	660,983	EI-00-27	765,917	661,151
EI-00-19	765,974	661,988	EI-00-28	767,086	661,591
EI-00-20	764,765	663,170	EI-00-29	764,958	661,242
EI-00-21	764,736	664,387	EI-00-30	763,977	662,395
EI-00-22	765,659	663,009	EI-00-30C	763,999	662,416
EI-00-23	766,615	662,349			



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

CLIENT: TOWN OF FORT MYERS BEACH

DATE: 1/30/2024
DRAWN: JSD
CHECKED: MTP
SEC: TWP
ACAD NO.: 21504_CPS_26-27_Alignment Tables.DWG
REF. NO.:

SCALE: AS NOTED
F.B.
MTP
RNG.
PG.

NO. BY DATE

REVISION DESCRIPTION

COASTAL ENGINEERING CONSULTANTS, INC.

28421 BONITA CROSSINGS BLVD.
BONITA SPRINGS, FL 34135

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

SHEET 25 OF 26
FILE NO.: 24-504

COORDINATE AND ALIGNMENT TABLES

OFFSHORE BORROW AREA COORDINATES					
POINT	NORTHING	EASTING	POINT	NORTHING	EASTING
OBA-01	744,348	534,313	OBA-12	742,399	536,602
OBA-02	746,761	536,798	OBA-13	742,604	536,319
OBA-03	746,569	536,950	OBA-14	742,666	536,130
OBA-04	745,981	537,420	OBA-15	742,927	534,844
OBA-05	745,785	537,576	OBA-16	743,330	534,330
OBA-06	745,276	537,770	OBA-17	744,016	534,319
OBA-07	744,768	537,964	OBA-18	744,153	535,537
OBA-08	744,115	538,368	OBA-19	743,615	536,059
OBA-09	743,897	538,503	OBA-20	744,346	536,813
OBA-10	742,821	539,548	OBA-21	742,718	536,930
OBA-11	741,358	538,041	OBA-22	743,449	537,683

OFFSHORE BORROW AREA VIBRA CORE COORDINATES					
POINT	NORTHING	EASTING	VC-21_1-12	744,251	534,552
VC-20_1-1	745,857	534,664	VC-21_1-13	744,956	535,260
VC-20_1-2	744,374	536,027	VC-21_1-14	742,123	538,003
VC-20_1-3	742,901	537,375	VC-21_1-15	742,152	537,304
VC-21_1-4	742,837	538,744	VC-21_1-16	743,530	538,053
VC-21_1-5	742,847	538,027	VC-21_1-17	744,588	537,700
VC-21_1-6	742,790	536,860	VC-21_1-18	742,855	535,909
VC-21_1-7	743,545	537,361	VC-21_1-19	744,334	536,873
VC-21_1-8	743,544	536,609	VC-21_1-20	745,482	537,231
VC-21_1-9	743,893	535,617	VC-21_1-21	743,280	534,986
VC-21_1-10	744,960	535,982	VC-21_1-22	745,641	536,680
VC-21_1-11	743,893	534,890	VC-21_1-23	745,641	535,989

PUMP-OUT AREA 1		
POINT	NORTHING	EASTING
PO1-01	721,679	658,669
PO1-02	721,389	657,198
PO1-03	719,917	657,487
PO1-04	720,207	658,959

PUMP-OUT AREA 2		
POINT	NORTHING	EASTING
PO2-01	748,113	676,953
PO2-02	748,720	677,748
PO2-03	747,924	678,355
PO2-04	747,349	677,535

OFFSHORE PIPELINE CORRIDOR - MAIN COORDINATES		
POINT	NORTHING	EASTING
OPCM-01	720,762	658,850
OPCM-02	734,106	670,151
OPCM-03	747,520	677,405

OFFSHORE PIPELINE CORRIDOR - MAIN LIMITS COORDINATES		
POINT	NORTHING	EASTING
OPCML-01	724,387	660,741
OPCML-02	725,836	662,885

SHORESIDE PIPELINE CORRIDOR COORDINATES		
POINT	NORTHING	EASTING
SSC-01	757,046	687,317
SSC-02	756,784	686,888
SSC-03	756,599	686,662
SSC-04	756,225	686,469
SSC-05	755,084	686,842
SSC-06	754,452	687,076
SSC-07	753,848	687,517
SSC-08	753,353	687,894
SSC-09	752,309	688,828
SSC-10	751,651	689,632
SSC-11	752,020	690,505
SSC-12	752,191	691,006

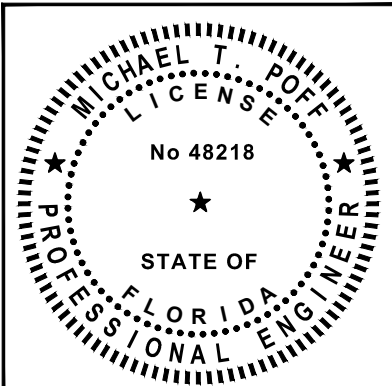
OFFSHORE PIPELINE CORRIDOR - NORTH COORDINATES		
POINT	NORTHING	EASTING
OPCN-01	748,493	677,450
OPCN-02	769,596	671,877

OFFSHORE PIPELINE CORRIDOR - SOUTH COORDINATES		
POINT	NORTHING	EASTING
OPCS-01	748,266	678,094
OPCS-02	754,975	686,882

NEARSHORE PIPELINE CORRIDOR - NORTH COORDINATES		
POINT	NORTHING	EASTING
NPCN-01	766,735	663,190
NPCN-02	771,884	668,186

NEARSHORE PIPELINE CORRIDOR - SOUTH COORDINATES		
POINT	NORTHING	EASTING
NPCS-01	764,564	663,734
NPCS-02	755,631	686,663

ANCHOR AVOIDANCE		
POINT	NORTHING	EASTING
AA-01	730,585	667,176



COASTAL & MARINE ENGINEERING ENVIRONMENTAL & GEOLOGICAL SERVICES SURVEYING & MAPPING ENGINEERING: CA 2464 SURVEYING: LB 2464 PHONE: (239) 643-2324 FAX: (239) 643-1143 www.coastalengineering.com E-Mail: info@cecifl.com	CLIENT: TOWN OF FORT MYERS BEACH		DATE: 1/30/2024	SCALE: AS NOTED		
	TITLE: COORDINATE AND ALIGNMENT TABLES		DRAWN: JSD	F.B.		
			CHECKED: MTP	PG.		
			SEC. TWP.	RNG.		
COASTAL ENGINEERING CONSULTANTS, INC. SERVING FLORIDA SINCE 1977 28421 BONITA CROSSINGS BLVD. BONITA SPRINGS, FL 34135			ACAD NO.: 21504_CPS_28-27_Alignment Tables.DWG			
			REF. NO.:			
				NO.	DATE	BY
						REVISION DESCRIPTION



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2025/2026
Beach Projects Application

PART I: GENERAL INFORMATION

Local Sponsor	Town of Fort Myers Beach		
Federal ID Number (FEID)	65-0632342		
Primary Contact Name	Chadd Chustz	Title	Project Manager
Mailing Address Line 1	2731 Oak St		
Mailing Address Line 2			
City	Fort Myers Beach	Zip Code	33931
		Telephone Number	(239) 765-0202
Email Address	Chadd@fmbgov.com		

Additional Contact Information

PART II: CERTIFICATION

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

Signature of Local Sponsor	Chadd Chustz	Digitally signed by Chadd Chustz Date: 2024.07.30 14:30:15 -04'00'
----------------------------	--------------	---

Electronic or scanned signatures accepted.

Printed Name	Chadd Chustz	Date	July 29,2024
--------------	--------------	------	--------------



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2025/2026
Beach Projects Application

PART III: EVALUATION CRITERIA

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

Estero Island Shore Protection Project (aka Beach Nourishment)

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

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

FDEP determined that 83.4% of the project is eligible for state cost sharing in the North and Central fill locations (R175-400' to R198) and 100% of the project is eligible for state cost sharing in the South fill location (R203 to R207).



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2025/2026
Beach Projects Application

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

Physical and Biological Monitoring for Annual Monitoring.
Request funds to restore beach and dune areas (e.g. scour holes, beach access points, berms) within the permitted fill limits to address storm erosion.

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

Map elements must include:

1. **Project boundary:** DEP reference monuments and shoreline designated as critically eroded
2. **Eligibility:** Indicate lengths of eligible shoreline based on criteria outlined in Chapter 62B-36.007, F.A.C.
 - a. Beach access locations: indicate primary or secondary access, and include the shoreline length, number and location of auto parking spaces, mass transit stops, bike parking spaces, and public restroom facilities within 1/4 mile walking distance of each access
 - b. Public lodging establishments: include the length fronting the project shoreline, and include the length of street-side frontage for lodging within 1/4 mile walking distance of a secondary beach access location
3. **Recreational benefits:** Comprehensive list of current land use designations of properties fronting the project shoreline
4. **Value of upland property:** Include one-quarter mile buffer and provide a comprehensive list of the values of properties (data from year 2023) that are enclosed or intersected by the buffer. The 2023 property value tax roll data and ArcGIS shapefiles can be obtained from the Department of Revenue website: https://floridarevenue.com/property/Pages/DataPortal_RequestAssessmentRollGISData.aspx. See Guidance Document for more information.

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

28,790 feet



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2025/2026
Beach Projects Application

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

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



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2025/2026
Beach Projects Application

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

• **Cost Reimbursement:** Specify eligible costs incurred during the three years prior to the current application's fiscal year that are not in a current DEP agreement and have not been reimbursed (this includes fiscal years 22/23, 23/24, and 24/25). Eligible costs will be added to the current funding request.

• **Current and Future Costs:** Specify eligible costs for the current application's fiscal year that are not in a current DEP agreement and have not been reimbursed as well as the estimated costs for the next 4 years. Note: If Construction costs are requested in the current fiscal year, then the Year 1 Post-Construction Monitoring costs will be added to the current funding request.

Fiscal Year	Project Phase	Description	Federal Cost	State Cost	Local Cost	Total Cost
22/23						
22/23						
22/23						
23/24						
23/24						
23/24						
24/25						
24/25						
24/25						
25/26	Design	Hot Spot Maintenance		\$10,750	\$14,250	\$25,000
25/26	Construction	Hot Spot Maintenance		\$1,731,610	\$2,295,390	\$4,027,000
25/26	Monitoring	Second Annual Bio & Physical Mon		\$76,110	\$100,890	\$177,000
26/27						
26/27	Monitoring	Third Annual Bio & Physical Mon		\$75,680	\$100,320	\$176,000
26/27						



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2025/2026
Beach Projects Application

Fiscal Year	Project Phase	Description	Federal Cost	State Cost	Local Cost	Total Cost
27/28	Design	Hot Spot Maintenance		\$11,610	\$15,390	\$27,000
27/28	Construction	Hot Spot Maintenance		\$1,838,680	\$2,437,320	\$4,276,000
27/28	Monitoring	Fourth Annual Bio & Physical Mon		\$39,130	\$51,870	\$91,000
28/29						
28/29	Monitoring	Fifth Annual Bio & Physical Mon		\$40,850	\$54,150	\$95,000
28/29						
29/30	Design	Hot Spot Maintenance		\$12,470	\$16,530	\$29,000
29/30	Construction	Hot Spot Maintenance		\$1,951,770	\$2,587,230	\$4,539,000
29/30	Monitoring	Sixth Annual Bio & Physical Mon		\$42,570	\$56,430	\$99,000

8. Tourism-related impacts: Criteria is calculated by the Department using 2023 data. For reference, tax data can be obtained from the Department of Revenue website: <https://floridarevenue.com/DataPortal/Pages/TaxResearch.aspx> See Guidance Document for more information.

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

Additional comments

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

Is the project Federally authorized by the USACE?

No

Authorization Year:

Expiration Year:

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

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



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2025/2026
Beach Projects Application

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

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

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

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

Construction is underway of the Project. Town is still addressing impacts of Hurricanes Ian, Nicole and Idalia totaling ~ 300,000 CY.

For restoration projects, what is the historical erosion rate?

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

What is the proposed sand placement volume (cy)?

905,000

What is the nourishment interval (years)?

10

Select all that apply for the current project funding request:

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

Additional comments
for storm damage
reduction benefits and
cost effectiveness

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

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



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2025/2026
Beach Projects Application

12. Previous state commitment

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

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

Additional comments

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

Describe the landward and seaward edge of the accessible beach width

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

Provide the project boundaries (R-monuments)

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

Provide citations of reference sources

Project Permits. CEC Design Report.

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

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

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

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

Additional comments

N/A

16. Successive unfunded requests

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

Does the successive request add the construction phase?



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2025/2026
Beach Projects Application

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

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

Yes

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

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

Yes

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

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

18. Readiness to construct

Does the project have an active state permit?

Yes

Does the project have an active federal permit?

Yes

Permit number

0413684-001-JC

Permit number

SAJ-2000-03017 (SP-SJF)

Authorization date

Jan 18, 2023

Authorization date

November 14, 2023

Expiration date

Jan 18, 2038

Expiration date

November 14, 2038

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

Yes

Has the necessary local funding been secured for the proposed project? If so, provide a copy of the draft Resolution. The signed Resolution is due by September 23, 2024.

Yes

Is an Erosion Control Line established along the project length?

Yes

Additional comments for readiness to construct

Construction has commenced.



Beach Management Funding Assistance Program
Local Government Funding Request
Fiscal Year 2025/2026
Beach Projects Application

Provide additional information and comments below or attach supporting documents.

1. **Request:**

Meeting Date: August 19, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING ACCEPTANCE OF FLORIDA DEPARTMENT OF COMMERCE GRANT FOR NEW TOWN HALL; APPROVING A GRANT AGREEMENT WITH THE STATE OF FLORIDA; APPROVING A REQUIRED BUDGET ADJUSTMENT (#6); AUTHORIZING THE MAYOR OR TOWN MANAGER TO SIGN ANY AND ALL NECESSARY DOCUMENTS TO ACQUIRE THE GRANT; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

The Town Council must approve acceptance of all grants and authorize all related expenditures of this magnitude.

What the action accomplishes:

The action authorizes the Town Manager to execute the grant agreement and authorizes the use of insurance proceeds to supplement the difference between the grant award and the purchase price of the properties.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Andy Hyatt, Town Manager,
Frankie Kropacek, Operations &
Compliance Director

5. **Background:**

The Town is intending to purchase the building located at 6231 Estero Blvd for approximately \$7,000,000 to become the new town hall and to purchase the adjacent property located at 6221 Estero Blvd for approximately \$1,700,000 to provide parking for the new town hall. The Town has been awarded a grant in the amount of \$8,000,000 under line 2347A of the 2024-2025 General Appropriations Act (GAA) for the Town Hall Replacement Project which can be used for these purchases. The Town also has insurance proceeds available from the destruction of the previous town hall that can be used to supplement the difference between the purchase price of the two properties and the grant.

This resolution authorizes the acceptance of the grant award, and the use of the insurance proceeds for the intended purchases of the building and adjacent property, along with the related budget adjustment.

Since this grant is structured as a reimbursement, the Town must first expend the funds and then be reimbursed. Therefore, please note that there is a separate resolution authorizing a temporary interfund loan to finance the purchase of these properties that is also being submitted for your consideration.

Attachments:

1. 24-153 Budget Amendment #6 - Purchase of New Town Hall and Acceptance of Grant

Financial Impact:

Approval of the grant will provide \$8,000,000 for the purchase of the new town hall. And approval of the use of insurance proceeds will provide funding for the purchase of the adjacent property to be used as parking.

6. **Alternative Action**

To not authorize approval of the grant award, and/or use of insurance proceeds to fund the intended purchase of the properties to be used as the replacement town hall.

7. **Management Recommendations:**

Staff recommends Town Council to authorize acceptance of the grant award and execution of the grant agreement the use of insurance proceeds to fund the difference between the grant and the purchase price of the property, and to approve the related budget adjustment.

8. **Recommended Approval:**

Joe Onzick, Finance Director
Joe Onzick, Finance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/9/2024
Approved - 8/12/2024
Approved - 8/13/2024
Approved - 8/14/2024
Final Approval - 8/14/2024

RESOLUTION NUMBER 24-153

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING ACCEPTANCE OF FLORIDA DEPARTMENT OF COMMERCE GRANT FOR NEW TOWN HALL; APPROVING A GRANT AGREEMENT WITH THE STATE OF FLORIDA; APPROVING A REQUIRED BUDGET ADJUSTMENT (#6); AUTHORIZING THE MAYOR OR TOWN MANAGER TO SIGN ANY AND ALL NECESSARY DOCUMENTS TO ACQUIRE THE GRANT; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, the Town has purchased a building located at 6231 Estero Blvd for approximately \$7,000,000 to use as a new town hall and intends to purchase the adjacent property located at 6221 Estero Blvd for approximately \$1,700,000 to provide parking for the new town hall (collectively referred to as the Town Hall Replacement Project”); and

WHEREAS, the Town of Fort Myers Beach, Florida was awarded a grant by the Florida Legislature in the amount of \$8,000,000 under line 2347A of the 2024-2025 General Appropriations Act (GAA) for the Town Hall Replacement Project, and

WHEREAS, there are insurance proceeds related to the destruction of the previous town hall by Hurricane Ian that are available to pay the difference between the grant award and the cost of the Town Hall Replacement Project; and

WHEREAS, Florida Statutes s. 200.065 establishes the method for adoption of a budget for all taxing authorities in the State of Florida and Florida Statutes s. 166.241 requires the governing body of each municipality in Florida to adopt a budget via ordinance or resolution before the start of each fiscal year; and

WHEREAS, on September 25, 2023, the Town Council of the Town of Fort Myers Beach, following due public notice, adopted a final operating budget for fiscal year 2023-24, as set forth with greater specificity in Town Resolution 23-117; and

WHEREAS, Section 11.05 of Article XI of the Charter of the Town of Fort Myers Beach provides that the Town Manager will report to Town Council regarding any anticipated excess revenues; any reduction of appropriations and any request for transfers for the Town operating budget, including the estimated amount of such increase, decrease, remedial action(s) taken, and recommendations as to any other steps to be taken; and

WHEREAS, Section 11.05(a) of Article XI of the Town Charter further provides that if, during the fiscal year, the town manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council, by resolution, may make supplemental appropriations for the year up to the amount of such excess, so long as a fiscally responsible reserve is maintained; and

WHEREAS, the Town finds that it is in the best interest of the residents of the Town to accept the grant award and use insurance proceeds to pay for the Town Hall Replacement Project as provided herein.

IT IS HEREBY RESOLVED by the Town Council of Fort Myers Beach, Florida as follows.

Section 1. The above recitals as set forth in the various “Whereas” clauses are hereby adopted by reference and incorporated into the body of this Resolution.

Section 2. The Town Council hereby approves and accepts the \$8,000,000 grant awarded under line 2347A of the 2024-2025 General Appropriations Act (GAA) for the Town Hall Replacement Project administered through the Florida Department of Commerce, and authorizes the Mayor or Town Manager to execute the Grant Agreement, a copy of which is attached as Exhibit A.

Section 3. The Town Council hereby approves the use of insurance proceeds to supplement the \$1,735,000 difference in cost between the grant award of \$8,000,000 and the purchase price of \$8,700,000 of the properties, plus closing costs estimated at \$35,000; and

Section 4. The Town Council further finds that the supplemental appropriation of funds is as provided in this Section consistent with the requirements of Section 11.05 (a), and (a) of Article XI of the Town Charter, and hereby approves, adopts and accepts the following budget amendment:

Budget Adjustment #6

40.29.519.33447	Capital Fund: State LAP Grant	\$8,000,000
40.29.519.61000	Capital Fund: Land (Parking Lot)	\$1,000,000
40.29.519.62000	Capital Fund: Building	\$7,000,000
13.29.519.38100	Emergency Fund: Prior Year Carry Over	\$ 735,000
13.29.519.61000	Emergency Fund: Land (Parking Lot)	\$ 700,000
13.29.519.61000	Emergency Fund: Land (Closing Costs)	\$ 35,000

Section 5. This resolution is effective immediately upon adoption.

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

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

ADOPTED this 19th day of August 2024 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:

Vose Law Firm, Town Attorneys

This Resolution was filed in the Office of the Town Clerk on this 19th day of August 2024.

1. **Request:**

Meeting Date: August 19, 2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN AUGUST 9, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE BEACH; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Hurricane Debby 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:

Ratifies actions taken by the Town on August 9, 2024 under the emergency procurement code to contract with ICS Materials Inc. to take emergency protective measures to remove hazards to the public health and safety from the beach.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Resolution

4. **Submitter of Information:**

Chadd Chustz, Environmental
Projects Manager

5. **Background:**

On August 1, 2024, the National Hurricane center reported that a tropical wave is producing a large area of disorganized showers and thunderstorms over Hispaniola, Puerto Rico, and the Virgin Islands. The Storm is expected to organize and develop into a tropical depression over the eastern Gulf of Mexico near the Florida Peninsula. Meteorological reports indicated there is a significant threat of heavy rainfall over much of the State of Florida, which may result in flash flooding, river flooding, coastal flooding, erosion, and gusty winds.

On Monday, August 5, 2024, Storm Debby flooded streets in Fort Myers Beach with more than 15 inches of rain and a 3 to 4 foot storm surge. The beach of Estero Island was also impacted by Storm Debby with overwash and erosion caused by storm surge leaving a significant amount of vegetative and man-made debris on the beach.

Attachments:

1. 24-159, Ratify ICS Contract TS Debby beach cleanup
2. Exhibit A SPA-24-09-AD post storm Debby fully executed
3. Debbie Storm Images
4. Post Debby 240807
5. 22-2221 - Emergency Procurement Order - Tropical Cyclone 4
6. 24-2222 - EFO for Repairs - Tropical Cyclone 4

Financial Impact:

A reimbursement request for beach maintenance will be submitted to the Tourism Development Council.

6. **Alternative Action**

Do not ratify actions taken by the Town on August 9, 2024 under the emergency procurement

code to contract with ICS Materials Inc. to take emergency protective measures to remove hazards to the public health and safety from the beach.

7. Management Recommendations:

Ratify actions taken by the Town on August 9, 2024 under the emergency procurement code to contract with ICS Materials Inc. to take emergency protective measures to remove hazards to the public health and safety from the beach.

8. Recommended Approval:

Chadd Chustz, Environmental Projects Manager
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/12/2024
Approved - 8/12/2024
Approved - 8/13/2024
Approved - 8/14/2024
Final Approval - 8/14/2024

RESOLUTION NUMBER 24-159

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN AUGUST 9, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE BEACH; 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 Governor Ron DeSantis by Executive Order Nos. 24-156 and 24-157, declared a State of Emergency throughout the Emergency Area based upon the serious threat to the public health, safety, and welfare posed by the Storm;

WHEREAS, on August 2, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2222 for an Emergency Area of 62 counties including Lee County; and

WHEREAS, on August 2nd, 2024, the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2221 to suspend, to the extent necessary to ensure said emergency response functions, the effect of any statute, rule, or order, including Chapter 255 and Sections 287.055(3)(a)-(d), 4(a)-(d), 5(a)-(c), and 287.057(3), Florida Statutes, and Chapters 60A- 1.002(4), 60A-1.021(2), and 60A-1.043(1)-(3), and 60D-5, Florida Administrative Code, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources to include, without limiting the generality of the foregoing, any and all statutes, rules, and orders which affect budgeting, leasing, printing, purchasing, travel, the conditions of employment, and the compensation of employees as set forth in an established Tracker item at the Florida Emergency Operations Center, as prescribed in the State Comprehensive Emergency Management Plan, as directed by the State Coordinating Officer, or as directed by the Executive Office of the Governor.; and

WHEREAS, the Town of Fort Myers Beach Code Sec. 2-480 (d) provides the basis for emergency purchase for the Town Manager to make, or authorize others to make, emergency purchases of supplies, services or construction items when there exists a threat to public health, welfare or safety; provided that such emergency purchases are made with such competition as is practicable under the circumstances.

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 approves the Town Manager emergency procurement policy.

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 roll call vote, the result was as follows:

Dan Allers, Mayor
Jim Atterholt, Vice Mayor
John R. King, Council Member
Scott Safford, Council Member
Karen Woodson, Council Member

ADOPTED this ____ day of August 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this _____ day August 2024.

SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT is entered into on this 9th day of August 2024, by and between the Town of Fort Myers Beach, 2731 Oak Street, 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 retroactive from August 9, 2024 to August 23, 2024.
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.
3. 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 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, 2731 OAK ST. 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.

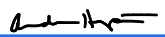
16. Miscellaneous Provisions.

- 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: 

Andrew Hyatt, Town Manager,

BY: 

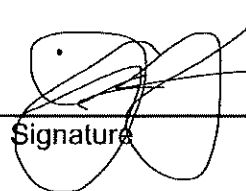
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

BY: 

Town Attorney

PROVIDER: ICS Materials, INC.

BY: 

Signature

Jake Voth

Printed name of person signing



Witness Signature

Jason Clark

Printed name of witness

General Manager

Title (printed)

EXHIBIT "A"

TO THE SERVICE PROVIDER CONTRACT DATED THIS 9th day of August, 2024
BETWEEN THE TOWN AND **ICS MATERIALS, INC.**, PROVIDER.

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

Collect, remove and dispose of storm related construction, demolition and vegetative and debris caused by Hurricane Debby from the beach within the jurisdiction of the Town of Fort Myers Beach, as directed by Town Staff in writing.

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 Town with all compliance documentation including tipping fee receipts, truck tickets, waste disposal facility location and disposal facility permit information.

Newton Park shall be used as the Debris Management Site for staging and handling of debris. All 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 and subcontractors shall provide the Town with complete Florida Recovery Obligation Calculation Individual and Team Forms daily to support operator and equipment claims.

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 24-2222, 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 9th day of August, 2024
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.

Invoicing 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 Florida Recovery Obligation Calculation Individual and Team Forms for each operator assigned to the project describing work performed and equipment used in providing services claimed
- Supervisor and employee-approved timecards or timesheets which support the number of hours charged for individual staff members

The Provider will be reimbursed for use of equipment and vehicles based on hourly rates in accordance with the currently applicable Blue Book Rental Rates used by the Federal Highway Administration for performance of work under Federal transportation projects. The Provider will not be reimbursed for any fuel, mileage, or other expenses incidental to the operation of equipment or vehicles. The Provider will be reimbursed for properly documented staff time in accordance with Exhibit "D".

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.

EXHIBIT "D"



August 9, 2024

Fort Myers Beach
2731 Oak St.
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	\$ 100.30
Catepillar	Dozer (D3)	EA	HOURLY	\$ 85.91
Catepillar	740 (Off-Road)	EA	HOURLY	\$ 194.22
Pickup Truck	Dodge (2500 4x4)	EA	HOURLY	\$ 20.89
*Tractor	Kubota	EA	HOURLY	\$ 95.00
Skidsteer	Kubota	EA	HOURLY	\$ 84.62

LABOR RATES

Operator Rate per Hour	\$38.00
Laborer Rate per Hour	\$24.00
Supervisor Rate per Hour	\$78.00

*Tractor attachments add 14.75/hr.

Tipping fees to be determined at permitted waste disposal facilities. Tipping fees will be a direct pass through cost to the Town of Fort Myers Beach with no mark up.

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@icsmaterials.com,
ou=ICS Materials, Inc.,
o=ICS Materials, Inc.,
Date: 2024.08.08
15:17:39 -0400

Jake Voth
General Manager

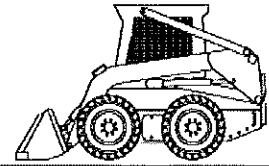
16301 PALM BEACH BLVD., SUITE 3, ALVA, FLORIDA 33920

Rental Rate Blue Book®

August 8, 2024

Caterpillar 272D3

Skid Steer Loaders

 Size Class:
3,301 lbs & Over
 Weight:
N/A

Configuration for 272D3

Horsepower	95 hp	Operating Capacity	3400 lbs
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 \$8,150.00	USD \$2,285.00	USD \$570.00	USD \$86.00	USD \$32.47	USD \$78.78
Adjustments						
Region (Fort Myers, Florida: 98.4%)	(USD \$130.40)	(USD \$36.56)	(USD \$9.12)	(USD \$1.38)		
Model Year (2024: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$8,019.60	USD \$2,248.44	USD \$560.88	USD \$84.62	USD \$32.47	USD \$78.04

Non-Active Use Rates

	Hourly
Standby Rate	USD \$16.40
Idling Rate	USD \$58.43

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	17%	USD \$1,385.50/mo
Overhaul (ownership)	64%	USD \$5,216.00/mo
CFC (ownership)	9%	USD \$733.50/mo
Indirect (ownership)	10%	USD \$815.00/mo
Fuel (operating) @ USD 3.66	39.61%	USD \$12.86/hr

Revised Date: 3rd quarter 2024

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 8, 2024

Caterpillar 320
 Crawler Mounted Hydraulic Excavators

 Size Class:
 21.5 - 24.4 mt
 Weight:
 N/A

Configuration for 320

 Horsepower **162.0 hp**
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 \$10,950.00	USD \$3,065.00	USD \$765.00	USD \$115.00	USD \$32.86	USD \$95.08
Adjustments						
Region (Fort Myers, Florida: 99.9%)	(USD \$10.95)	(USD \$3.07)	(USD \$0.76)	(USD \$0.12)		
Model Year (2024: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)						
Total:	USD \$10,939.05	USD \$3,061.94	USD \$764.23	USD \$114.89	USD \$32.86	USD \$95.01

Non-Active Use Rates

	Hourly
Standby Rate	USD \$36.67
Idling Rate	USD \$73.41

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	31%	USD \$3,394.50/mo
Overhaul (ownership)	41%	USD \$4,489.50/mo
CFC (ownership)	17%	USD \$1,861.50/mo
Indirect (ownership)	11%	USD \$1,204.50/mo
Fuel (operating) @ USD 3.66	34.27%	USD \$11.26/hr

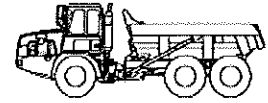
Revised Date: 3rd quarter 2024

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 8, 2024

Caterpillar 740 (disc. 2014)
 Articulated Rear Dumps

 Size Class:
34.5 mt & Over
 Weight:
72973 lbs
Configuration for 740 (disc. 2014)

Axle Configuration	6 X 6	Horsepower	453.0 hp
Power Mode	Diesel	Rated Payload	39.5 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 \$18,485.00	USD \$5,175.00	USD \$1,295.00	USD \$195.00	USD \$80.36	USD \$185.39
Adjustments						
Region (Fort Myers, Florida: 99.6%)	(USD \$73.94)	(USD \$20.70)	(USD \$5.18)	(USD \$0.78)		
Model Year (2014: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$18,411.06	USD \$5,154.30	USD \$1,289.82	USD \$194.22	USD \$80.36	USD \$184.97

Non-Active Use Rates

	Hourly
Standby Rate	USD \$58.58
Idling Rate	USD \$134.15

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	32%	USD \$5,915.20/mo
Overhaul (ownership)	44%	USD \$8,133.40/mo
CFC (ownership)	14%	USD \$2,587.90/mo
Indirect (ownership)	10%	USD \$1,848.50/mo
Fuel (operating) @ USD 3.66	36.75%	USD \$29.54/hr

Revised Date: 3rd quarter 2024

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 8, 2024

Caterpillar 950
 4-Wd Articulated Wheel Loaders

 Size Class:
 225 - 249 hp
 Weight:
 N/A

Configuration for 950

Bucket Capacity	4.1 cu yd	Horsepower	249 hp
Operator Protection	ROPS	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 \$9,490.00	USD \$2,660.00	USD \$665.00	USD \$100.00	USD \$39.12	USD \$93.04
Adjustments						
Region (Fort Myers, Florida: 100.3%)	USD \$28.47	USD \$7.98	USD \$2.00	USD \$0.30		
Model Year (2024: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)						
Total:	USD \$9,518.47	USD \$2,667.98	USD \$666.99	USD \$100.30	USD \$39.12	USD \$93.20

Non-Active Use Rates

	Hourly
Standby Rate	USD \$37.32
Idling Rate	USD \$70.17

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	40%	USD \$3,796.00/mo
Overhaul (ownership)	31%	USD \$2,941.90/mo
CFC (ownership)	18%	USD \$1,708.20/mo
Indirect (ownership)	11%	USD \$1,043.90/mo
Fuel (operating) @ USD 3.66	41.13%	USD \$16.09/hr

Revised Date: 3rd quarter 2024

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 8, 2024

Caterpillar 966

4-Wd Articulated Wheel Loaders

 Size Class:
 275 - 349 hp
 Weight:
 N/A

Configuration for 966

Bucket Capacity	3.8 cu yd	Horsepower	321 hp
Operator Protection	ROPS	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 \$13,270.00	USD \$3,715.00	USD \$930.00	USD \$140.00	USD \$55.82	USD \$131.22
Adjustments						
Region (Fort Myers, Florida: 100.3%)	USD \$39.81	USD \$11.15	USD \$2.79	USD \$0.42		
Model Year (2024: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)						
Total:	USD \$13,309.81	USD \$3,726.15	USD \$932.79	USD \$140.42	USD \$55.82	USD \$131.44

Non-Active Use Rates

	Hourly
Standby Rate	USD \$52.18
Idling Rate	USD \$95.56

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	40%	USD \$5,308.00/mo
Overhaul (ownership)	31%	USD \$4,113.70/mo
CFC (ownership)	18%	USD \$2,388.60/mo
Indirect (ownership)	11%	USD \$1,459.70/mo
Fuel (operating) @ USD 3.66	35.72%	USD \$19.94/hr

Revised Date: 3rd quarter 2024

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 8, 2024

Caterpillar D3

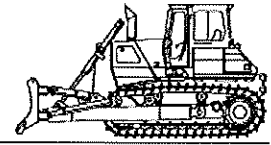
Standard Crawler Dozers

Size Class:

85 - 104 hp

Weight:

N/A


Configuration for D3

 Dozer Type
Operator Protection

 Crawler
ROPS/FOPS

 Horsepower
Power Mode

 104 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	FHWA Rate**
	Monthly	Weekly	Daily	Hourly	Hourly	Hourly
Published Rates	USD \$8,205.00	USD \$2,300.00	USD \$575.00	USD \$86.00	USD \$31.57	USD \$78.19
Adjustments						
Region (Fort Myers, Florida: 99.9%)	(USD \$8.20)	(USD \$2.30)	(USD \$0.57)	(USD \$0.09)		
Model Year (2024: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)						
Total:	USD \$8,196.79	USD \$2,297.70	USD \$574.42	USD \$85.91	USD \$31.57	USD \$78.14

Non-Active Use Rates

Standby Rate

Idling Rate

Hourly

USD \$23.75

USD \$55.76

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	29%	USD \$2,379.45/mo
Overhaul (ownership)	49%	USD \$4,020.45/mo
CFC (ownership)	13%	USD \$1,066.65/mo
Indirect (ownership)	9%	USD \$738.45/mo
Fuel (operating) @ USD 3.66	29.11%	USD \$9.19/hr

Revised Date: 3rd quarter 2024

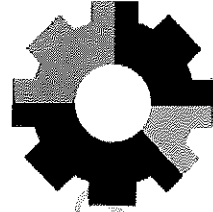
These are the most accurate rates for the selected Revision Date(s). However, due to more frequent online updates, these rates may not match Rental Rate Blue Book® Print. Visit the Cost Recovery Product Guide on our Help page for more information.

The equipment represented in this report has been exclusively prepared for Lee Seligman (lee@floridacontractors.us)

AED Green Book®

April 7, 2023

Caterpillar 400D WATER WAGON
 Off-Highway Water Tanker Trucks

 Size Class:
 400 - 499 hp
 Weight:
 N/A

Configuration for 400D WATER WAGON
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 \$13,290.00	USD \$4,830.00	USD \$1,450.00
Adjustments			
Region (Florida: 90%)	(USD \$1,347.63)	(USD \$489.77)	(USD \$147.03)
User Defined			
Rental Rates (100%)	-	-	-
Total:	USD \$11,942.37	USD \$4,340.23	USD \$1,302.97
Date Last Updated: Mar 01, 2023			

 The equipment represented in this report has been exclusively prepared for LEE SELIGMAN
 (lee@floridacontractors.us)

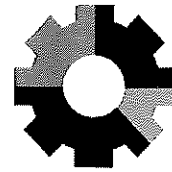
Rental Rate Blue Book®

August 8, 2024

Dodge 2500HD

On-Highway Light Duty Trucks

Size Class:
200 - 299 hp
Weight:
N/A



Configuration for 2500HD

Axle Configuration	4.0 x 4.0	Cab Type	Conventional
Horsepower	230.0 hp	Power Mode	Gasoline
Ton Rating	3.0 / 4.0		

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 \$460.00	USD \$130.00	USD \$33.00	USD \$5.00	USD \$18.26	USD \$20.87
Adjustments						
Region (Fort Myers, Florida: 100.5%)	USD \$2.30	USD \$0.65	USD \$0.17	USD \$0.03		
Model Year (2024: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)						
Total:	USD \$462.30	USD \$130.65	USD \$33.17	USD \$5.03	USD \$18.26	USD \$20.89

Non-Active Use Rates

	Hourly
Standby Rate	USD \$1.71
Idling Rate	USD \$17.61

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	34%	USD \$156.40/mo
Overhaul (ownership)	35%	USD \$161.00/mo
CFC (ownership)	13%	USD \$59.80/mo
Indirect (ownership)	18%	USD \$82.80/mo
Fuel (operating) @ USD 3.43	82.04%	USD \$14.98/hr

Revised Date: 3rd quarter 2024

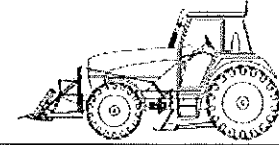
These are the most accurate rates for the selected Revision Date(s). However, due to more frequent online updates, these rates may not match Rental Rate Blue Book® Print. Visit the Cost Recovery Product Guide on our Help page for more information.

The equipment represented in this report has been exclusively prepared for Lee Seligman (lee@floridacontractors.us)

Rental Rate Blue Book®

August 8, 2024

Kubota M7060
 Wheel Tractors

 Size Class:
 50 - 74 hp
 Weight:
 N/A

Configuration for M7060

 Horsepower **71.0 hp** 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 \$9,030.00	USD \$2,530.00	USD \$635.00	USD \$95.00	USD \$30.65	USD \$81.96
Adjustments						
Region (Fort Myers, Florida: 100%)	-	-	-	-		
Model Year (2024: 100%)	-	-	-	-		
Adjusted Hourly Ownership Cost (100%)	-	-	-	-		
Hourly Operating Cost (100%)					-	
Total:	USD \$9,030.00	USD \$2,530.00	USD \$635.00	USD \$95.00	USD \$30.65	USD \$81.96

Non-Active Use Rates

	Hourly
Standby Rate	USD \$29.76
Idling Rate	USD \$60.66

Rate Element Allocation

Element	Percentage	Value
Depreciation (ownership)	27%	USD \$2,438.10/mo
Overhaul (ownership)	42%	USD \$3,792.60/mo
CFC (ownership)	14%	USD \$1,264.20/mo
Indirect (ownership)	17%	USD \$1,535.10/mo
Fuel (operating) @ USD 3.66	30.51%	USD \$9.35/hr

Revised Date: 3rd quarter 2024

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)

Rake - add \$ 147.50/Day

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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)

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

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

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

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

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

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

Certification

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

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

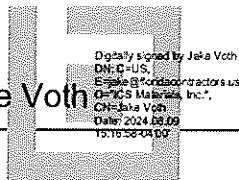
On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name ICS Materials, Inc.

Date August 9, 2024

Authorized Signature _____

Jake Voth



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: _____

Jake Voith
Signature

Digitally signed by Jake Voith
DN: c=US,
o=ICS Materials, Inc.,
cn=Jake Voith,
Date: 2024.08.09
15:15:44-0400

Jake Voith, General Manager

Name and Title

16301 Palm Beach Blvd., Suite 3

Street Address

Alva, Florida 33920

City, State, Zip

47-4953418 (FEI/EIN Number)

UEI Unique Entity Identifier (for SAM.gov verification)

August 9, 2024

Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

TOWN OF FORT MYERS BEACH																					
ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT																					
Status will be verified. Unverifiable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.																					
A. PRIME VENDOR/CONTRACTOR INFORMATION																					
PRIME NAME		PRIME FBD NUMBER		CONTRACT DOLLAR AMOUNT																	
IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MBE/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS 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? Y N																		
IS THIS SUBMISSION A REVISION? Y N		IF YES, REVISION NUMBER _____																			
B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION																					
DBE M/WBE VETERAN	SUBCONTRACTOR OR SUPPLIER NAME	TYPE OF WORK OR SPECIALTY	ETHNICITY CODE (See Below)	SUB/SUPPLIER DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS																
TOTALS:																					
C. SECTION TO BE COMPLETED BY PRIME VENDOR/CONTRACTOR																					
NAME OF SUBMITTER		DATE		TITLE OF SUBMITTER																	
EMAIL ADDRESS OF PRIME (SUBMITTER)		TELEPHONE NUMBER		FAX NUMBER																	
NOTE: This information is used to track and report anticipated DBE or MBE participation in federally-funded contracts. The anticipated DBE or MBE amount is voluntary and will not become part of the contractual terms. This form must be submitted at time of response to a solicitation. If and when awarded a County contract, the prime will be asked to update the information for the grant compliance files.																					
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">ETHNICITY</th> <th style="text-align: center;">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																				
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																				
D. SECTION TO BE COMPLETED BY COLLIER COUNTY																					
DEPARTMENT NAME		COLLIER CONTRACT # (F/L/R/P 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.

ICS Materials, Inc.

Contractor (Firm Name)

Jake Voth

Digitally signed by Jake Voth
DN, c=US,
E=jake@icmaterials.com,
O=ICS Materials, Inc.,
CN=Jake Voth

Signature of Contractor's Authorized Official

Jake Voth / General Manager

Name and Title of Contractor's Authorized Official

August 9, 2024

Date

SPA-24-09-AD post storn Debby Final - signed

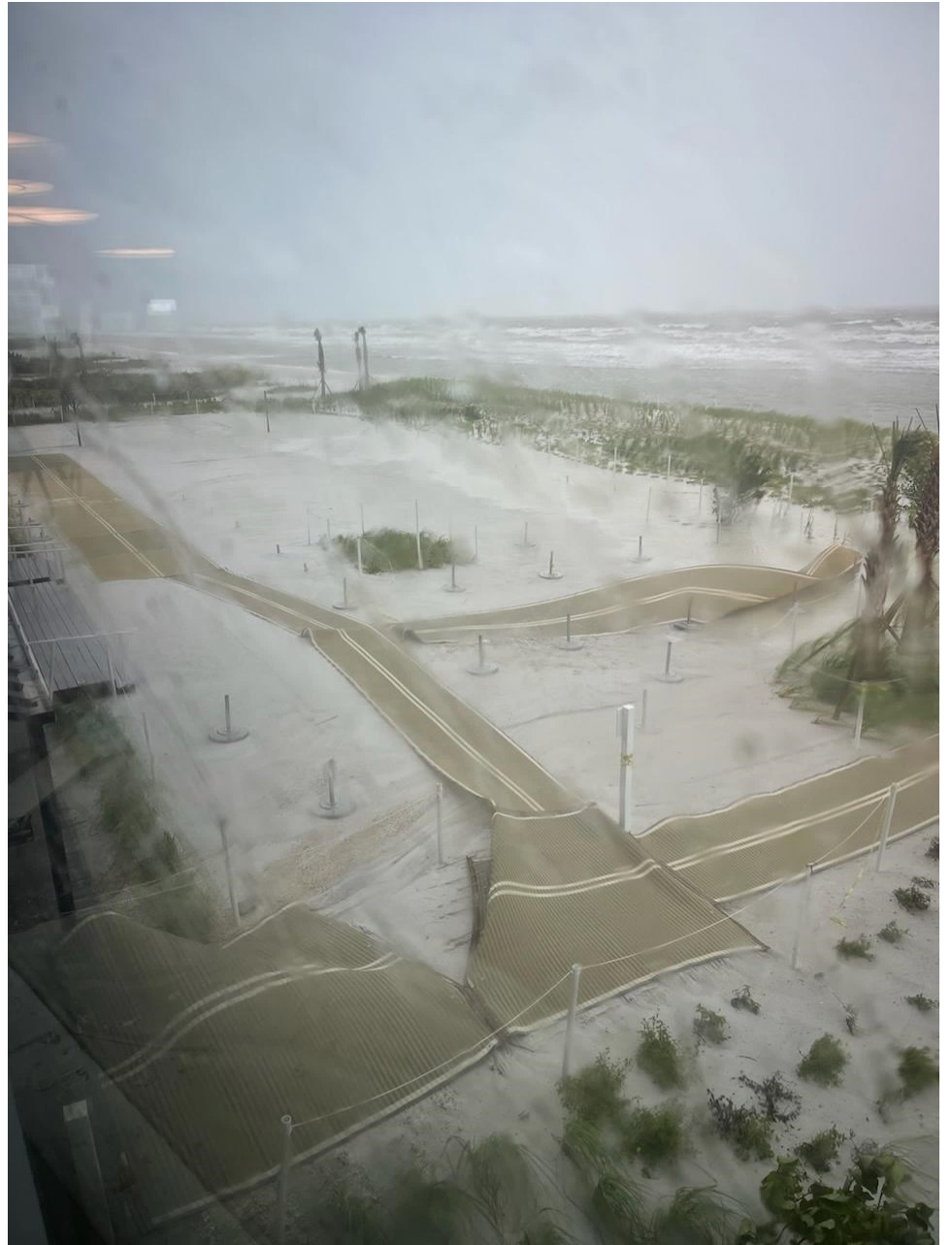
Final Audit Report

2024-08-12

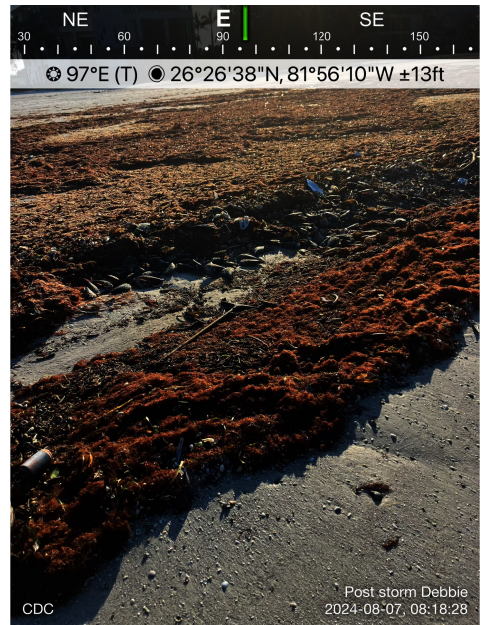
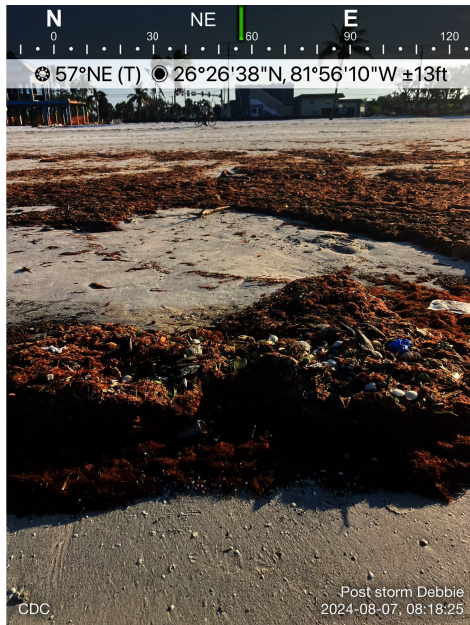
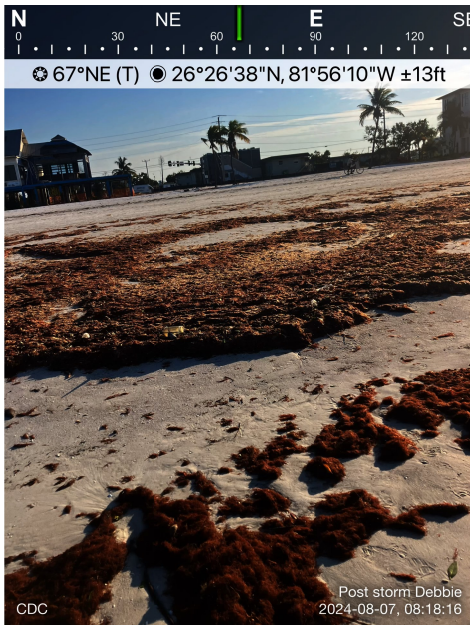
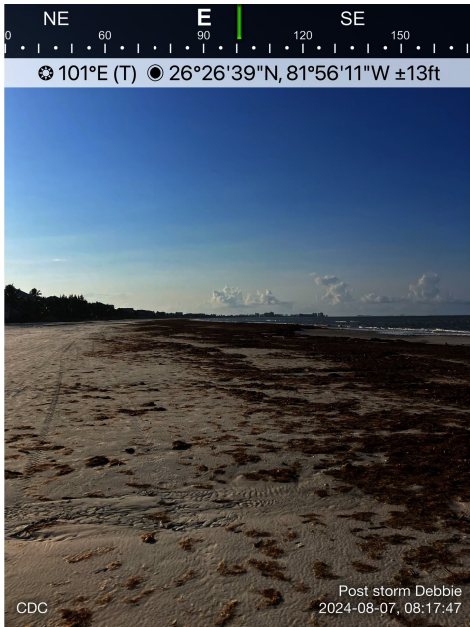
Created:	2024-08-09
By:	Tracey Lewis (tlewis@fmbgov.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAJke7nd2kmH5vmleo858N7EsEPmvmvqS-3

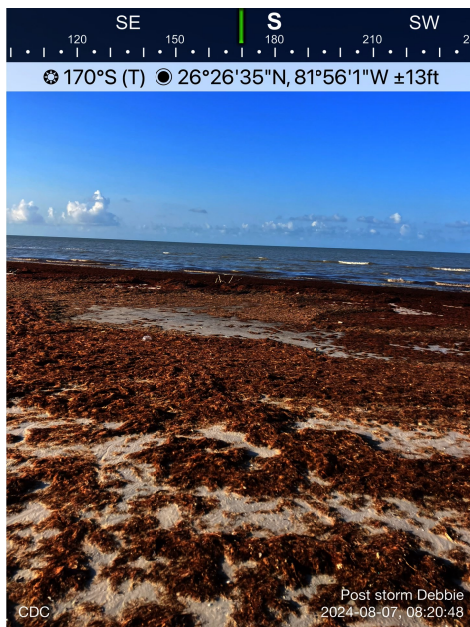
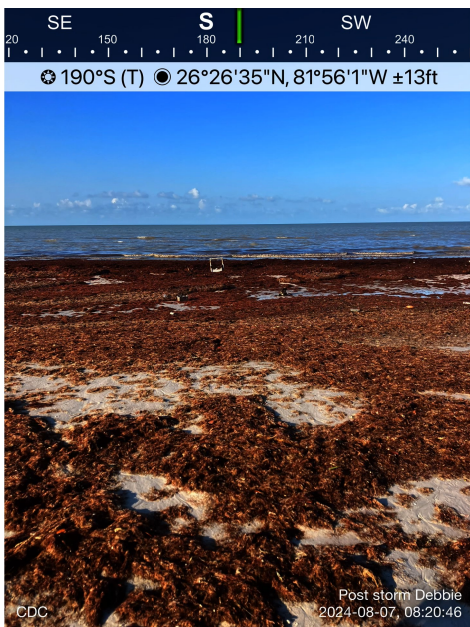
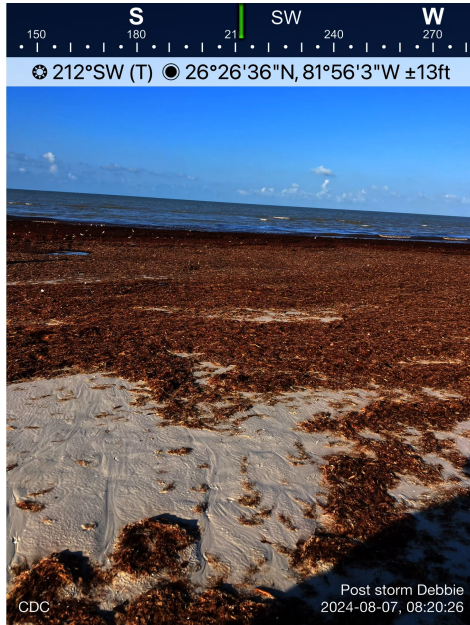
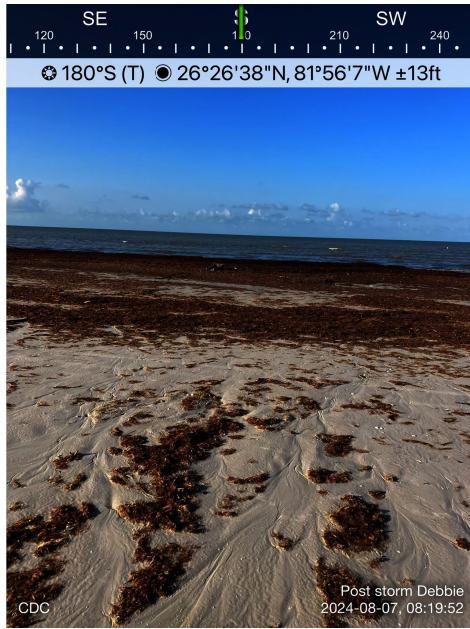
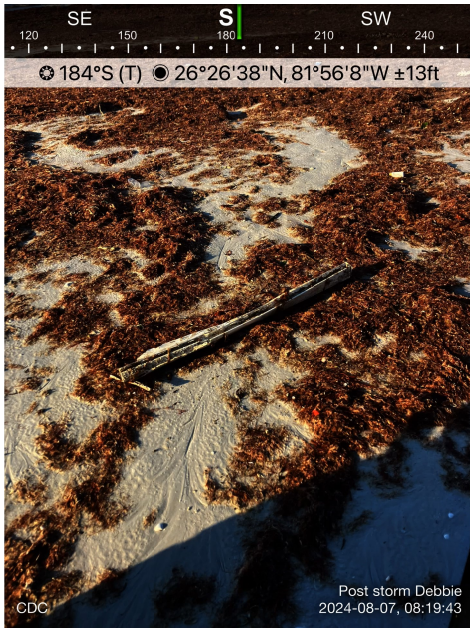
"SPA-24-09-AD post storn Debby Final - signed" History

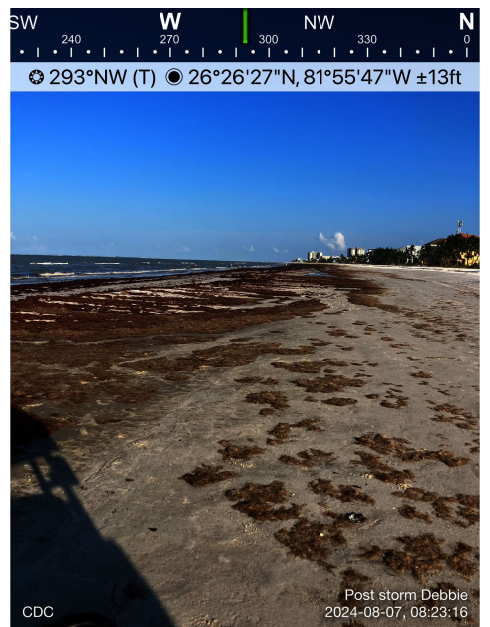
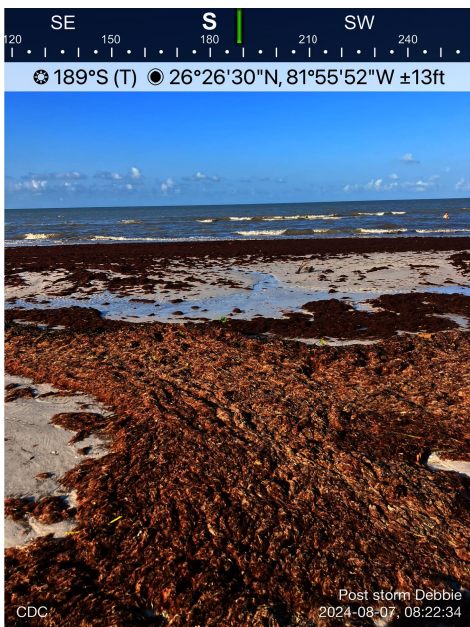
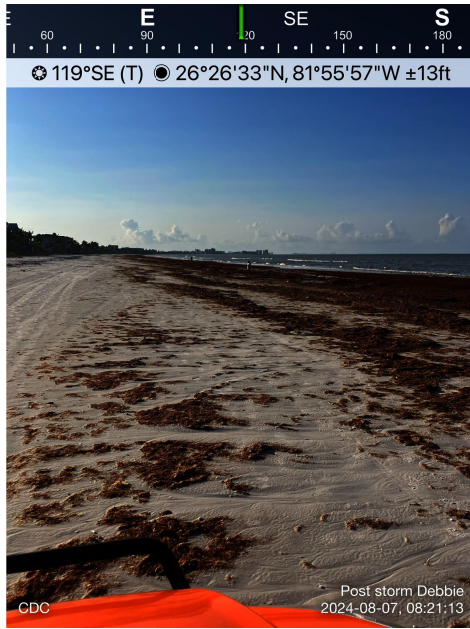
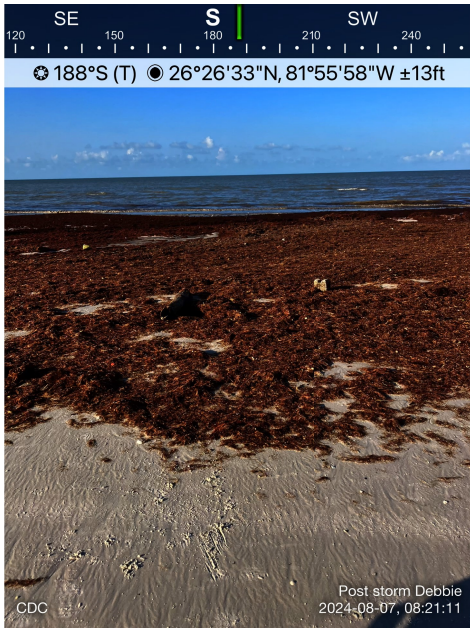
-  Document created by Tracey Lewis (tlewis@fmbgov.com)
2024-08-09 - 8:29:10 PM GMT
-  Document emailed to Andrew Hyatt (andyhyatt@fmbgov.com) for signature
2024-08-09 - 8:29:17 PM GMT
-  Document emailed to Nancy Stuparich (nstuparich@voselaw.com) for signature
2024-08-09 - 8:29:17 PM GMT
-  Document emailed to Amy Baker (AMY@FMBGOV.COM) for signature
2024-08-09 - 8:29:17 PM GMT
-  Email viewed by Andrew Hyatt (andyhyatt@fmbgov.com)
2024-08-09 - 8:32:54 PM GMT
-  Document e-signed by Andrew Hyatt (andyhyatt@fmbgov.com)
Signature Date: 2024-08-09 - 8:33:09 PM GMT - Time Source: server
-  Email viewed by Nancy Stuparich (nstuparich@voselaw.com)
2024-08-10 - 12:12:19 PM GMT
-  Document e-signed by Nancy Stuparich (nstuparich@voselaw.com)
Signature Date: 2024-08-10 - 12:13:26 PM GMT - Time Source: server
-  Document e-signed by Amy Baker (AMY@FMBGOV.COM)
E-signature obtained using URL retrieved through the Adobe Acrobat Sign API
Signature Date: 2024-08-12 - 3:14:47 PM GMT - Time Source: server
-  Agreement completed.
2024-08-12 - 3:14:47 PM GMT

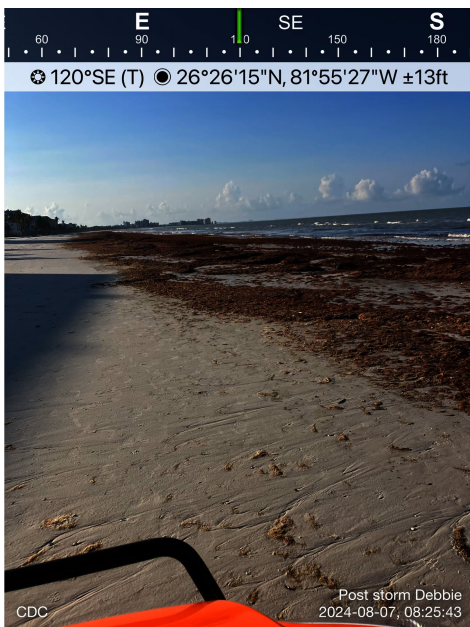
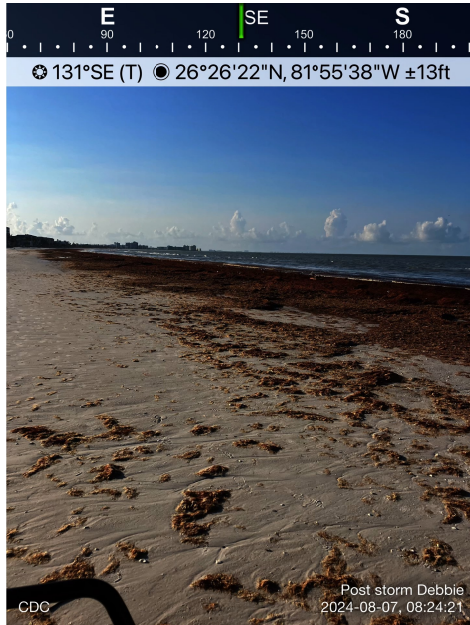
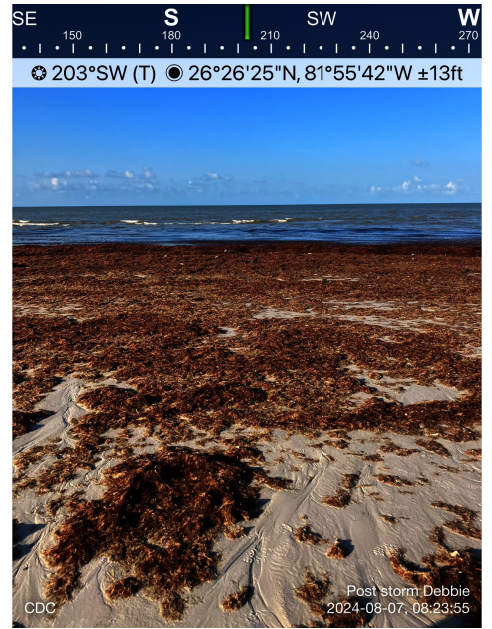
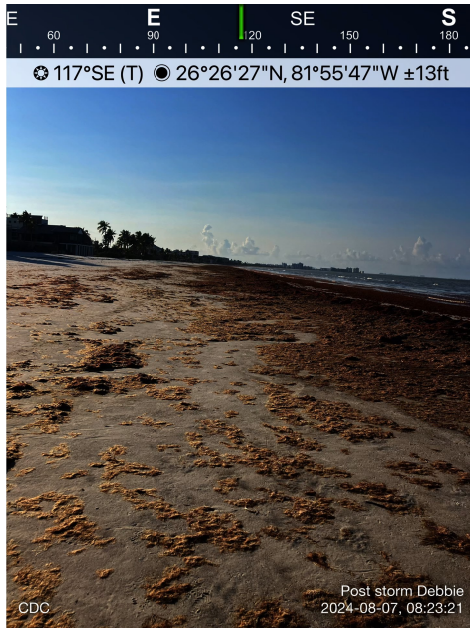


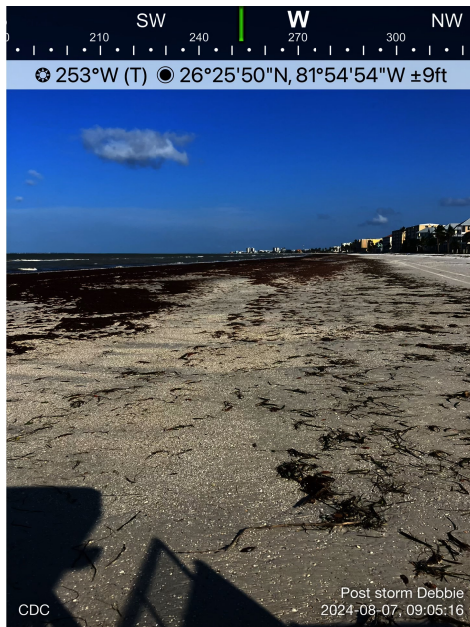
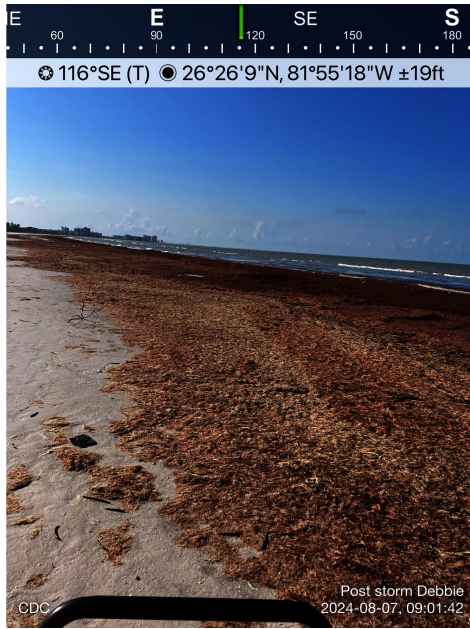
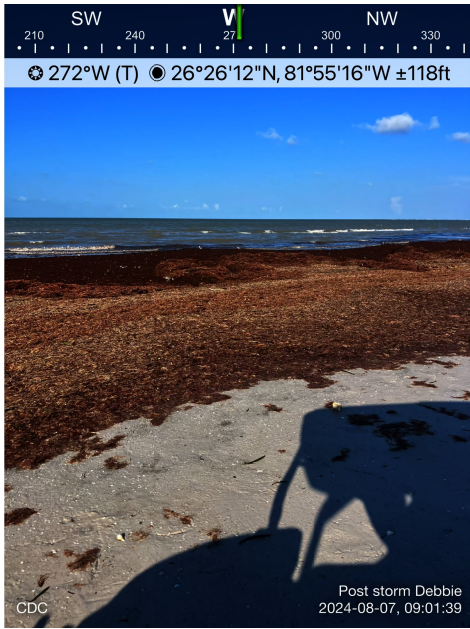


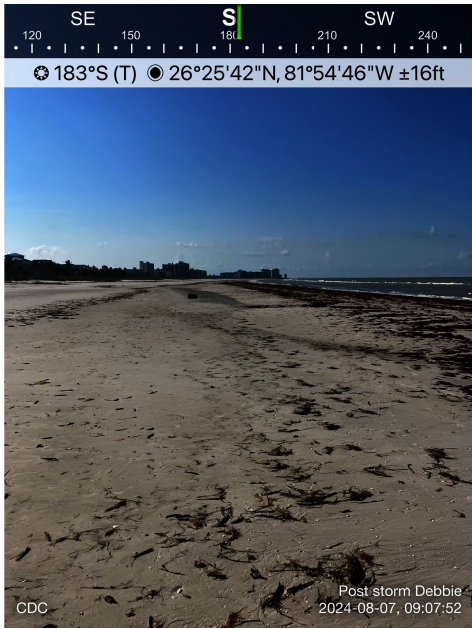












**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**In Re: EMERGENCY AUTHORIZATION FOR
SUSPENSION OF PROCUREMENT AND
TRAVEL STATUTES, RULES AND
ORDERS, MADE NECESSARY BY
TROPICAL CYCLONE 4**

OGC NO. 24-2221

EMERGENCY PROCUREMENT ORDER

I HEREBY adopt the findings of fact and conclusions of law of the Emergency Final Order, OGC# 24-2222, issued on August 2, 2024, in this Order and find that the Department of Environmental Protection's timely performance of disaster response functions related to Tropical Cyclone 4, as assigned by the State Coordinating Officer, are hindered by the application of procurement and travel procedures imposed by statute, rule, or order.

NOW THEREFORE, pursuant to the authority granted by Executive Order Nos. 24-156 and 24-157:

A. I hereby suspend, to the extent necessary to ensure said emergency response functions, the effect of any statute, rule, or order, including Chapter 255 and Sections 287.055(3)(a)-(d), 4(a)-(d), 5(a)-(c), and 287.057(3), Florida Statutes, and Chapters 60A-1.002(4), 60A-1.021(2), and 60A-1.043(1)-(3), and 60D-5, Florida Administrative Code, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources to include, without limiting the generality of the foregoing, any and all statutes, rules, and orders which affect budgeting, leasing, printing, purchasing, travel, the conditions of employment, and the compensation of employees as set forth in an established Tracker item at the Florida Emergency Operations Center, as prescribed in the State Comprehensive Emergency Management Plan, as directed by the State Coordinating Officer, or as directed by the Executive Office of the Governor.

B. This Order shall take effect immediately upon execution and shall expire upon expiration or rescission of EOs 24-156 and 24-157, as modified or extended.

Executed this 2nd day of August 2024, in Tallahassee, Leon County, Florida.

**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**



Digitally signed by Shawn
Hamilton
Date: 2024.08.02 19:39:23 -04'00'

Shawn Hamilton, Secretary
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

FILED on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Lea Crandall
CLERK

Digitally signed by Lea Crandall
Date: 2024.08.02 19:45:25 -04'00'

August 2, 2024
DATE

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In re:

**EMERGENCY AUTHORIZATION FOR
REPAIRS, REPLACEMENT,
RESTORATION, AND CERTAIN
OTHER MEASURES MADE NECESSARY
BY TROPICAL CYCLONE 4**

OGC NO. 24-2222

EMERGENCY FINAL ORDER

The State of Florida Department of Environmental Protection (Department) enters this Emergency Final Order (Order), including Findings of Fact and Conclusions of Law, in response to the imminent and immediate danger to the public health, safety, and welfare of the citizens of the State of Florida posed by a tropical wave currently identified as Tropical Cyclone 4 (hereinafter "the Storm").

FINDINGS OF FACT

1. On August 1, 2024, the National Hurricane center reported that a tropical wave is producing a large area of disorganized showers and thunderstorms over Hispaniola, Puerto Rico, and the Virgin Islands. The Storm is expected to organize and develop into a tropical depression over the eastern Gulf of Mexico near the Florida Peninsula. Meteorological reports indicate there is a significant threat of heavy rainfall over much of the State of Florida, which may result in flash flooding, river flooding, coastal flooding, erosion, and gusty winds. As forecasted, the Storm could cause extensive damage to critical state infrastructure, including major interstates and roadways, power grids, airports, schools, and hospitals. Accordingly, this Order shall apply to an area hereafter referred to as the "Emergency Area," which consists of the following counties:

Alachua, Baker, Bay, Bradford, Brevard, Calhoun, Charlotte, Citrus, Clay, Collier, Columbia, DeSoto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Holmes, Jackson, Jefferson, Lafayette, Lake, Lee, Leon, Levy, Liberty, Madison, Manatee, Marion, Monroe, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Pasco, Pinellas, Polk, Putnam, Santa Rosa, Sarasota, Seminole, St. Johns, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington.

2. By State of Florida Executive Order Nos. 24-156 and 24-157, the Governor declared a state of emergency throughout the Emergency Area based upon the serious threat to the public health, safety, and welfare posed by the Storm.

3. The Department finds that the effects of the Storm will create a state of emergency posing an imminent danger to the public health, safety, welfare, and property throughout the Emergency Area. As a result of the emergency, immediate action by Florida's citizens and government may be necessary to repair, replace, and restore structures, equipment, surface water management systems, works, and other systems damaged by the Storm.

4. The Department finds that an emergency authorization is required to address the need for immediate action because the normal procedures for obtaining the necessary authorizations would not result in sufficiently timely action to address the emergency.

5. The Department finds that immediate, strict compliance with the provisions of the statutes, rules, or orders noted within this Order would prevent, hinder, or delay necessary action to cope with the emergency, and that the actions authorized under this

Order are narrowly tailored to address the immediate need for action and procedurally appropriate under the circumstances.

CONCLUSIONS OF LAW

1. Based on the findings recited above, it is hereby concluded that the emergency caused by the Storm poses an immediate danger to the public health, safety, or welfare and requires an immediate order of the Department.

2. Under State of Florida Executive Order Nos. 24-156 and 24-157, and Sections 120.569(2)(n), 252.36, and 252.46, Florida Statutes, the Secretary or designee of the Department is authorized to issue this Order.

3. Suspending statutes and rules, as noted within this Order, is required so as not to prevent, hinder, or delay action necessary to cope with the emergency.

THEREFORE, IT IS ORDERED:

A. WASTE MANAGEMENT

Within the Emergency Area, the Department waives Rules 62-761.405 and .700, and 62-762.411 and .701, Florida Administrative Code, to the extent necessary for:

1. Storage Tank Systems

a. Owners and operators of storage tank systems, regulated under Chapters 62-761 and 62-762, Florida Administrative Code, and their State of Florida licensed engineers and contractors, are authorized to make all necessary repairs to restore essential services and repair or replace (as necessary) all structures, equipment, and appurtenances of the systems to their pre-Storm permitted or registered condition without prior notice to the Department. Within 30 days of commencing the work of such repair or replacement, the owner or operator shall notify the Department in writing, describing the

nature of the work, giving its Department Facility Identification Number for the location, and providing the name, address, and telephone number of the representative of the owner or operator to contact concerning the work.

b. Petroleum Contact Water: Owners and operators of underground petroleum storage tank systems impacted by the Storm are authorized to discharge petroleum contact water, as defined in Rule 62-740.030, Florida Administrative Code, to impervious surfaces under the following conditions for only the first 30 days from the initial issuance date of this Order:

- (1) The total discharge shall not exceed 25 gallons in volume per facility;
- (2) There shall be no visible sheen, sludge or emulsion in the petroleum contact water; and
- (3) The discharge shall not reach a surface water of the state or stormwater management system.

The removal of petroleum contact water not meeting the above criteria shall be removed by vacuum truck for proper disposal pursuant to Chapter 62-740, Florida Administrative Code, or by separate authorization by contacting the Department's Division of Waste Management by mail at 2600 Blair Stone Road, Mail Station 4525, Tallahassee, Florida 32399-2400 or telephone at 850/245-8842.

2. Solid Waste Management

a. Pursuant to Section 403.7071, F.S., storm generated debris shall be managed at authorized staging areas or Disaster Debris Management Sites (DDMS) in accordance with the [Division of Waste Management's Guidance for the Establishment, Operation, and Closure of Disaster Debris Management Sites](#).

b. The Department waives Rule 62-701.320(4), F.A.C., to the extent that permitted landfills, waste-to-energy facilities, and transfer stations which accept Storm-generated debris in accordance with the terms of this Order may accept Storm-generated debris for disposal or storage without the need to first modify existing solid waste permits or certifications. Operators of landfills shall seek modifications of their existing permits to address any long-term impacts of accepting Storm-generated debris on operations and closure that are not addressed in existing permits. Long-term impacts are those which will extend past the expiration date of this Order. The requests for modification shall be submitted as soon as possible, but no later than the expiration date of this Order. No permit fee will be required for any modifications necessitated solely by the Storm cleanup activities. This paragraph does not authorize the permanent lateral or vertical expansion of any facility beyond its permitted limits. Domestic wastewater biosolids may be disposed of in Class I landfills even if such biosolids meet the definition of a liquid waste found in Rule 62-701.200(72), Florida Administrative Code, provided that such disposal is approved in advance by the Department and that the material is managed to the extent practicable so as to minimize liquid content, odors, and runoff.

c. Pursuant to Section 403.7071, Florida Statutes, open burning of Storm-generated debris is allowed provided it meets the following requirements and does not create a public nuisance. Please refer to the Division of Air Resource Management's [Guidance on Site Selection Criteria for Open Burning Activities](#) for additional information.

(1) An air curtain incinerator may be used at any staging area, permitted landfill, waste-to-energy facility, registered yard trash processing facility, or transfer station so long as the operator meets the operating requirements detailed in the Division of Air

Resource Management's [Air Curtain Incinerator Worksheet](#) and does not create a public nuisance.

(2) Open pile burning may be conducted at any staging area other than staging areas located at permitted landfills or permitted disposal facilities so long as the operator meets the operating requirements detailed in the Division of Air Resource Management's [Open Pile Burning Worksheet](#) and does not create a public nuisance.

3. Hazardous Waste Management

A blanket approval of time extensions under Rule 62-730.160, Florida Administrative Code, is necessary within the Emergency Area for hazardous waste generators for the storage of their hazardous wastes on-site, pending the cleanup of any Storm damage and restoration of essential services. The rules authorize a 30-day extension because of unforeseen and uncontrollable circumstances such as the Storm. Therefore, to avoid having to issue a potentially large number of individual approvals on a case-by-case basis and waste limited agency resources during the time of emergency, the Department authorizes a general extension of time of 30 days from the expiration of this Order for all such hazardous waste generators within the Emergency Area for the storage of their hazardous wastes on-site.

4. Mineral Oil Dielectric Fluid Discharges

A blanket approval of time extensions under Rule 62-780.550, Florida Administrative Code, is necessary within the Emergency Area for responding to and completing the cleanup of mineral oil dielectric fluid (MODEF) discharges from electric power generation, transmission, and distribution facilities damaged by the Storm within the Emergency Area. The Department authorizes a general extension of time of 30 days

from the date of discovery of a nonpetroleum de minimis discharge (for a total of 60 days from the discovery of the discharge) for responding to and completing cleanup of MODEP discharges from electric power generation, transmission, and distribution facilities damaged by the Storm within the Emergency Area in accordance with the applicable provisions of Chapter 62-780, Florida Administrative Code. However, all other provisions of Rule 62-780.550, Florida Administrative Code, such as the record-keeping requirements, shall apply.

B. AIR RESOURCE MANAGEMENT

Within the Emergency Area:

1. Open Burning Operations

a. Pursuant to Section 403.7071, Florida Statutes, open burning of storm-generated yard trash, other storm-generated vegetative debris, or untreated wood from construction and demolition debris is allowed provided it meets the following requirements and does not create a public nuisance. Please refer to the Division of Air Resource Management's [Guidance on Site Selection Criteria for Open Burning Activities](#) for additional information in preventing public nuisances.

(1) Air curtain incinerators may be used in the Emergency Area for a period of up to eight (8) weeks without a Department-issued air permit to combust storm-generated yard trash, other storm-generated vegetative debris, or untreated wood from construction and demolition debris so long as the operator meets the operating requirements detailed in the Division of Air Resource Management's [Air Curtain Incinerator Worksheet](#) and do not create a public nuisance.

(2) Local governments or their agents may conduct the open pile burning of Storm-generated yard trash, other Storm-generated vegetative debris, and untreated wood from construction and demolition debris at Department-authorized staging areas (other than staging areas located at permitted landfills or permitted disposal facilities), so long as they meet the operating requirements detailed in the Division of Air Resource Management's [Open Pile Burning Worksheet](#).

2. Asbestos

40 CFR Part 61, Subpart M does not apply to the renovations or demolitions of residential buildings with four or fewer dwelling units. Owners of these types of residential buildings may commence a renovation or demolition without notice to the Department. For more information on asbestos regulation, please review the Division of Air Resource Management's factsheets on [Asbestos Emergency Cleanups](#) and [Asbestos Building Debris Cleanup](#).

3. Emergency Engines Exempt from Air Permitting Requirements

Reciprocating internal combustion engines in the Emergency Area may exceed the annual fuel consumption limitations in Rule 62-210.300(3)(a)35., Florida Administrative Code, without triggering the need to receive a Department-issued air permit if the engine is being used for disaster-related purposes. The owner or operator of such an engine shall exclude fuel consumed during the period covered by this Order from annual fuel consumption calculations.

C. WATER RESOURCE MANAGEMENT, RESILIENCY, AND COASTAL PROTECTION

Within the Emergency Area:

1. Environmental Resource, Dredge and Fill, and Surface Water Management Activities

a. No Notice Required

The Department waives Rule 62-330.020, F.A.C., to the extent that the following activities are authorized to be conducted under this Order without notification to the Department or water management district.

(1) Temporary and permanent repair or restoration of structures and drainage systems that are not completely destroyed to the conditions, dimensions, and configurations that were authorized or otherwise legally existing immediately prior to the Storm, provided the repair and restoration activities do not result in any expansion, addition, or relocation of the existing structure or systems, and provided any such structures or drainage systems in, on, or over state-owned submerged lands are water dependent. This may include the use of different construction materials or minor deviations to allow upgrades to current structural and design standards, or to replace a seawall with a rip rap revetment.

(2) The restoration (regrading, dredging, or filling) by local, regional, state, and federal governments of upland surfaces, wetlands, and submerged land contours to the conditions and configurations that were authorized or otherwise legally existing immediately prior to the Storm, provided the restoration does not result in any expansion or addition of land or deepening of waters beyond that which existed immediately prior to the Storm, subject to the following limits:

(a) The removal or deepening of plugs formerly separating canals from other waters is specifically not authorized by this Order;

(b) In the case of dredging, all excavated material shall either be deposited on uplands that are diked or otherwise sloped or designed to prevent any discharge into wetlands or other surface waters, or shall be used to restore bottom contours and shorelines to the conditions existing immediately prior to the Storm, subject to subparagraph C.2.a.(3) of this Order;

(c) In the case where upland or dredged material is placed in water to restore pre-existing conditions, only clean material (free from debris and pollutants) from the uplands that existed prior to the Storm may be used in the restoration, and no change (from the conditions that legally existed immediately prior to the Storm) in the slope of the land or the type, nature or configuration of any pre-existing shoreline stabilization materials is authorized (e.g., sloping revetments cannot be replaced with vertical seawalls, and rock riprap cannot be replaced with interlocking blocks);

(d) Best management practices and devices shall be used to prevent violations of state water quality standards for turbidity during the performance of restoration activities, in accordance with the guidelines and specifications in The Florida Stormwater, Erosion, and Sedimentation Control Inspectors Manual (Florida Department of Environmental Protection October 2018) <https://floridadep.gov/dear/florida-stormwater-erosion>, and the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Transportation and Florida Department of Environmental Protection July 2013) <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>. Best management practices also shall be used to prevent erosion and retain sediment of

all newly established or restored exposed shorelines during and after the restoration activities, which may include methods such as planting of temporary and permanent vegetation and placing of clean natural rock or concrete rubble riprap;

(e) Any fill that is deposited to restore a former shoreline, and any riprap that is used to stabilize a shoreline, must not be placed any farther waterward than the toe of slope of the shoreline that legally existed immediately prior to the Storm. If the pre-Storm shoreline was stabilized with a functioning seawall or riprap, the seawall or riprap may be restored at its former location or within 18 inches waterward of the location where the seawall or riprap legally existed immediately prior to the Storm, as measured from the face of the existing seawall slab to the face of restored seawall slab or from the front slope of the existing riprap to the front slope of the restored riprap; and

(f) This section (C.1.a.(2)) shall not constitute authorization to fill submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund, except as provided herein.

(3) Removal of debris, including sunken or grounded vessels, vegetation, and structural remains that have been deposited into waters, wetlands, or uplands by the Storm, where such removal **does not result** in filling of wetlands or other surface waters, or dredging that creates or expands surface waters. All removed materials must be deposited on self-contained uplands and must be managed in accordance with Department rules or provisions of this Order.

b. Field and Individual Authorization Required

(1) Field authorizations may be issued following a site inspection by Department or water management district personnel to restore structures and property to

authorized or otherwise legally existing conditions that existed immediately prior to the Storm, to recover property, protect property from further damage, maintain navigation or protect public health, safety, and welfare, when such activities are not otherwise authorized by statutory or rule exemptions or under paragraph C.1.a. of this Order. Specifically, field authorizations may be issued for:

(a) Activities including the replacement of structures that are completely destroyed;

(b) Structures and activities on state-owned submerged lands that are non-water dependent structures and are authorized in a current sovereign submerged lands lease with the Department may not be repaired, restored, or replaced when more than 50 percent of the structure or activity is lost (based on the cost to repair, restore, or replace the structure or activity);

(c) Restoration (regrading, dredging, or filling) of the contours of uplands, wetlands, and submerged bottoms by parties other than local, regional, state, or federal governments;

(d) Trimming or alteration of mangroves that threaten public health, safety, welfare or property, or that currently interfere with navigation;

(e) Removal of debris, including sunken or grounded vessels, vegetation, and structural remains, that has been deposited into waters, wetlands, or uplands by the Storm, the removal of which **requires** filling of wetlands or other surface waters, or dredging that creates or expands wetlands or other surface waters. Any wetlands or other surface waters that are dredged or filled to affect such removal must be restored to the contours and conditions that existed before the Storm; and

(f) Other activities determined by Department or water management district personnel as having the potential to result in only minimal adverse individual or cumulative impact on water resources and water quality.

(2) Field authorizations to replace structures shall not preclude the use of different construction materials or minor deviations to allow upgrades to current structural and design standards, including building codes, or to a more environmentally compatible design, as determined by the Department or water management district, than existed immediately prior to the Storm.

(3) Field authorizations may be requested by providing a notice to the local office of the Department or water management district containing a description of the work requested, the location of the work, and the name, address, and telephone number of the owner or representative of the owner who may be contacted concerning the work. Field authorizations also may be issued by Department or water management district personnel without prior notice. Field authorizations may not be issued unless requested on or before the expiration date of this Order, unless that date is modified or extended by further order. Written records of all field authorizations shall be created and maintained by Department and water management district personnel. Field authorizations may include specific conditions for the construction, operation, and maintenance of the authorized activities. Field authorizations issued prior to the effective date of this Order remain in effect for the duration specified in the field authorization but may be extended through written modification by the Department or water management district in accordance with the provisions of paragraph C.6.h. of this Order. Failure to comply with the conditions of

the field authorization may result in enforcement actions by the Department or water management district.

2. Coastal Construction Control Line (“CCCL”) Activities

This section applies to activities conducted within the Emergency Area seaward of the CCCL as established by Chapter 62B-26, Florida Administrative Code. Emergency Permits may be issued by the Division of Resilience and Coastal Protection pursuant to Rule 62B-33.014, Florida Administrative Code. A list of activities seaward of the CCCL that are exempt from CCCL permitting requirements is contained in Rule 62B-33.004, Florida Administrative Code, and Section 161.053(11), Florida Statutes. The Division of Resilience and Coastal Protection has developed a Public Information Handout to provide property owners with a concise explanation of activities that are authorized seaward of the CCCL in this Order. To obtain a copy, please visit the Coastal Construction Control Line Emergency Permits website at <https://floridadep.gov/rcp/coastal-construction-control-line/content/coastal-construction-control-line-emergency-permits>. You may also contact the Office of Resilience and Coastal Protection directly by email at CCCL@FloridaDEP.gov, by mail at 2600 Blair Stone Road, Mail Station 3522, Tallahassee, Florida 32399-3000, or by phone at 850/245-2094.

This Order constitutes the declaration of a shoreline emergency and activates emergency protection and permitting procedures established in s. 161.085 (3), Florida Statutes, and in Rules 62B-33.0051(5) and 62B-33.014, Florida Administrative Code.

In addition, to emergency protective measures that can be conducted under the above referenced statute and rules, this Order authorizes both the protection, repair or replacement of public infrastructure and a local government’s ability to issue certain

coastal construction permits in lieu of Department CCCL permits, subject to the conditions and limitations of this Order. Activities that extend onto state owned lands of Florida seaward of the mean high water line or an Erosion Control Line that would typically require a permit pursuant to Sections 161.041 and/or 161.055, Florida Statutes, i.e., regulated under the Joint Coastal Permit program (JCP), are not authorized under this subsection. JCP activities are addressed separately in subsection C.3. of this Order.

a. Activities Undertaken by Local Governments, the Department of Environmental Protection, Florida Department of Transportation and Utility Companies

The Department waives Rules 62B-33.005 and .0051, F.A.C., to the extent that the following activities may be undertaken by local governments, agencies of the State of Florida, and utility companies to protect, repair, or replace structures and property without notice to the Department or water management district, subject to the limitations below. Work performed under paragraph C.2.a. of this Order must be complete within one year of the issuance of this Order.

(1) Removal of Storm-generated debris. Prior to removing the debris and to the greatest extent possible, beach compatible sand should be separated from the debris and kept on-site. To prevent debris from becoming buried, all Storm-generated debris shall be removed to an appropriate upland disposal site landward of the CCCL prior to conducting any fill activities.

(2) The repair or replacement of the following public facilities: utilities, roads, beach access ramps, and dune walkover structures (see guidelines for construction of

dune walkovers at <https://floridadep.gov/rcp/coastal-construction-control-line/documents/beach-and-dune-walkover-guidelines>).

(3) Return of sand to the beach and dune system that has been deposited upland by the Storm, and restoration of a dune system using beach compatible sand from an upland source. The material shall not cover any Storm-generated debris or construction debris. All fill material shall be sand that is similar to the pre-Storm beach sand in both coloration and grain size and be free of debris, rocks, clay, or other foreign matter and shall meet the specifications set forth by the Department for the location that the fill is being placed. Such specifications are available at <https://floridadep.gov/rcp/coastal-construction-control-line/content/coastal-construction-control-line-emergency-permits>. No sand may be obtained from the beach, near shore, or below the mean high water line seaward of the CCCL without specific written authorization from the Department.

b. Activities Requiring Local Authorization

Local governments are authorized to issue permits in lieu of Department permits to private and public property owners for the activities listed below in addition to the temporary protective measures described in section 161.085 (3), Florida Statutes, and Rule 62B-33.0051, Florida Administrative Code. Local governments shall notify the Department in writing within three (3) working days of permits issued under this section. The notification must be submitted to the Department by email to CCCL@FloridaDEP.gov. Work authorized by the local government must be complete

within 90 days of issuance of the local government permit or within 90 days of the expiration date of this Order, whichever deadline occurs first.

(1) Repair or replacement of minor ancillary structures (such as stairs, landings, and HVAC platforms) and service utilities that are associated with the existing habitable structure. The repair of minor ancillary structures or service utilities shall not exceed the size of the original structure or service utility damaged or destroyed by the Storm. Repair of surviving beach/dune walkovers is authorized provided the structure is substantially intact and the repair adjusts the seaward terminus of the walkover to a more landward location to accommodate changes in the shoreline topography and native salt-resistant vegetation patterns. Viewing platforms as part of the walkovers may not be constructed on or seaward of the surviving or post-Storm rebuilt dune system or sandy beach.

(2) Permanent repair of foundations for buildings that have not been substantially damaged.

(3) The replacement or repair of caps and anchoring systems (or tiebacks) for seawalls or bulkheads.

(4) Restoration of a dune system damaged by the Storm using beach compatible sand from an upland source.

All fill material shall be sand that is similar to the pre-Storm beach sand in both coloration and grain size and be free of debris, rocks, clay, organic matter, or other foreign matter and shall meet the specifications set forth by the Department for the location that the fill is being placed. Such specifications are available at <https://floridadep.gov/rcp/coastal-construction-control-line/content/coastal-construction-control-line-emergency-permits>. No sand may be obtained from the beach, near shore,

or below mean high water seaward of the CCCL without specific written authorization from the Department.

(5) Return of sand to the beach dune system which has been deposited upland by the Storm.

The recovered sand shall be free of debris and other foreign matter and shall not cover any Storm-generated debris or construction debris.

c. Other Activities

Actions taken by local governments, the Department's Division of Recreation and Parks, Florida Department of Transportation, and utility companies under paragraph C.2.a. of this Order, and actions taken by local governments under paragraph C.2.b. of this Order, do not require additional permits from the Department.

3. Joint Coastal Permit Activities

This subsection applies to certain activities along the natural sandy beaches of the Atlantic Ocean, Gulf of Mexico or Straits of Florida that extend onto sovereignty lands of Florida, seaward of the mean high water line and are likely to have a material physical effect on the coastal system or natural beach and inlet processes, i.e., activities that are regulated under the JCP program, pursuant to Sections 161.041 and/or 161.055, Florida Statutes. The Department waives Rules 62B-41.005 and .0055, F.A.C., to the extent necessary so that:

a. In lieu of a normal JCP for activities summarized above, federal, state, or local governments may apply to the Office of Resilience and Coastal Protection, Beaches, Inlets and Ports Program for emergency authorizations to alleviate hazardous conditions resulting from the Storm that pose an immediate danger to life or limb, including sudden

and unpredictable hazards to navigation. Applications for emergency authorizations shall meet the following criteria:

(1) The application must be received by the Department during the duration of this Order;

(2) The hazardous conditions are a result of the Storm identified in this Order and did not exist prior to the Storm;

(3) The proposed measures are limited to the minimum amount necessary to alleviate the hazardous conditions by temporarily stabilizing the structure or clearing the channel, until a JCP can be processed to address the long-term repair;

(4) Fill material shall not extend seaward of the mean high water line that existed immediately before the Storm;

(5) Navigational dredging shall not exceed channel depths, widths or alignment that existed immediately before the Storm;

(6) Reconstruction of non-water-dependent structures on sovereign submerged lands unless authorized in a current sovereign submerged lands lease issued by the Department is prohibited;

(7) Fill may only be placed seaward of the mean high water line to temporarily stabilize an upland structure if that structure is in danger of imminent collapse and was located behind the primary dune line prior to the Storm. The amount of fill allowed is the minimum necessary for the stabilization of the structure;

(8) The placement of fill may only extend the mean high water line seaward of the current (post-Storm) location if the applicant provides proof that the riparian owner(s) has obtained a disclaimer under Rule 18-21.019, Florida Administrative Code, (from the

Department's Division of State Lands) for the proposed project site, a memorandum from the Department's Division of State Lands acknowledging the Storm-related occurrence of avulsion for the proposed project site, or documentation from the Department that a valid erosion control line has been established at the fill site;

(9) Any fill material placed on the beach shall meet the criteria for beach-quality sand in Rule 62B-41.007(2)(j), Florida Administrative Code;

(10) The proposed measures shall not cause water quality violations outside of the mixing zone, established pursuant to Rule 62-4.244, Florida Administrative Code; and

(11) The proposed measures shall not adversely affect hardbottom or coral reef communities, seagrass communities or functional marine turtle nesting habitat that existed before the Storm and shall not contribute to erosion of adjacent properties.

b. Emergency authorizations shall expire 90 days after issuance unless a written request for an extension of the expiration date is received and granted by the Department before this Order's expiration date. Any request for extension of an emergency authorization issued under this subsection must contain a reasonable schedule for when repair, restoration, or reconstruction will commence and ultimately conclude.

c. Application fees and noticing requirements shall be waived for projects that are eligible for this emergency authorization.

4. National Pollutant Discharge Elimination System Stormwater Construction Generic Permit

This subsection applies to any construction activity authorized by this Order that would require coverage under the Generic Permit for the Discharge of Stormwater

Associated with Large and Small Construction Activities pursuant to Rule 62-621.300(4), F.A.C. The Department waives to Rule 62-621.300(4), F.A.C., to the extent that for these construction projects, operators of the sites, and their licensed engineers and subcontractors, are authorized to make all necessary repairs to restore essential services and repair or replace (as necessary) all structures to their pre-Storm permitted or registered condition without prior notice to the Department. All best management practices must be in accordance with the guidelines and specifications of the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and Florida Department of Environmental Protection July 2013) <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>. Within 30 days of commencing the work of such repair or replacement, however, the owner or operator shall submit to the Department a completed Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities [Form Number 62-621.300(4)(b)], which can be found at <https://floridadep.gov/water/stormwater/content/construction-activity-cgp>.

5. Onsite Sewage Treatment and Disposal System Activities

This section applies to regulatory requirements within the Emergency Area for onsite sewage treatment and disposal systems (OSTDS), commonly referred to as septic systems. Under the direction of the Department, certain regulatory services, such as permitting and inspections, are implemented by the Florida Department of Health's local county health departments (DOH-CHDs) by virtue of the Interagency Agreement, effective July 1, 2021. This Order grants relief for the following activities and standards

governed under Sections 381.0065 – 381.0067, Florida Statutes, and Chapter 62-6, Florida Administrative Code:

a. Portable Restrooms, Mobile Restrooms, Mobile Shower Trailers, and Portable Holding Tanks: The Department waives during the effective period of this Order, the prohibitions of Rule 62-6.0101(7)(a), Florida Administrative Code, which forbids the use of portable restrooms, mobile restrooms, mobile shower trailers, or portable holding tanks for use with permanent structures. During this emergency period, such use is allowed in the Emergency Area as follows:

(1) In situations where the existing OSTDS is damaged or not operational due to the Storm.

(2) The use of the portable restrooms, mobile restrooms, mobile shower trailers, or portable holding tanks must not extend beyond 120 days after the end of this Order, except in the event a system construction permit has been issued to repair the damaged system within this 120-day period, the use of the portable restrooms, mobile restrooms, mobile shower trailers, or portable holding tanks must not extend beyond the expiration date of the issued system construction permit.

(3) The use of portable holding tanks must be in accordance with the tank capacity and service requirements described in Rule 62-6.0101, Florida Administrative Code.

b. Temporary Covering of Installations: When a contractor has installed a system, which has not yet been inspected and approved for covering per Rules 62-6.003(2) and (3), Florida Administrative Code, the following criteria apply. During the effective period of this Order, a contractor may cover a system with earth prior to approval

for the purposes of protecting the system from the Storm provided the system is completely uncovered for the required inspection(s) after the Storm. The contractor must, within 36 hours of covering a system, notify the DOH-CHDs in writing that the system has been covered for purposes of protecting the system from the Storm. The notification must provide the permit number, that the system will be uncovered for inspection(s), and that the system will not be placed into use until the Department grants Final Installation Approval per Rules 62-6.003(2) and (3), Florida Administrative Code.

6. General Conditions

a. All activities conducted under subsections C.1., C.2., C.3., C.4., and C.5. of this Order shall be performed using appropriate best management practices. For activities conducted in, or discharging to, wetlands or other surface waters, best management practices include properly installed and maintained erosion and turbidity control devices to prevent erosion and shoaling, control turbidity, and prevent violations of state water quality standards and protect the functions provided by wetlands and other surface waters to fish, wildlife, and listed species.

b. The authorizations in subsections C.1., C.2., C.3., C.4., and C.5. of this Order shall not apply to structures and associated activities that were not legally existing or otherwise properly authorized by all applicable agencies before the passage of the Storm.

c. Applicable environmental resource, surface water management, dredge and fill, JCP, or CCCL permits shall be required following provisions of statute and rule for other activities not authorized in this Order that do not otherwise qualify as an exempt activity under statute or rule.

d. The nature, timing, and sequence of construction authorized under this Order shall be conducted in such a manner as to provide protection to, and so as to not disturb, dune features, native salt-resistant vegetation, and listed species and their habitat, including threatened or endangered sea turtles, endangered manatees, endangered beach mice, endangered plant communities, and migratory shorebirds. If activities conducted under subsection C.2. and C.3. of this Order occur during the marine turtle nesting season (March 1 through October 31 in Brevard, Indian River, St. Lucie, Martin, and Broward counties, May 1 through October 31 in all other coastal counties within the state), such activities must be coordinated with the Florida Fish and Wildlife Conservation Commission's Imperiled Species Management Section to ensure that all activities comply with state and federal requirements for the protection of sea turtles, their nests, hatchlings, and nesting habitat.

e. Nothing in this Order authorizes the taking, attempted taking, pursuing, harassing, capturing or killing of any species (or the nests or eggs of any species) listed under Chapter 68A-27, Florida Administrative Code, or the federal Endangered Species Act.

f. Persons are advised that all structures that are rebuilt under subsection C.2. of this Order should be rebuilt in accordance with all applicable local, state, and federal building standards and requirements of the Federal Emergency Management Agency.

g. It is recommended that, where possible, owners of property should maintain documentation (such as photos) of the condition of the structures or lands as they existed prior to initiating any activities authorized under this Order and should provide such documentation to the Department if requested to do so.

h. Activities authorized under subsection C.1. of this Order must be completed as follows:

(1) Within one year from issuance of this Order, for activities that qualify under the No Notice provisions of paragraph C.1.a. of this Order;

(2) By the date specified in the field authorization for activities that qualify under the provisions of subparagraph C.1.b.(1) of this Order. However, the deadline for completing such activities may be extended if a written request with accompanying documentation as described below is submitted by the person(s) authorized in the field authorization and received by the District Office of the Department that issued the field authorization at least 30 days prior to expiration of the field authorization. Such request must be accompanied by a statement that contractors or supplies are not available to complete the work, or that additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers. Such permittee should maintain a list of contractors that have been contacted and a record of supplies that are on backorder as needed to demonstrate compliance with this provision.

7. Authorization to Use State-Owned Submerged Lands

The Department has been delegated by the Board of Trustees of the Internal Improvement Trust Fund the authority to grant the following authorizations to use state-owned submerged lands, that is, lands lying waterward of the line of mean high water, erosion control line or ordinary high water line, in association with the structure or activity subject to repair, restoration, removal, or replacement authorized in this section. The Department waives Rule 18-21.005, F.A.C., to the extent that:

a. Except as provided in paragraphs C.7.b., C.7.c., and C.7.d. of this Order, and subsection D.1. of this Order, activities authorized under this Order involving the repair, replacement, or restoration of the activities and structures, and the removal of debris located on submerged lands owned by the state that do not qualify for consent by Rule 18-21.005(1)(b), Florida Administrative Code, are hereby granted a Letter of Consent under Rule 18-21.005(1)(c), Florida Administrative Code, provided:

(1) Such repair, restoration, replacement, or removal is conducted in accordance with the terms, conditions, and limitations of this Order;

(2) The structure or activity subject to repair, restoration, or replacement was authorized by the Board of Trustees of the Internal Improvement Trust Fund prior to the Storm, or was otherwise legally existing immediately prior to the Storm;

(3) The activities are conducted solely to repair, restore, or replace structures or land that was damaged by the Storm, or to remove debris resulting solely from the Storm;

(4) The structures and activities are repaired, restored, or replaced in the same location and configuration as was authorized by the Board of Trustees of the Internal Improvement Trust Fund or which otherwise legally existed immediately prior to the Storm; and

(5) All the terms and conditions of Rule 18-21.005(1)(b) or 18-21.005(1)(c), Florida Administrative Code, as applicable, are met (including certain restrictions for activities performed within aquatic preserves and Monroe County), and provided that activities that require an easement under Rule 18-21.005(1)(f), Florida Administrative Code, must obtain the applicable state-owned submerged lands easement under Chapter

18-21, Florida Administrative Code, within one year of expiration of this Order. This Order does not limit the provisions of those statutory and rule provisions.

b. Non-water dependent structures that are authorized in a current sovereign submerged lands lease with the Department are not authorized to be repaired, restored, or replaced when more than 50 percent of the structure or activity is lost (based on the cost to repair, restore, or replace the structure or activity).

c. Water-dependent structures that were legally existing immediately before the Storm but not in conformance with the current criteria of Chapters 18-18, 18-20, or 18-21, Florida Administrative Code, as applicable, may be repaired, restored, or replaced to the footprint that existed immediately before the Storm, but shall, to the greatest extent practicable, be repaired, restored, or replaced to meet the current criteria of Chapters 18-18, 18-20, and 18-21, Florida Administrative Code, as applicable, with respect to design features such as the elevation of decking surfaces and the spacing of deck planking.

d. This Order does not authorize the reconstruction or repair of unauthorized structures.

8. Water and Wastewater Plants and Collection and Distribution Systems

The Department waives Rule 62-620.301, F.A.C., so that:

a. Owners and operators of water and wastewater plants and collection and distribution systems, and their licensed engineers and contractors, are authorized to make all necessary repairs to restore essential services and repair or replace (as necessary) all structures, equipment, and appurtenances of the plants and systems to their pre-Storm permitted or registered condition without prior notice to the Department. Within 30 days of commencing the work of such repair or replacement,

however, the owner or operator shall notify the Department in writing, describing the nature of the work, giving its location, Department Facility Identification Number, and providing the name, address, and telephone number of the representative of the owner or operator to contact concerning the work.

b. Owners and operators of underground injection control Class V Group 6 lake level control wells in existence and functioning immediately before the Storm are authorized, without prior permission by the Department, to lower the intake structure to allow a greater volume of lake water to flow down the wells when not to do so would result in immediate flooding of structures not usually inundated by such lake waters. Within 72 hours of lowering said structures, written notice shall be provided to the District Office of the Department in which the structure is located.

c. Owners and operators of drinking water plants and their licensed engineers and contractors are authorized to utilize a U.S. Environmental Protection Agency “mobile laboratory” not previously certified in drinking water or non-potable water by the Department of Health under Rule 62-160.300, F.A.C., to perform such drinking water analyses as required in Rule 62-550.550(2), F.A.C., for purposes of determining compliance with acute public health threats like E. coli or total coliform. At a minimum, the mobile laboratory must meet requirements of the DEP Quality Assurance rules for sample collection (Rule 62-160.210, F.A.C.), sample preservation and holding times (Rule 62-160.400, F.A.C.), use of approved analytical methods (Rule 62-160.320, F.A.C.), and laboratory documentation and reporting (Rule 62-160.340, F.A.C.).

9. Suspension of Fees

For those activities noted above, subject to the limitations, duration, and other provisions of this Order, the following application fee, base fee, and minimal annual lease fee requirements of Sections 161.041, 161.053, 161.0535, 161.055, 373.109, 253.01, 253.03, 403.518, 373.026, 373.043, 373.109, 373.4131, 373.414, 373.418, 373.421, 381.0065, 381.0066, 403.061, 403.087, 403.704(30), 403.805, Florida Statutes, and Chapters 18-18, 18-20, 18-21, 62-4, 62B-33, and 62B-41, Florida Administrative Code, shall be suspended as follows:

a. For structures and activities authorized under paragraphs C.1.a. or C.1.b. of this Order, the lessee may submit a written request to the Division of State Lands, by mail at 3900 Commonwealth Boulevard, Mail Station 130, Tallahassee, Florida 32399-3000, to waive applicable lease fees. In such cases, the owner must identify and document (such as with currently dated photographs) the area (in square feet) of the structure or facility that is no longer useable. When such documentation is received, and deemed sufficient, lease fees will be waived, but only for that portion of the structure that is no longer useable.

b. When the restoration or replacement of individual structures (such as a dock or pier) or entire facilities (such as marinas) on state-owned submerged lands that are completely destroyed is authorized by a field authorization under paragraph C.1.b. of this Order, applicable lease fees will be waived for the duration described in paragraph C.9.c. of this Order.

c. Lease fees that are waived under paragraphs C.9.a. or C.9.b. of this Order will be waived only for the duration of this Order (including subsequent extensions thereto) unless otherwise provided in a field authorization issued under paragraph C.1.b. of this

Order, or until the repairs, restoration or replacement commences, whichever is earlier. The duration of the waiver of suspension of lease fees may be extended beyond the duration of this Order (including subsequent extensions thereto) or beyond the date specified in a field authorization issued under paragraph C.1.b. of this Order, upon a written request by the lessee to extend the waiver of the lease fees. Such request must be received by the Division of State Lands before the expiration of this Order (or extensions thereto) or before the date specified in the field authorization (whichever date is later), and must be accompanied by a signed statement that construction has not yet commenced because contractors or supplies are not available to commence the necessary repairs, restoration or replacement, or because additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers or local government. Such request for extension of the waiver of lease fees must also contain a reasonable schedule for when repair, restoration, or replacement will commence.

d. In all cases where lease fees are waived under paragraph a. above, the lessee must notify the Division of State Lands, at the address stated in paragraph C.9.a. of this Order, of the time repair, restoration, or replacement construction commenced.

D. GENERAL PROVISIONS

1. General Limitations

The Department issues this Order solely to address the emergency created by the Storm. This Order shall not be construed to authorize any activity within the jurisdiction of the Department except in accordance with the express terms of this Order. Under no circumstances shall anything contained in this Order be construed to authorize the repair, replacement, or reconstruction of any type of unauthorized or illegal structure, habitable

or otherwise. This Order does not convey any property rights or any rights or privileges other than those specified in this Order.

2. Suspension of Statutes and Rules

Within the Emergency Area, the requirements and effects of statutes and rules which conflict with the provisions of this Order are suspended to the extent necessary to implement this Order.

To the extent that any requirement to obtain a permit, lease, consent of use, or other authorization is waived by this Order, it should also be construed that the procedural requirements for obtaining such permit, lease, consent of use or other authorization, including requirements for fees and publication of notices, are suspended for the duration of this Order, except as provided in subsection C.8. of this Order

3. Review of Requests for Field Authorizations

It is the intent of the Department to act on requests for field authorizations in a timely and expeditious manner. The Department may require the submission of additional information as is necessary.

4. Other Authorizations Required

This Order only provides relief from the specific regulatory and proprietary requirements addressed herein for the duration of the Order and does not provide relief from the requirements of other federal, state, water management district or local agencies. This Order therefore does not negate the need for the property owner to obtain any other required permits or authorizations, nor from the need to comply with all the requirements of those agencies. This Order does not provide relief from any of the requirements of Chapter 471, Florida Statutes, regarding professional engineering.

Activities subject to federal consistency review that are emergency actions necessary for the repair of immediate, demonstrable threats to public health or safety are consistent with the Florida Coastal Management Program if conducted in strict conformance with this Order.

5. Extension of time to comply with specified deadlines

For facilities and activities regulated by the Department in the Emergency Area, this Order extends by 30 days the time to comply with the following specified deadlines that occur between the date of issuance of this Order and the expiration of this Order:

a. The time deadlines to conduct or report periodic monitoring or any other similar monitoring that is required by a permit, lease, easement, consent of use, letter of consent, consent order, consent agreement, administrative order, or other authorization under Chapters 161, 253, 258, 373, 376, 377, 378, 381, or 403, Florida Statutes, and rules adopted thereunder, except for monitoring required under federally-mandated air permit conditions pursuant to 40 CFR Parts 60, 61, 63, and 75;

b. The time deadlines to file an application for an extension of permit duration or renewal of an existing permit, lease, easement, consent of use, letter of consent, license, or other authorization under Chapters 161, 253, 258, 373, 376, 377, 381, or 403, Florida Statutes, and rules adopted thereunder, except for air permits issued under Title V of the Clean Air Act;

c. The time deadlines to file an application for an operation permit under Chapters 161, 253, 258, 373, 376, 377, 381, or 403, Florida Statutes, and rules adopted thereunder, except for air permits issued under Title V of the Clean Air Act;

d. The expiration date for an existing permit, lease, consent of use, license, or other authorization under Chapters 161, 253, 258, 373, 376, 377, 381, or 403, Florida Statutes, and rules adopted thereunder, except for air permits issued under Title V of the Clean Air Act; and

e. The time deadlines to obtain a permit for and commence construction of the initial phase of a system for which a conceptual permit was issued pursuant to Part IV of Chapter 373, Florida Statutes, or Sections 403.91 – 403.929, Florida Statutes, and rules adopted thereunder.

6. Permit Extensions During States of Emergency

The public is advised that Section 252.363, Florida Statutes, provides for tolling and extending the expiration dates of certain permits and other authorizations following the declaration of a state of emergency. Affected permits include authorizations granted by the Department, water management district or delegated local government, pursuant to part IV of Chapter 373, Florida Statutes, except for authorizations granted under the State 404 Program, Chapter 62-331, Florida Administrative Code.

The extension provisions of Section 252.363, Florida Statutes, do not apply to:

- a. Permits that:
 - (1) Authorize activities that occur outside the geographic area affected by the declaration of a state of emergency;
 - (2) Include authorization under a programmatic or regional general permit issued by the U.S. Army Corps of Engineers;
 - (3) Are held by a permittee in significant non-compliance; or

(4) Are subject to a court order specifying an expiration date or buildout date that would conflict with the extensions granted in this section.

b. State-owned submerged lands authorizations under Chapters 253 or 258, Florida Statutes.

c. Formal determinations of the landward extent of wetlands and other surface waters.

d. Exemptions and verifications of exemptions from permitting criteria.

e. Permits and other authorizations issued under Chapter 161 (including JCP permits), Chapter 373 (except for permits issued under Part IV described above), Chapter 376, and Chapter 403, Florida Statutes.

To receive an extension under Section 252.363, Florida Statutes, the holder of a valid, qualifying permit must notify the authorizing agency in writing within 90 days of the expiration of a declaration of emergency, as established via a State of Florida Executive Order. The duration of the tolled period remaining to exercise the rights under a permit shall be equal to six (6) months in addition to the duration of the declaration of emergency.

7. Deadlines for Agency Actions

For each of the following offices, any deadlines specified in statutes, rules, agreements, or Department orders, under which the Department is required by law to take action within a specified time period, and under which failure by the Department to timely take such action could result in any type of default binding on the Department (including the time to request additional information on permit applications), are hereby

suspended and tolled for a period of 30 days, provided such deadline had not expired as of the effective date this Order:

a. Each Department office and delegated local program that sustains within its geographic boundaries any significant physical damage occurring as a direct result of the Storm. This includes Department offices located outside the impacted area that perform any of their duties in the impacted area; and

b. Any office of the Department not directly impacted by the Storm if that office has deployed staff to any District Office of the Department or delegated local program specified above, or to any water management district office in an impacted area, to assist in Storm relief efforts or to supplement the normal personnel in those impacted offices.

8. Expiration Date

This Order shall take effect immediately upon execution shall expire upon expiration or rescission of EO 24-156 and 24-157, as modified or extended.

9. Violation of Conditions of Emergency Final Order

Failure to comply with any condition set forth in this Order shall constitute a violation of a Department Final Order under Chapters 161, 253, 258, 373, 376, 377, 378, 381, and 403, Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

10. Applicability to Delegated Programs

The provisions of this Order apply in those cases where a water management district, local government, or other entity is acting for the Department in accordance with a delegation agreement, operating agreement, or contract. Such water management district, local government, or other entity shall comply with the terms of this Order to the

extent that it is acting as an agent of the Department. This Order does not apply in those cases where a water management district, local government, or other entity is acting under its own independent authority.

NOTICE OF RIGHTS

Pursuant to Section 120.569(2)(n), Florida Statutes, any party adversely affected by this Order has the right to seek an injunction of this Order in circuit court or judicial review of it under Section 120.68, Florida Statutes. Judicial review must be sought by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel by mail at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days after this Order is filed with the Clerk of the Department.

DONE AND ORDERED on this 2nd day of August 2024, in Tallahassee, Florida.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION



Digitally signed by Shawn Hamilton
Date: 2024.08.02 19:37:09 -04'00'

Shawn Hamilton, Secretary
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

FILED on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Lea Crandall

Digitally signed by Lea Crandall
Date: 2024.08.02 19:48:43
-04'00'

CLERK

August 2, 2024

DATE

1. **Request:**

Meeting Date: August 19, 2024

Approve Supplemental Task Authorizations #14 for GIS Mapping and Technical Support, in the amount of \$36,000, performed by Axis Engineering, and authorize the Town Manager to execute the required documentation.

Why the action is necessary:

This contract will provide updates to the Town's Zoning and Future Land Use Maps

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

Frankie Kropacek, Operations &
Compliance Director

5. **Background:**

Axis Infrastructure will perform GIS Mapping to provide all updates to the Town's Zoning and Future Land Use Maps in the amount of \$36,000

Attachments:

1. STA 14 GIS Mapping and Technical Support

Financial Impact:

6. **Alternative Action**

Do not approve

7. **Management Recommendations:**

Approve the STA with Axis

8. **Recommended Approval:**

Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/13/2024
Approved - 8/13/2024
Approved - 8/13/2024
Approved - 8/13/2024
Final Approval - 8/13/2024

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

 X Supplemental Task Authorization

NO.: STA # 14

CONTRACT/PROJECT NAME: GIS Mapping and Technical Support

CONSULTANT: Axis Infrastructure

PROJECT NO.: _____

SOLICIT NO.: RFQ #-20-22-AD

CONTRACT NO.: _____

REQUESTED BY: Frankie Kropacek, Ops/Compliance

DATE OF REQUEST: August 8, 2024

PURCHASE ORDER NUMBER: _____

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

EXHIBIT "A" SCOPE OF PROFESSIONAL SERVICE: DATED: August 8, 2024

EXHIBIT "B" COMPENSATION & METHOD OF PAYMENT: DATED: August 8, 2024

EXHIBIT "C" TIME AND SCHEDULE OF PERFORMANCE: DATED: August 8, 2024

EXHIBIT "D" CONSULTANT'S/PROVIDER'S ASSOCIATED
SUB-CONSULTANT(S)/SUB-CONTRACTORS: DATED: August 8, 2024

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

RECOMMENDED:

By: _____
Department Director Date

By: _____
Contracts Manager Date

By: _____
Finance Department Date

ACCEPTED: Axis Infrastructure

By: _____
Consultant/Provider Date

TOWN APPROVAL:

By: _____
Town Manager Date

Date to Proceed: 8/5/2024

Cost of STA: \$36,000

EXHIBIT A

SCOPE OF PROFESSIONAL SERVICES
GIS Mapping and Technical Support

Overview

STA NO. 14: Provide All Updates to the Town's Zoning and Future Land Use Maps

The following services will be provided by Axis Infrastructure:

- 1: Coordinate with Town staff and gather all zoning and FLUM amendments approved by the Town within the past five years.
- 2: Create updated maps and documents based on approved Ordinances.
- 3: Publish updated zoning and FLUM maps suitable for presentation on the Town's website.
- 4: Develop unified interactive mapping and software options for the Town.
- 5: Create interactive mapping portal for public use.

Hourly Breakdown:

Senior Planner/GIS Analyst	\$165
Planner/Technician	\$105

Total Cost (of Job): \$36,000.00

EXHIBIT B

Date: 8/8/2024

COMPENSATION AND METHOD OF PAYMENT FORGIS Mapping and Technical SupportSection 1. BASIC SERVICES/TASK(S)

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

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

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
#1	<u>GIS Mapping and Technical Support</u>	\$36,000	NTE	WIPP
TOTAL (Unless list is continued on next page)		\$36,000	NTE	

Section 2. ADDITIONAL SERVICES

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

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated 10/1/2021, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto 10/01/2021 entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

Date: 8/8/2024

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE FOR GIS Mapping and Technical Support

Consultant or Sub-consultant Name: Axis Infrastructure
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Senior Planner/GIS Analyst	53.50/hr	3.08	\$165
Planner	36.20/hr	2.9	\$105

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

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

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

ATTACHMENT NO. 2 TO EXHIBIT B

Date: 8/8/2024

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS FOR GIS Mapping and Technical Support

CONSULTANT OR SUB-CONSULTANT NAME: Axis Infrastructure
(A separate Attachment No. 2 should be included for each Sub-Consultant)

[illegible]

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

EXHIBIT C

Date: 8/8/2024

TIME AND SCHEDULE OF PERFORMANCE FOR

GIS Mapping and Technical Support

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

Phase and/or Task Reference As Enumerated in EXHIBIT "A"	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
#1	<u>GIS Mapping and Technical Support</u>	120	120 days

EXHIBIT D

Date: 8/8/2024

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

GIS Mapping and Technical Support

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

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

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm				Sub-Consultant Services are Exempted from Prime Consultant's Insurance Coverage	
					Yes	No
1	EXP 11300 Clay Road Houston TX				X	

1. **Request:**

Meeting Date: August 19, 2024

Approve Supplemental Task Authorizations #15 for continued Planning/Zoning services performed by Axis Engineering, and authorize the Town Manager to execute the required documentation.

Why the action is necessary:

This contract will provide continued professional services for Community Development in Planning and Zoning

What the action accomplishes:

This will provide continued professional services for the Town in Planning & Zoning.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

Frankie Kropacek, Operations & Compliance Director

5. **Background:**

The following STA exceeds \$25,000 and therefore require Town Council approval. In accordance with RFQ-20-22-AD, approve STA # 15 with Axis Infrastructure in the amount of \$93,000 for Technical Support and Supplemental Professional Services in the area of Planning/Zoning and authorize the Town Manager to execute the required documentation.

Attachments:

1. STA 15 Addl PZ Services FY23-24

Financial Impact:

6. **Alternative Action**

Do not approve

7. **Management Recommendations:**

Approve the STA with Axis

8. **Recommended Approval:**

Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/13/2024
Approved - 8/13/2024
Approved - 8/13/2024
Approved - 8/13/2024
Final Approval - 8/13/2024

Page 384 of 394

Date: 8/9/2024

EXHIBIT A

SCOPE OF PROFESSIONAL SERVICES
Technical Support and Supplemental Planning Services for FY 23/34 through October 31, 2024,
if needed.

Overview

STA NO. 15: Technical Support and Supplemental Planning Services for FY 23/34 through October 31, 2024, if needed.

The following services will be provided by Axis Infrastructure:

- 1:** Planning and Zoning staff, permit review, technical analysis as required by the Comprehensive Plan and Land Development Code.
- 2:** Coordinate with Town departments, advisory boards, and Town Council public hearings.
- 3:** Coordinate special projects, staff training, and assist with project assignments from the Town Manager or designee.
- 4:** Coordinate with Town Manager and Town Council to assist in developing strategies to support and implement priority planning and development issues.
- 5:** Review Traffic Impact Statements or Traffic Studies provided to the Town with applications for development approvals. This includes pre-application and methodology meetings.

Hourly Breakdown:

Senior Planner/Planning Manager	\$120
Planner/GIS	\$100

Total Cost (of Job): *\$93,000.00*

EXHIBIT B

Date: 8/9/2024

COMPENSATION AND METHOD OF PAYMENT FORTechnical Support and Supplemental Planning Services for FY 23/34 through October 31, 2024, if neededSection 1. BASIC SERVICES/TASK(S)

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

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

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
#1	<u>Technical Support and Supplemental Planning Services for FY 23/34 through October 31, 2024, if needed</u>	\$93,000	NTE	WIPP
TOTAL (Unless list is continued on next page)		\$93,000	NTE	

Section 2. ADDITIONAL SERVICES

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

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated 10/1/2021, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto 10/01/2021 entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

Date: 8/9/2024

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE FOR Technical Support and Supplemental Planning Services for FY 23/34 through October 31, 2024, if needed

Consultant or Sub-consultant Name: Axis Infrastructure
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Senior Planner/Manager	53/hr	2.18	\$120
Planner	36.50/hr	2.74	\$100

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

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

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

ATTACHMENT NO. 2 TO EXHIBIT B

Date: 8/9/2024

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS FOR
Technical Support, GIS, Special Project Management, Additional Planning Services for FY 23/24

CONSULTANT OR SUB-CONSULTANT NAME: Axis Infrastructure
(A separate Attachment No. 2 should be included for each Sub-Consultant)

[illegible]

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

EXHIBIT C

Date: 8/9/2024

TIME AND SCHEDULE OF PERFORMANCE FOR

Technical Support, GIS, Special Project Management, Additional Planning Services for FY 23/24

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

Phase and/or Task Reference As Enumerated in EXHIBIT "A"	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
#1	<u>Technical Support and Supplemental Planning Services for FY 23/34 through October 31, 2024, if needed</u>	90	90 days

EXHIBIT D

Date: 8/9/2024

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

Technical Support and Supplemental Planning Services for FY 23/34 through October 31, 2024, if needed

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

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

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

1. **Request:**

Meeting Date: August 19, 2024

Approve an amendment to the Commercial Contract entered into on May 29, 2024, as amended on July 17, 2024, by and between the Town of Fort Myers Beach ("the Buyer") and 6231 Estero LLC, (the "Seller," "Owner" or "Exchanger") for the purchase of the property for the new town hall for the purpose of amending the existing terms and conditions of the agreement between the parties as follows: 1) to document the Owner's intent to do a like-kind tax-deferred exchange in accordance with IRC Regulation Section 1.1031(k)-1; (2) to permit assignment of the contract, as amended, to the qualified intermediary; and (3) to ensure the Buyer will be held harmless with no additional expense as a result of the exchange; and (4) extension of the Closing Date.

Why the action is necessary:

The Town Attorney was notified for the first time on August 13, 2024, that the Seller desires to do a tax-free exchange as to the property the Town is purchasing for the new town hall. In order to accomplish this, it is necessary to sign some additional documents regarding the closing and amend the existing contract. The amendments should not have any substantive effect on the town except to slightly delay closing, but just in case there is any additional expense involved for the town, the Seller is signing an indemnification to address any such expenses.

What the action accomplishes:

Allows the closing for the purchase of the new town hall property to proceed.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

Andy Hyatt, Town Manager

5. **Background:**

The Town executed a Commercial Contract entered into on May 29, 2024, as amended on July 17, 2024, by and between the Town of Fort Myers Beach ("the Buyer") and 6231 Estero LLC, (the "Seller," "Owner" or "Exchanger") for the purchase of the property for the new Town Hall.

The town attorney was notified on August 13, 2024, that the Seller wished to do a tax-free exchange as to this transaction and requested that documents be signed to allow the Seller to do so. This process should not have any negative consequences for the town, but in an abundance of caution the Town Attorney has prepared a document indemnifying the town as to any negative consequences.

Attachments:

1. Final 1031 Addendum to Commercial Contract - Amendment No. 2

Financial Impact:

There is no financial impact to the town to allow the Seller to process the sale as a tax-free exchange.

6. **Alternative Action**

Deny the Seller's request to process the closing as a tax-free exchange on the Seller's side.

7. **Management Recommendations:**

Staff recommendation is to approve the request.

8. **Recommended Approval:**

Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 8/14/2024
Approved - 8/14/2024
Approved - 8/14/2024
Final Approval - 8/14/2024

AMENDMENT TO COMMERCIAL CONTRACT NO. 2

This Amendment is made to that certain Commercial Contract entered into on May 29, 2024, as amended on July 17, 2024, by and between the Town of Fort Myers Beach, Florida, a Florida municipal corporation (“the Buyer”) and 6231 Estero LLC, a Florida liability corporation (the “Seller,” “Owner” or “Exchanger”) for the purpose of amending the existing terms and conditions of the agreement between the parties as follows: 1) to document the Owner's intent to do a like-kind tax-deferred exchange in accordance with IRC Regulation Section 1.1031(k)-1; (2) to permit assignment of the contract, as amended, to the qualified intermediary; and (3) to ensure the Buyer will be held harmless with no additional expense as a result of the exchange; and (4) extension of the Closing Date.

Notwithstanding anything in this agreement to the contrary, it is the intent of the Owner/Exchanger to transfer the property to the Purchaser as part of a Like-Kind Tax-Deferred Exchange.

It is the intent of the parties that the Owner/Exchanger be allowed to use Section 1031 of the Internal Revenue Code to exchange this property for other replacement property to be identified and acquired later by the Exchanger in accordance with Section 1031 regulations.

This contract may be assigned to _____, a Qualified Intermediary who is licensed to do business in the State of Florida, solely for the purpose of completing the exchange. The Buyer will be notified in writing when this assignment is made. Title, however, will be conveyed directly from the Owner/Exchanger to the Buyer in accordance with Revenue Ruling 90-34.

The Owner/Exchanger shall indemnify and hold the Buyer harmless from any and all additional expense or liability which may be incurred by the Buyer as a result of Owner/Exchanger's desire to complete this like-kind exchange. This indemnification and hold harmless shall survive the closing of the transaction.

The closing date of this transaction is changed to August 30, 2024. The closing may occur sooner with the mutual agreement of the parties.

All other items and conditions of this contract remain in full force and effect.

Date

Buyer: Town of Fort Myers Beach
By: Andrew Hyatt, Town Manager

Date

Seller/Owner/Exchanger:
By: Douglas D. Schumann, Owner/Manager